

STAFFORD COUNTY PLANNING COMMISSION
June 3, 2009

The work session of the Stafford County Planning Commission of Wednesday, June 3, 2009, was called to order at 5:39 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT: Howard

STAFF PRESENT: Harvey, Roberts, Stinnette,

DECLARATIONS OF DISQUALIFICATION

None

Mr. Fields: We have our new agenda, if you will notice today, where we have work session and regular meeting. They are all continuous items on one agenda. Which will mean now, specifically as we are getting ready to do here, when we make a vote, we can make one vote to do whatever we are doing now or later, correct? If we want to move something to public hearing, we do not have to move it off of the work session to the evening agenda to vote on it, we can just vote on it now. Is that correct?

Mrs. Roberts: It was my understanding that we were combining them so that you could take up matters and discuss them, like if they were scheduled for 7:30 or whatever. The voting, I did not give it any thought actually, Mr. Chairman.

Mr. Fields: We are doing stuff now where we have ordinances, we just have those coming up at one spot. I think we were trying to streamline the process so we do not have to vote to move things to an evening session and then vote to dispose of it.

Mrs. Roberts: My suggestion would be if it is just under the 5:30 session, you can vote on it without moving it forward, but if it is on both the work session and the 7:30 agenda, I think the proper course would be to do what you usually do and wait until the 7:30 session to vote.

Mr. Fields: Okay. Alright, does that sound okay to everybody? Is that what everybody has in mind? Very good. Our first item is the electronic signs.

REVIEW OF PROPOSED ORDINANCES

1. Elimination of the Preliminary Subdivision Plan Process (**Deferred to June 17, 2009 Work Session**)

Mr. Harvey: Mr. Stepowany has an update for the Commission on that.

Mr. Fields: How do you measure the brightness of a sign? We have been waiting anxiously to find out the answer to that question.

Mrs. Carlone: The burning question.

Mr. Fields: Literally.

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Mr. Stepowany: Thank you Mr. Chairman. I passed out two pages from the proposed ordinance, pages 3 and 4 of O09-18. Staff recommends the Planning Commission consider the modified languages found on page 4 that is in bold under c, which is “the illumination measurements contemplated herein shall be taken no sooner than two (2) hours after sunset and no later than two (2) hours before sunrise and from a height of not less than four (4) feet, nor more than five (5), feet above ground level and, as nearly as is practicable”.

Mr. Fields: I do not have that.

Mr. Stepowany: I am sorry. I will give you a copy. I thought I gave you a copy.

Mr. Fields: Number two, our packet number two does not have that, right? At least my packet number two does not have that.

Mr. Stepowany: No, I just handed this out. It is a separate piece of paper.

Mr. Fields: I do not have a separate piece of paper.

Mr. Stepowany: Deputy Hamilton did contact me. He was away. Mr. Mitchell has it too, it is a single page. In the staff report we recommended that the Planning Commission consider requiring that there is a provision to have the signs light illumination measured at night. Deputy Hamilton did confirm that it does make a big difference. If you make it during the day it will not be accurate because even on a cloudy overcast day, it will provide some illumination. That is what staff recommends.

Mr. Fields: Alright, are there any questions for staff regarding this or any other aspect of this ordinance?

Mrs. Carlone: Jamie, I thank you for this, it certainly clarifies our last discussion. Thank you.

Mr. Fields: Alright, Mr. Di Peppe, do you want to...

Mr. Di Peppe: I would like to move for approval of ordinance O09-18.

Mr. Fields: I think our approval, we do not really approve.

Mr. Di Peppe: Based on these changes.

Mr. Fields: We are actually moving to request the Board of Supervisors to refer this for a public hearing. Is that the motion?

Mr. Stepowany: Mr. Harvey do you want to update them on the decision to go to the Board or not?

Mr. Harvey: The Commission held a public hearing and the Board held a public hearing. The Board referred it back to the Commission because there were some technical issues that needed to be addressed and the Commission has addressed them. It is my understanding that...

Mr. Fields: We do not need to re-advertise this?

Mrs. Roberts: We do not need to resend it to the Board to be sent back.

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Mr. Harvey: The Commission needs to authorize a public hearing.

Mr. Field: Authorize a public hearing, thank you.

Mr. Di Peppe: Alright, so we are doing the vote to authorize a public hearing.

Mrs. Carlone: Can I ask a question? Is this of the nature that would require another public hearing, we could not do it as amended with the hours...

Mrs. Roberts: No, that was not the only change. If you recall this has been going on for quite a while. It went to the Board and came back and there were many changes. This was just an amendment for tonight. You are not just re-advertising for the two hours after sunset.

Mr. Di Peppe: So we are moving to move this to a public hearing.

Mrs. Roberts: Correct.

Mr. Di Peppe: I would like to move that ordinance O09-18 be moved to a public hearing.

Mr. Stepowany: With the changes.

Mr. Di Peppe: With the changes.

Mr. Fields: Seconded by Mrs. Carlone. Any discussion on the motion? All those in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright, the motion passes 4-0 to advertise for public hearing. Which would be two weeks from now or a month from now?

Mr. Harvey: In order to meet the advertising requirements, we would be looking at the July 1st meeting.

Mr. Fields: Okay, that makes sense. Good work on that everybody. That took awhile, it was more complicated than you would think. Next, what we are going to do is number 5, fences, walls and hedges. I think that issue can be resolved fairly quickly. Then we are going to move to the discussion for the SPCA since we have a lot of folks here for that and if we get to clustering before the dinner break, we will do it, if not we will take it up in the evening. Is that okay with everybody?

2. Electronic Signs (**Time Limit: July 31, 2009**) (**Deferred to June 3, 2009 Work Session**)
3. 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)

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4. Clustering in Agricultural Zoning Districts (Referred to Planning Commission by Board of Supervisors) **(Time Limit: August 17, 2009)**

(Discussed in regular meeting)

5. Fences, Walls and Hedges (Referred to Planning Commission by Board of Supervisors) **(Time Limit: August 17, 2009)**

Mr. Fields: So we have number 5, fences walls and hedges.

Mr. Harvey: Mr. Chairman, we have Rachel Hudson, the Zoning Administrator here to give you some background.

Ms. Hudson: Good evening Mr. Chair and members of the Commission. At the meeting of the Board of Zoning Appeals (BZA) on March 24th it was brought to the members' attention that the Stafford County Zoning Ordinance does not address the street facing side yard height requirement for fences, walls and hedges on residentially developed corner lots. Under current rules a property owner could construct an eight foot tall fence along the street that forms a side yard. Fences, walls and hedges and similar features of corner lots shall not impair clear sight distance for the intersection. On April 8, 2009 Robert Gibbons, Chairman of the Board of Zoning Appeals, wrote a letter to Chairman Schwartz requesting an amendment to add street facing side yard within the requirements of Stafford County Code Section 28-39, Special Regulations for fences, walls and hedges to avoid further confusion. May 19, 2009 the Board of Supervisors requested the Planning Commission consider an amendment to the Zoning Ordinance by proposed ordinance O09-32. I will be glad to answer any questions.

Mr. Fields: Are there any questions for Ms. Hudson regarding this?

Mr. Di Peppe: I am assuming this is a safety issue with sight lines across when people are coming up from the other direction and that is the reason.

Ms. Hudson: That is the reason for the setback on the other side yard, yes.

Mrs. Carlone: Plus the height.

Mrs. Hudson: Yes.

Mr. Fields: Alright, any other questions?

Mr. Mitchell: Ms. Hudson, I was concerned about the hedges being four foot. I know for a fact the hedges between my neighbor and me are more than four foot.

Ms. Hudson: Is it a corner lot?

Mr. Mitchell: I live in Aquia Harbour and our lots are side by side. I am saying hedges can grow quickly and four foot does not seem very tall.

Ms. Hudson: On a normal residential lot hedges can grow taller, I am talking about corner lots, strictly Corner lots. Does that answer your question?

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Mr. Mitchell: Yes, it does. When I read it by itself on page 2 it stands by itself.

Ms. Hudson: If you go the Section 28-39, which you should have a copy of, where I have inserted street facing side, you will see how it will appear in the code.

Mr. Fields: Any other questions? Are we comfortable enough with this to move it to a public hearing?

Mr. Di Peppe: Yes, Mr. Chairman. I would like to move, I am looking for the number...

Mr. Fields: We are advertising O09-32 for public hearing. What we are moving is to authorize a public hearing on the changes to O09-32.

Mr. Di Peppe: So moved.

Mr. Fields: Very good. Second?

Mrs. Carlone: Second.

Mr. Fields: Second by Mrs. Carlone. Any further discussion? Alright, just lets make sure, Mr. Mitchell's questions are always good, but when you get into these things on a public hearing. I would just simply request of staff that we have a nice clear presentation for everybody to see so people can visually see what we are talking and what we are not talking about. Mostly, so there is no confusion among the members of the public attending the public hearing. Alright, all those in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright, can we do that one on July one also?

Mr. Harvey: Yes, Mr. Chairman we can. We also have a number of land use cases that are stacking up. It will end up being a long meeting, but as you know with the modified schedule, you will have a six week break in between meetings.

Mr. Fields: Alright, let's move on to item number 6, request for a Conditional Use Permit for the parcel off of Andrew Chapel Road for use as an SPCA animal shelter.

REVIEW OF PENDING REZONING/CONDITIONAL USE PERMITS

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

Mr. Fields: There is a lot of information here. Do we have a staff presentation?

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Mr. Harvey: Yes sir. Mr. Hess will give you a summary.

Mr. Hess: Thank you Mr. Chairman and Planning Commissioners. As you stated there is a lot of information that was put in your packets as well as handouts that came to you after the packets were mailed out. Just quickly, to go through to make sure you have all the handouts. There is a total of four handouts, the first one is an 11 X 17 revised GDP submitted by the property owner, Mr. Hoyt. Also included was a memo received from Mrs. Gardner that came in today to our staff and notice the email was sent to only five Planning Commission members, that is why we printed it off and gave you a hard copy. The third was a Brooke Nursing home phone list of all the employees that worked at Brooke Nursing Home Center when it was in operation. That was provided by Mr. Hoyt as well via email. Finally draft conditions from the April 1, Planning Commission Public Hearing has been given to you once again and for discussion there have been some... Staff has looked over the conditions and would like to discuss some possible or potential changes with the Commission. The property owner also wanted to discuss some of the conditions with the Planning Commission also. Moving along to the memo that was sent out to you, we gave you a list of the questions asked of staff on the April 1 Planning Commission meeting, and tried to give you information best as possible. Also gave approximately seven attachments, the first attachment was an aerial map showing five foot contours. It was asked about the topography of the property. The second is a report submitted by the property owner, Mr. Hoyt, from M and M Soil Consultants discussing the drain systems located on the property. The third attachment is a letter from our environmental planners discussing the little blue line that was brought up in the discussions as far as if it was an RPA feature or not. It was identified as not, it talks about the procedure that would happen at site plan as far as providing photographs to identify that is not a RPA feature. The fourth attachment, Mr. Hoyt hired an engineer to do a site trip generation for the proposed SPCA as well as, let me see here, skip ahead to attachment number five, which was the bridge inspection report. Attachments six and seven were provided to staff from the Office of Drinking Water which is a division of the Department of Health. First there is a chart which shows the thresholds of which their office would have oversight in the project. It is not clear if they would have oversight as of now, as of today. Obviously there are some things that would trigger that, it they would have oversight or not. And the seventh was just a list they gave me as far as daily water consumption rates for various different users, trying to give a comparative analysis between animals verses the number of beds that were at the former Brooke Nursing Center at one point in time. And then I also have a revised GDP that was handed out in a PowerPoint presentation to highlight the changes, so you can see what was changed from the previous version. Computer please. I guess I will do this blind.

Mr. Harvey: May we have the computer please?

Mr. Hess: I will zoom in. First thing first, the wildlife rehab building and aviary has been removed, it is no longer on the...the original GDP that was submitted April 1st. The property owner also identified the specifics as to the drain system, identifying the septic tank, distribution box and the nearest septic field. There was also indicated that the barn was moved further west and the paddocks were reconfigured. There were originally three, now there is four and the layout of them is slightly different. I believe that is the highlights of the changes from the original GDP that you had. I also have a PowerPoint presentation that has aerial photographs on it if you would like to see the site aerial photographs. There is a lot of information here, the answers to your questions, the conditions to discuss and anything else you would like to ask of staff. We do have Rishi Baral from Stormwater Management to talk possibly about the process that the applicant would have to go through, excuse me not the applicant but the property owner would potentially have to go through if the bridge were to be reconstructed. I believe Rachel Hudson,

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our Zoning Administrator, was requested to be here tonight, she is here. Mr. Hoyt with his legal staff and engineer is here as well. A lot of people are here to answer any questions you might have.

Mr. Fields: Alright. I actually have a process question, which is just trying to sort all of this out. This is an interesting situation when the Board, the County is the applicant. I know we discussed this before, and I am not trying to be difficult, but I am just really trying to get my head around how exactly this works. These conditions...the County can not really place conditions on the County of Stafford. The County is acting as the applicant, be we do not own the property. The County does not own the property. So it is not...how does that work, that the legal. Obviously the conditions convey with the property, the property owner is...we are not really... how does that work since the applicant is actually the County? It seems to me, I am still trying to work my way through this somewhat gray area that is seems like we have here.

Mrs. Roberts: And we have done, or the County has made application previously and you are correct. The conditions are not going to bind the County, they are going to bind and run with the land, so the owner of the land is the one who is going to abide by the conditions.

Mr. Fields: So there is no...by the County acting on behalf of the land owner, there is no... there becomes no gray area as to the obligation of the land owner to abide by the conditions. That is a very bright line and very clear and firmly established.

Mrs. Roberts: Correct.

Mr. Fields: Alright.

Ms. Kirkman: And I could just...since this is a CUP we also can impose conditions. They do not have to be voluntary offers on the part of the property owner. Is that correct?

Mrs. Roberts: Correct, these are not proffers they are conditions.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Alright, are there any questions for staff for starters? We have a lot of people to dialogue here with, lets start with staff and work our way through the other folks if we need to.

Mr. Di Peppe: Joey, thank you. On the very first page, actually on the second page of the different questions that were answered, number ten, how much square footage is in the paddock areas? It says the property owner was asked by staff to provide this information, the owner indicated to staff that the depiction on the overview plan was for discussion purposes. The paddocks could be made larger or smaller as needed. We do not know how big they are going to be.

Mr. Hess: Approximately, if you use a scale, I could not tell you off the top of your head but I did provide the... if you look at your 11 X 17 revised GDP, you can see the paddocks there. I am guessing anywhere between, the dog park is between two and three acres, if you use that as a scale possibly three to four acres maybe less.

Mr. Di Peppe: I am just a little concerned because we do not...it is not the typical plan that we normally get on the Planning Commission, and we normally proffer GDP's and those sorts of things of what it is

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going to be, so I was a little concerned that we do not know...when you say this is for discussion purposes only, it makes me nervous.

Mr. Fields: The paddocks are there primarily for horses, is that correct?

Mr. Hess: Yes, I believe horses and large breed dogs are what was going to be in the barn. I am not really a horse person so...

Mr. Fields: Right, and I am assuming that people that take care of horses know how much space the horses need.

Mr. Hess: Correct.

Ms. Kirkman: When you put property in use for agricultural purposes you are required to have one horse per five acres, so I was just trying to think what County guidelines might be out there.

Mr. Fields: Horses need a lot of space, but this is not...I am assuming the theory on this is that this is a temporary shelter while in transit from one home to another.

Mr. Hess: Correct.

Mrs. Carlone: Joey, at the last meeting I had asked how much property was left after the barns, the parking lots...it said ten acres, but when you take out all of these ancillary buildings and activities, how much does that actually leave taking out the septic fields and such. How much actual usable space is there?

Mr. Hess: If you are talking about impervious surface, I believe question number six what is the proposed impervious surface area? What is the proposed open space area? And draw into the fact that the Ordinance requires A-1 property to leave open .8 open space ratio and just doing a rough calculation as far as the rooftops of the proposed buildings and parking lot area that was shown on the GDP, it would still leave about .9 open space ratio left over, so it still...from looking at it still meets the open space ratio. If you take and add up all the property that is considered impervious surface it adds up to be about an acre of the property. So that is why you still have .9 open space left over, but that did not include the septic fields and drainfields because they are not considered an impervious surface. I am not quite sure what you mean as usable.

Mrs. Carlone: I was just concerned that out of that ten acres, when you have two septic fields where you can not disturb that property, I mean the land over the septic fields, and then let me take it from another approach. Taking the two septic fields out, I think there are two all together, taking out the barns, the kennels, main building, parking space and the dog park is what, three acres?

Mr. Hess: Two to three acres is what the property owner proposed.

Mrs. Carlone: Okay, I was just trying to see how much was actually available. Now for the horses, even if they are just there for a short time, they still need exercise areas. I see the paddock. How much is that actually?

Mr. Hess: I am sorry, what was the question.

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Mrs. Carlone: After taking out the ancillary buildings and such and the septic fields that you can not use or tread over, you do not want to impact them, how much property...how much is in there in that paddock area for the horses? Now you had mentioned they would be there for just a short time, but they still need exercise areas. How much is available? Square footage?

Mr. Hess: I would say about two acres total in the paddock areas, between the four different paddock areas that have been identified on the GDP. Just looking at comparing the two dog parks to the four paddock areas it looks to be about two acres.

Mrs. Carlone: Okay, thank you.

Mr. Hess: Sure.

Mr. Fields: Alright, any other questions for staff?

Ms. Kirkman: Joey, what...if this CUP were to be approved, what further permitting processes, in terms of the County, would the property owner have to go through? For instance would they have to submit a site plan because they are using the existing structure and the existing parking lot, so there would not be any site plan requirement. Is that correct?

Mr. Hess: There are a couple of conditions in there even before they can change the use of the existing building. There are conditions that have been put in place, if you look towards the end. I know on number 17 it talks about...discusses the bridge. The bridge being able to be constructed or strengthened to hold thirty-five tons of weight and it talks about that prior to issuance of an occupancy permit. Other things are site plan approvals but it seems like there would still be things that would need to be addressed prior to the operation of the SPCA coming on line.

Ms. Kirkman: But I am asking you, would a site plan be required since they are using an existing structure and existing infrastructure.

Mr. Hess: If there is no disturbance of land, then I imagine that they would go through the minor site plan process.

Ms. Kirkman: What would the minor site plan be for?

Mr. Harvey: In this case, we know that the travel lane that serves the property does not meet the appropriate width, so they will have to widen that travel lane to the minimum twenty feet wide of pavement. In order to do so it is more than likely trigger the requirement for a major site plan, because of the amount of land disturbance that is going to occur. Also when you change the use of property and you increase the amount of parking, then you have to address that as well and if there is additional parking areas that exceed twenty five hundred square feet it would kick that into a major site plan requirement as well, so they could conceivably break it out into two plans, a plan for the road improvements and a plan for the site improvements. Where one may be a minor and one may be a major. In all cases it is going to have to go through a site plan review process.

Ms. Kirkman: I guess I am trying to understand what the requirement for site plan would be, since most of the road is actually off property, why would they submit a major site plan for the property?

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Mr. Harvey: They would be required if, again there was an increase in the parking requirement beyond what is already out there today and would have to build additional parking lots. And also site plan here depicts more building that what is shown currently on the ground, so with the additional building square footage it would also kick them into a major site plan requirement.

Ms. Kirkman: And could you explain how that works because this is umh...when you go in and get a construction permit...like since this is being treated as a continuing use, why wouldn't they just go in and submit their plans to the building permit office? Why would they have to submit a site plan through planning?

Mr. Harvey: Site plans are required for any change of use or new construction of buildings. It depends on where the threshold is, if it is a major or minor site plan. The site plans will actually depict the actual location of the buildings in relation to set backs from the property, relations to set backs from one building to another. They will show it in relation to the parking lots, because of the requirements of the distance of the parking spaces to the building. The site plan ADA requirements will be evaluated and we will also have preliminary health department requirements to see if they are being met as far as standoffs for the drainfields and the wells from the buildings and the property lines. Those are a number of factors that go into the site plan review. The site plan review will also have to show engineering for stormwater management, it will have to show how the stormwater management is being treated to show that there is not any change in impact from the pre-development verses post development condition. So all those factors will require detailed engineering drawings to be done. They will be reviewed through the Technical Review Committee process, it is for the most part an administrative process. We do have Mrs. Carlone, the Commissioner, who sits on the TRC meetings and provides community input. Once the site plan has been reviewed it goes through the full review process, ultimately once it is approved than they would move onto building plans and building permits. At that point in time, if they choose to renovate the existing structure and build a new structure, they will have to submit their architectural plan, plumbing plans, electrical plans, permits for operating well and septic; all that will be reviewed in the building stage of the process.

Ms. Kirkman: Can someone get to me the citation within our Code, where it says if there is a change of use, you have to submit a major site plan?

Mr. Harvey: We can certainly get you the citation for the site plan requirements.

Ms. Kirkman: That would be good. And then, Joey, this new GDP that we just got. Well, this is not really a GDP but this new full color drawing that we just got, it says new septic field. So this is going to be a completely new installed septic field or is it referring to the second drainfield on the property?

Mr. Hess: It is referring to the second drainfield.

Ms. Kirkman: Okay, this is not really a new septic field?

Mr. Hess: I guess the reason why it was referenced as new was because it has been unused.

Ms. Kirkman: I see a number of spot light on the plan, were these in the original drawing that was submitted to us?

Mr. Hess: I believe so. Yes.

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Ms. Kirkman: Is there anything in the conditions about the use of the spotlights?

Mr. Hess: Number thirteen (13) states “the lighting on site shall be directed downward and inward, away from adjacent properties”.

Ms. Kirkman: Can you say something to where this project is with the Fire Department right now in terms of access? I have an email where there is some discussion back and forth about fire protection requirements.

Mr. Hess: From our last meeting, the April 1st meeting, it still has the two conditions in there that says prior to site plan approvals, one talking about the bridge needs to be strengthened to thirty-five tons and then the existing future structure as being compliant with the NFPA 13 standards.

Ms. Kirkman: Can you remind me how the gate access was resolved.

Mr. Hess: I believe it is a Fort Knox key that is provided to the Fire and Rescue Department. The property owner has put in his impact statement that he is going to put a the bottom of the hill, on the easement a security gate and I guess the Fire and Rescue Department has requested that they just have a Fort Knox key to gain access to that gate, to be able to get through if there for emergency purposed to get on the SPCA property.

Ms. Kirkman: So when you say the bottom of the hill, you mean on the property owners property.

Mr. Hess: Yes, I believe so.

Ms. Kirkman: And that is in the proffers?

Mr. Hess: It is not in the proffers, I believe it is going to be a site plan requirement. If the property owner still chooses to still follow through with the security gate, it is going to be a requirement from the Fire and Rescue Department. That is why it is not in the conditions.

Mr. Harvey: That is a standard practice from the Fire Marshall’s office. If you have an area that they do not have ready access to whether it is part of a building or enclosed fence or some gated access, they require what is called a Knox Box, which is basically a box on a pedestal that they have a key to so they can get in and they use that key to access either the building directly or to open the gate.

Ms. Kirkman: I have this July 18, 2206 letter from the Department of Health to what was then the Nursing Home regarding some problems with the well and contamination of the well with bacteria because the pump was not properly functioning. Has that been repaired and is the well in proper working order?

Mr. Hess: That is probably something Mr. Hoyt would be better to answer. I know he has hired a company to come out and inspect the well or work on the well. I am not sure, I have not received a report on that. So he probable would be better served to answer that question.

Ms. Kirkman: Do we have a copy of the maintenance agreement for the access road?

Mr. Hess: I do not believe we do and I do not think I have ever received one.

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Ms. Kirkman: This is a May 19, 2003 memo from Jeff Harvey. I guess this goes into some policy file or something.

Mr. Harvey: Yes it is a policy pertaining to site plan if there is an ingress/egress easement that we require them to show proof that they have a maintenance agreement.

Ms. Kirkman: It does say that...uhm. And did we ask for that from the applicant... I mean from the property owner?

Mr. Harvey: We have not asked at this stage. Normally we get into that with site plan to verify that there is a maintenance agreement.

Mr. Fields: May I interject a question here?

Ms. Kirkman: Sure.

Mr. Fields: On all these things that are required by site plan, how is it resolved if for some reason you get to an issue that is triggered by the site plan and suddenly it can not be resolved? What happens, things just wait and sit...I mean how does that get resolved? If you grant somebody a Conditional Use Permit and you have really allowed them a fairly significant guarantee by all parties of how the trajectory of this, the piece of land is going to occur over the next few years. Now if you get to a stumbling, and here we have a lot of things that are technically dealt with at site plan process, but if it can not be resolved, how does that work?

Mr. Harvey: In our Code it says it is the responsibility of the property owner to install all necessary improvements. If they can not meet the Ordinance requirements, then they may not be able to build the project. Things that are covered in the Zoning Ordinance, the remedy would be to apply for a variance with the Board of Zoning Appeals, if they can not meet the minimum requirements or unless there is some other standard that the Code allows for a waiver. As far as the Fire Code requirements, I am not sure if there is a remedy for having exceptions to those standards.

Mr. Fields: In other words, at a certain point the Fire Marshall has the authority to approve the occupancy of the property or not according to the standards of the Fire Code.

Mr. Harvey: Correct.

Ms. Kirkman: But for a lot of the things we have talked about there would be the possibility of an administrative waiver. Is that correct? Like the maintenance agreement for the road? Where would that be covered?

Mr. Harvey: Right now, it is a policy it is not an Ordinance. That is our practice. We would ask to see a copy of the maintenance agreement that the access road will be maintained. As far as the county is concerned, we do not care who maintains it as long as there is an agreement in place.

Ms. Kirkman: But it is a policy, it is not an Ordinance.

Mr. Harvey: Correct.

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Ms. Kirkman: Joey, as the planner on this I am assuming you reviewed the report from the soil consultants.

Mr. Hess: I did look it over, I did not have a chance to read...from M and M soils? Yes, I did have a chance to read it.

Ms. Kirkman: In this report they came to the conclusion that there was adequate capacity to support the proposed use. But I did not see anywhere where they said what the gallons per day utilization would be. So how is it that they came to that conclusion?

Mr. Hess: From what preliminary knowledge I know, as far as septic systems and how they do this, there is engineers on M and M Soil Consultants staff that, I guess based on the proposal that Mr. Hoyt, the information he submitted over to M and M Soils, they had to design the system to handle a certain capacity and they make the assumptions of what the capacity is going to be. The number of dogs, the number of cats, the number of animals on site, max capacity and from there they make a determination of whether the system is adequate to handle all the waste water or animal waste. As far as the specific details of the numbers they used, I do not have that in front of me. Probably Mr. Hoyt, I do not think he has his M and M Soils consultant here, but that might be a question he can further elaborate on.

Ms. Kirkman: So you did not do any...I mean this has been a real concern that has been raised in terms of the treatment of the waste.

Mr. Hess: Sure.

Ms. Kirkman: You did not do any follow up on that?

Mr. Hess: Well, I did have conversations with Tommy Thompson. This is something that is going to fall within his jurisdiction as far as working with M and M Soil Consultants. When this design of the system is made, so once again this is something that gets addressed at site plan as far as the system is adequate or not. I imagine if not, they would have to make the appropriate accommodations to have adequate capacity.

Ms. Kirkman: Mr. Chair those are all my questions of this staff person. I did ask the Zoning Administrator here to get some additional information as well.

Mr. Fields: Certainly. Ms. Hudson. Before we do that, if I could just...because it is on my mind and I am getting very forgetful in my old age. If I do not ask this question I may forget to do it. I am still actually...I have a question more as we are in the condition stage about the nature of not only access of emergency services, which it seems we resolved at one level, but we also...just like I do in a concern I have with having a lot of residential development on wells is the lack of adequate onsite fire suppression. Because with a well, I am assuming, I don't know, is there capacity here for...if there were a fire in the kennels that had to be put out would it require the use of external water through a pumper or is there enough water in the well, enough pressure in the well or is there a possibility...I know that we have not always required it, one of the things I have always thought we should do with even residences that are on well is to require, there are internal systems with tanks where you store water that allow sort of at least an emergency sprinkler fire suppression system while you are, what could be a long period of time for a tanker truck to show up. So I have a little bit of concern with a use like this that is beyond just sort of a very personal use, which gets to be a public use. What is the technological capacity that we could request or add on as a condition for fire suppression that would get a step beyond...at this point, I am assuming

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since you have a well and I do not know this and I guess that is what I am asking the answer to. You may not have it and Mr. Hoyt may, but other than calling 911 and waiting for the appropriate equipment to arrive and drive up to the site, is there a way that you can get better fire suppression obviously?

Mr. Hess: That is a very good question. I would attempt to answer it, the only thing I can think of is the condition number...and I do not know if you are talking about a fire within one of the kennels.

Mr. Fields: Yes.

Mr. Hess: A sprinkler system being put in place I think would at least alleviate the initial concerns of the fire as far as suppression that is beyond me. You would have to rely on Mr. Hoyt to answer that.

Mr. Fields: Usually most wells do not produce enough pressure to drive sprinkler systems. But there are ceiling tanks, because I have asked this question before because we have had this issue on private access easements and access of emergency vehicles down long narrow private access easements to homes and I have at least been educated by some of the fire folks to let me know there are tank based water storage based on-site suppression systems that can actually do quite a good job but they have to be designed...you have to design that in to the situation.

Mr. Hess: Right.

Mr. Fields: I would just...I have just a little bit of a concern about how when you have a...I have a concern even if it is a private home and certainly a little bit a graver concern when you have a public use and since you have a lot of animals there it is obviously a very difficult...there is three people living in a home and you have a fire it is conceivable that with the proper training and forethought you can get everybody out. It is very difficult for people to evacuate an entire kennel full of dogs. Possible with dogs, I own a cat, I know it is impossible with cats so I would just have a concern about whether that is going to work.

Mr. Hess: Okay.

Mr. Fields: Ms. Hudson, I am sorry. I did not mean to interject.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Yes.

Mr. Mitchell: I just want a point of clarification if I could.

Mr. Fields: Please.

Mr. Mitchell: Under the questions, at the first of item 6 on question number 21. The question states...I will wait until everyone turns to it.

Mr. Fields: It is on page four of our packet number six.

Mr. Mitchell: Question 21, Joey I want a little clarification because I was not quite sure which way to take it.

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Mr. Hess: Okay.

Mr. Mitchell: The question was “Would the SPCA take some pressure off the County Animal Shelter and would it be a benefit to the citizens?” Okay, the first sentence of the answer says “It is not clear.” I am going to use not clear as the operative word here.

Mr. Hess: Okay.

Mr. Mitchell: It is not clear as to whether the proposed SPCA would relieve pressure off the Stafford... Now I go to the last sentence and the last sentence states the obverse, the last sentence states “The proposed SPCA could be a resource for the County if overcrowded.” In sentence one you are saying it is not clear and in sentence two you are saying yes, if it is overcrowded it is a resource. So can you tell me which is it? Is it yes or no?

Mr. Hess: Yes or no? When I had this conversation with Captain Mike Null from the Animal Control Shelter, he did mention to me their line of work is not going to be reduced. There is still going to be a need for animal control out there and their facility is only built so big and is only going to be able to handle so many cat and dogs, I do not think they take any other animals into their animal shelter, and so it is being reviewed as there is the possibility that the SPCA could work with the animal shelter. That is where the “could be a resource” comes into play. How much they are going to be able to help out, that is to be determined, that is unclear how much help they are going to get. I mean he mentioned that they would probably help them out...the SPCA would help them out in anyway possible, how much help that would be we are not sure. They are still going to be two separate entities. The Animal Shelter will still be the animal shelter and the SPCA will be the SPCA.

Mr. Mitchell: My son and I were talking earlier this week about this question and my son was talking about the “Adopt-A-Classroom” program that Stafford has. So the school gets so much budget and the school utilizes that budget. But if you adopt a classroom then that is an additional item where money is put forward for crayolas, drawing paper, pencils pens, backpacks or whatever and I know a lot of people that participate in this, it is a very worthy function. So to me, unless I am reading something wrong if one is full, like if the budget is full for a certain degree of animals per shelter and if that gets to be full then the other one automatically becomes an asset. So I was torn on the two questions, because without the “Adopt-A-Classroom” program, and I am using that as an example that my son and I were discussing, you know that classroom would not have that option for additional help. So without the SPCA it would not have an option if the Stafford shelter became capacitated to the fullest extent. Then there would be no other choice except to euthanize more animals or utilize the SPCA as a backup resource.

Mr. Fields: Did staff consider that to be ambiguous or paradoxical in the answer.

Mr. Hess: No, I think it was more or less intended to say the established relationship. It makes sense that of the animal shelter was a full capacity that their next option could potentially go to the SPCA. However that is the relationship that needs to be binded together between the SPCA and the animal shelter. So, it looks like it would go that way and probably would hope that it would go that way.

Mr. Mitchell: If I understand what you are saying, Joey, and I do not want to put words in your mouth.

Mr. Hess: Sure.

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Mr. Mitchell: If I understand what you are saying, if the Stafford shelter is full and there is additional utilization, then the SPCA would be a resource.

Mr. Hess: Yes.

Mr. Mitchell: I just wanted to clarify that.

Mrs. Carlone: Joey, I have been in conversations with Mike Null at the shelter fairly often and he said the animals that...many of them that are brought into them are sick and aged, are being turned in by individuals. It is not all adoptable animals and they do have to euthanize some because of the illness or the condition of the animals. I am just making a statement about this, they are not all animals that could be, if the shelter was full to capacity, could go to the SPCA. Like raccoons and such, we have had problems with raccoons and one that was apparently quite sick, they had to come and take it and dispose of it to check for rabies. There are other circumstances here...there is a turnover, yes. I do not know maybe Mike could come to one of the meeting, I do not know if he was asked, to clarify some of these questions.

Mr. Hess: We could certainly do that.

Mr. Fields: Ms. Kirkman.

Ms. Kirkman: We could get him here?

Mr. Hess: Okay.

Ms. Kirkman: And it is related to that issue as well because so much has been placed on the impact. If the County animal shelter were full and somebody brought in ten dogs, five dogs, you know, a litter that they said they could no longer care for, is the SPCA under any obligation to accept those animals?

Mr. Hess: Without speaking for the SPCA, I guess they have the choice of whether they want to accept those animals or not. Like I stated before, in the conversation I had with Mike Null, he would imagine they would help in anyway possible. Now once again that is how the relationship becomes established in the future, if it becomes established in the future. As far as from your question, I would imagine so, but I can not speak on the owners behalf.

Ms. Kirkman: And that is what you mean about they could. That it really depends on how all that works out.

Mr. Hess: And to reiterate, the more of less would it relieve pressure? Pressure, once again, being the fact that so may X amount of animals are coming through on a yearly basis and do they have the space to adequately handle all those animals in the limited kennels that they have. Is it going to relieve the pressure? Probably not because, constantly even what Mike described to me now in difficult economic time, they are seeing an increase in animals being brought to them. There is still a need for the animal shelter, there is still going to be burden with the animals coming. The question is how much of that burden can they pass on to the SPCA? I think that is where I was really trying to go with the statement; they could provide and be the resource. Go back to obligation, are they obligated? No they are not obligated, but they do serve a purpose, a similar purpose as the animal shelter. I am not sure that really answers the question, it was not meant to be a paradox one.

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Mr. Fields: Okay.

Ms. Kirkman: On the plan there is this little dot about two thirds down on the left hand side that says waste disposal. What does that mean? Like over in the picnic area, it says waste disposal.

Mr. Hess: I imagine that is where we go back and talk about animal waste being picked up and put in biodegradable bags and put in the waste disposal trash can.

Mr. Fields: Do you suppose that is waste disposal for the picnic area?

Ms. Kirkman: I don't know.

Mr. Hess: That could be. I am not sure.

Mr. Fields: That is what that looks like.

Mr. Hess: I could not distinguish between the two areas.

Ms. Kirkman: How is the animal waste going to be disposed? Is it going through the septic system?

Mr. Hess: Are you talking about the animal waste within the kennels or out...

Ms. Kirkman: Uh-huh.

Mr. Hess: I believe that is something that was talked about using the septic system to handle the animal waste, yes.

Ms. Kirkman: And then in attachment 6 in the package we got, there is a flow chart. Three types of water systems, what does this mean for this application? Which of these types of water system does this application fall under?

Mr. Hess: This is more or less for illustrative purposes. I had conversations with staff at the Office of Drinking Water and they came out and visited the property. The discussion of the proposal was talked about with them, whether they would have jurisdiction over the well. These are more or less the thresholds at which, if they were to meet any of the three thresholds whether or not the Office of Drinking Water would be involved. Of course that is correspondence between the Virginia Department of Health and the Office of Drinking Water as far as who is going to have jurisdiction over what. These really just identify the thresholds. The questions being asked, yes or no and the type of system will come into play. I could not elaborate on the details of that. Right now it is unclear whether the Office of Drinking Water would be involved.

Ms. Kirkman: Right, this is the decision tree that is used to make that determination. And what determination was made about whether or not this would fall under their purview?

Mr. Hess: As of right now no, they would not have any jurisdiction because none of these thresholds are being met. If and when the proposal is brought to the Virginia Department of Health to review it, they will contact the Office of Drinking Water if they feel that the responsibility is out of their hands and it would go to the Office of Drinking Water. If not it would stay with the Virginia Department of Health as far as monitoring both waste water and the well.

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Ms. Kirkman: So you are saying that there will not be twenty-five persons served at least sixty-five days a year on this project because they are putting in parking for forty.

Mr. Hess: Once again I think that goes to the employees, they are going to be there. This is not talking about average, just your common citizen coming and going to utilize the dog park, or to come and adopt a dog, or drop a dog. Once again the Office of Drinking Water is concerned about humans drinking the water. So if there was a commercial kitchen that would be proposed, then they would be involved. Any public events, if there were going to be water fountains or things of that nature then they would be involved. If they are handing out water or selling bottled water then they are not involved because there is no usage on the well. There is no water being drank by employees or people visiting the site by the well.

Ms. Kirkman: So you are saying that the water on the property will be off limits to people visiting and volunteering there?

Mr. Hess: I would not say it is off limits.

Ms. Kirkman: Well you just said they would not be using it.

Mr. Hess: Well, once again it comes down to the number of employees there.

Ms. Kirkman: I am talking about in addition to employees there will be volunteers there, there will also be people visiting the animals, there will be people there walking their dogs presumably in this dog park. How does all that fit into this determination?

Mr. Hess: I am not sure if it does or does not to tell you the truth. That would be something the Office of Drinking Water maybe could elaborate more...

Ms. Kirkman: Office of Drinking Water is the agency that holds that information?

Ms. Hess: They are the ones who supplied me with the sheet. Once again Mr. Hoyt could possibly elaborate more on that. He has also talked to the representatives at the Office of Drinking Water as well.

Ms. Kirkman: Okay.

Mrs. Carlone: Mr. Chair.

Mr. Fields: Yes ma'am.

Mrs. Carlone: Joey, I have a question on...we had an incident of a kennel seeking approval that was already in place. What happens, I do not know what the requirements are about daily hosing down of the kennels or of the barn areas. I see on the right hand side by the new septic field, where will that washout where they are washing out the kennels, where will that go? Is there some kind of holding pond that they are going to wash that into or what?

Mr. Hess: I am not sure. That would be a question for Mr. Hoyt as far as the operations of where everything drains to.

Ms. Kirkman: Is that regulated in any way?

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Mr. Hess: What is that again?

Ms. Kirkman: Cleaning out kennels and where that goes and how that is done. Is there any agency that regulates that?

Mr. Hess: As far as just the wash down on a daily basis?

Ms. Kirkman: Uh-huh.

Mr. Hess: That is in our conditions. Once again going into the septic system, that is going to be observed by and looked over by the Virginia Department of Health.

Ms. Kirkman: Why would the Virginia Department of Health have purview over cleaning of kennels?

Mr. Hess: They would not have purview over cleaning of kennels. I am not quite sure of the agency. I was more or less thinking of where it is going to go to and who is going to regulate that. If it is going to go into the septic system, then the Virginia Department of Health is going to regulate the septic system. As far as everyday operations, it is in our conditions, I am not sure if there is another jurisdiction or another entity out there that would observe, come in and inspect the property every so often to make sure they are adequately cleaning, bleaching and doing whatever to make it a clean facility as possible. I am not sure who would be involved in the everyday oversight of that.

Ms. Kirkman: I understand that you are saying that if it goes into the septic system, septic systems are regulated by the Department of Health.

Mr. Hess: Correct.

Ms. Kirkman: Who regulates where it goes period? Who regulates that it has to go into the septic system verses just being tossed out the back door? Could you find that out please?

Mr. Hess: Sure.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: Joey, not to put you on the spot. What does Stafford County do as far as wash down of pens? I am not trying to put you on the spot, if you do not know I understand. But I am just saying, they obviously have to wash their pens down.

Mr. Hess: Are you talking about animal control?

Mr. Mitchell: Right, the Stafford Animal Control animal shelter on Eskimo Hill Road right by the landfill.

Mr. Hess: Some of the information I pulled together they talked about certain cleaning supplies as far as they use the bleach, they use the parvo-cites. All of their waste is introduced into the County sewer system since they are on county water and sewer. They use a grinder system, gravity feed. I note they are considered a pound so they are oversights by the Department of Agriculture. I do not know how often

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the Department of Agriculture comes and inspects their site. But if we are talking about wash down, they do it on a daily basis as well with the bleach and the parvo-cites and it is introduced into the county sewer system.

Ms. Kirkman: Because they are on county sewer?

Mr. Hess: Right. Correct?

Ms. Kirkman: What is the definition of a pound that takes it into regulation by the Department of Agriculture?

Mr. Hess: I think Captain Null sent me an email. He said they are defined as a pound, but I do not have that email on me. I can go and look and see if there was a definition for pound in that email. If not I can ask him to further elaborate.

Ms. Kirkman: Okay.

Mr. Fields: Mr. Di Peppe.

Mr. Di Peppe: In our original package, I believe that it said that there were two septic systems. When I read the information we got for this meeting it said that, if I am not mistaken, one of those is completely full and that there is an onsite one now that is empty. It said something about because one of the pipes leading to it was crushed.

Mr. Hess: Correct.

Mr. Di Peppe: It was never used, so it is empty. They said that for a secondary field, that they had tested the line and there were other places that would perc that would work as a septic system. Do we know where they are? Has there been any identification because we have got a pretty elaborate map here with all sorts of things. I am wondering, a lot of land is taken up where that second septic system is going to go.

Mr. Hess: I believe the second septic system would be the one that is identified as the new system.

Mr. Fields: Does that include one hundred percent reserve or simply the unused identified one?

Mr. Hess: Oh, I see. Okay.

Mr. Di Peppe: I think the new septic...maybe I am wrong. There is a little bit of confusion but there were originally two; one is full.

Mr. Hess: Right.

Mr. Di Peppe: And maybe I am wrong but I thought this new septic...

Mr. Hess: I do not think it is full; what it is...

Ms. Kirkman: It failed.

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Mr. Hess: Well, there are two distribution boxes and the first one is crushed, so it is unusable. As of now I do not know if the intent is to fix it and replace it. I definitely know there is talk about using the second septic field which has never been used because there was a line that was going across the property, going from where you see SPCA garages, you see septic tank and you see a line going to a distribution box. There was a pipe there that was crushed and that was in the impact statement and that is why this new septic field, with eighteen lines and seven inch spacing...am I reading that right? Seven foot, excuse me, spacing was never used. It looks as though the second system was put there for possible expansion of the nursing facility.

Mr. Di Peppe: Well, in the letter from M and M, which is attachment 2, page 1 of 2, second paragraph, based on the field evaluations our firm was able to determine that two drainfield systems exist on the property. No records of either drainfield system could be found at the Stafford County Health Department. The older of the two systems, which was located to the left and down-slope of the existing building, appears to have been heavily used and, in our firm's opinion, is not suitable for any further use. Okay?

Mr. Hess: Okay.

Mr. Di Peppe: So, one is out. The second drainfield system was located further back behind the existing building and I am wondering, is that what is identified here as 2...new system.

Mr. Hess: Yes. Correct.

Mr. Di Peppe: Okay, I am with you then. Alright. And that is the one the reason they believe it is empty...I mean that is something that can be fixed; it was a crushed pipe to it. I am not saying that that is unusual. But here, because of that then, to have an alternative drainfield, and they said...I will go further on because they addressed this...

Mr. Hess: Oh, I see what you are saying...right.

Mr. Di Peppe: Okay...our firm conducted soil evaluations of the soils in the area of the system and determined that soils are suitable for a drainfield system and could meet the current Commonwealth of Virginia...

Ms. Kirkman: I think what that is saying there but I think we really need to get the fellow that did this here to clarify, but I think what that is saying Arch is that the second drainfield that is already installed is suitable for use. I do not see anything in here about a reserve drainfield.

Mr. Di Peppe: Alright.

Mr. Hess: It does carry over onto the second page. If you look at the last sentence of the third paragraph it has the letter (a). It says (a) one hundred percent reserve area for this existing system would need to be delineated...

Ms. Kirkman: So we don't have it.

Mr. Di Peppe: Yeah, we don't have it. I thought I had read somewhere in there...that was what my original question was. A one hundred percent reserve area for this existing system would need to be delineated. And based on our soil studies conducted on other parts of this parcel, there is an adequate area

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available and I am wondering where that is. I mean, just because this is so crowded with whatever it is currently being planned.

Mr. Hess: Sure, sure.

Ms. Kirkman: If we had a real Generalized Development Plan, that is the kind of information that might be on it.

Mr. Fields: Are there any other questions for Joey? I know Ms. Kirkman has a question for Ms. Hudson and we are pushing up on our break here. I think maybe we will finish up here with questions and then take our break and then come back and pick up where we left off. I think...well, obviously we are not going to finish all the questions we have in the next twelve minutes, so... Do you want to ask Ms. Hudson some questions?

Ms. Kirkman: Well, Rachel, I guess we are all here because of you and this letter from you dated September 19, 2008. And I was taking another look at that letter and was hoping you could explain a couple of things to me. Now, this was in response to...

Mr. Fields: Is that in our...

Ms. Kirkman: Let's see. This was in the original packet dated April 1st. Would you like me to share mine?

Mr. Fields: Sure, if you do not mind. I'm sorry; I didn't come prepared.

Ms. Kirkman: I only have one to share, Arch.

Mr. Di Peppe: Could you read for us what you...

Ms. Kirkman: Okay. Alright, I guess I will provide the finely grained question. Anyhow, this was in response to a zoning...for what kind of determination? A zoning determination that had been requested from you on July 28th, is that correct?

Ms. Hudson: Yes Ma'am.

Ms. Kirkman: Okay. And you concluded in this letter...let's see, let me find it...you state "after researching definitions for community uses and fraternal organizations, I have made the determination that the proposed use does not meet that definition". Okay, so I am with you so far. This does not meet the definition of a community use and fraternal organization. Then you conclude "therefore, it is a non-listed use not specifically permitted anywhere in Stafford County's Zoning Ordinance". Now, the question I have there is you do not in this letter review other potential uses that this might fit under. And how is it that you concluded that no other use in the Zoning Ordinance covers what has been proposed?

Ms. Hudson: I was asked...do you have a copy of the letter dated July 28, 2008?

Ms. Kirkman: Yes, I do.

Ms. Hudson: I was asked to compare this proposed use to those two uses.

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Ms. Kirkman: To the...

Ms. Hudson: Fraternal organization and the community use. And I addressed that.

Ms. Kirkman: I understand that is what the letter requested and the first part of that sentence says "it does not meet that definition". But then you go beyond that and do something that apparently was not requested of you, from what you are saying, which is you say "therefore, it is a non-listed use" and what I am asking for you is what other uses did you review to see if it fit under the Zoning Ordinance? And how did you conclude that it did not meet any of those definitions of other possible uses?

Ms. Hudson: That was last Fall and I truthfully do not remember if I sought out particular uses. I reviewed the uses that are in Table 3.1; I did look at those. We do not have a...

Ms. Kirkman: You did look at them? Okay, good. So you looked at them. Good. So could you tell me then how you concluded that, you know, we have two definitions in our Zoning Ordinance regarding kennels and what seems to distinguish those two different...we have a commercial kennel and a non-commercial kennel...and what seems to differentiate the commercial kennel from the non-commercial kennel is size. So, the definition in our Zoning Ordinance of a non-commercial kennel is a place in which six or more dogs or cats...this doesn't make any sense. You have the exact...a place in which six or more dogs or cats or more than six months of age are kept and maintained by a householder within or adjoining a private residence. And then you have commercial kennel, any place in or at which six or more animals more than six months of age are kept, boarded, groomed or trained for pecuniary gain on a regular basis. Could you please explain why this does not meet the definition of one of those kennels?

Ms. Hudson: Why the proposed SPCA does not?

Ms. Kirkman: The SPCA is an organization. SPCA is not a land use. Could you please explain why this does not meet the definition of either a commercial or a non-commercial kennel which are permitted in other zoning districts?

Ms. Hudson: Correct. And I believe that this proposal did not meet the definitions of the commercial kennel or the non-commercial kennel because of the different uses that were proposed.

Ms. Kirkman: And what uses are those?

Ms. Hudson: Dog parks and meeting rooms, space for veterinary clinics...

Ms. Kirkman: So, do we have a definition...I believe veterinary clinics falls under a commercial use and would be appropriate in commercial zones.

Ms. Hudson: A veterinary clinic.

Ms. Kirkman: Yeah, so that land use is covered elsewhere. And we have kennels...it clearly has a kennel component. So why doesn't that go under one of the land uses?

Ms. Hudson: Because of the combination of so many different activities that may be allowed in different zoning districts with different permits, whether they be SUP's or whatever, I felt that this accumulation of all these different activities is not a use that is allowed in our Zoning Ordinance, therefore, it should require a Conditional Use Permit.

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Mr. Rhodes: To make sure I did not miss something, a commercial kennel would charge fees for boarding of the animals and was in the proposal here the charging of fees for the boarding of the animals? That is a fundamental part of a kennel as I understand it.

Ms. Kirkman: Except for in the definition of commercial kennel it actually does, it covers charging of fees for more than boarding. It is charging of fees for boarding, grooming, breeding, training, and I believe the applicant...the property owner said he is going to charge some fees for dog-related activities on his property.

Ms. Hudson: I have no idea about that.

Ms. Kirkman: So, that part was not in the proposal that you read?

Ms. Hudson: Regarding them charging fees?

Ms. Kirkman: Yeah. That was not in the letter that you got?

Ms. Hudson: I would have to go back and review this entire letter, Ms. Kirkman. I do not recall.

Ms. Kirkman: Okay. So, your position is this is not a kennel because it has a veterinary clinic on it as well?

Ms. Hudson: Well, there are many things that they were proposing. A dog park, a wildlife rescue and rehabilitation component...

Ms. Kirkman: Well, they have taken out the wildlife component.

Ms. Hudson: This letter that I received on...

Mr. Rhodes: And they could take out the dog park and they could take out the horse barns because we do have areas where people are residing and they have horses; we have so many horses per square foot which we probably would not need in here, so there are a lot of variables that could be in there. I think at the core of a kennel, wouldn't it be a fee for boarding commercially? I have never heard anywhere where at the core of this there was a fee for boarding of animals.

Ms. Kirkman: Mr. Chair, could I finish asking my questions of Ms. Hudson?

Mr. Fields: Sure.

Ms. Kirkman: So, Ms. Hudson, I just want to make clear, so at the time you made this zoning determination it was based on the fact that there were multiple uses that included a veterinary clinic, a wildlife rehabilitation component, a kennel and a dog park. And it was those combination of all four of those uses that led you to conclude that it was a non-listed use.

Ms. Hudson: The accumulation of many different uses, yes Ma'am.

Ms. Kirkman: Okay, thank you. That has been very helpful.

Ms. Hudson: You're welcome.

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Mr. Fields: Alrighty. Are there any other questions for Ms. Hudson or staff? I think we are going to wrap things up with staff and then break.

Mr. Di Peppe: Okay. I have gotten a lot of emails concerning adjoining property owners because, at the present time, it is felt that the road and the bridge need tremendous amount of work and they seem to be worried that they are going to have to pay. Like right now they do not have to pay to redo this but they seem extremely worried that they are going to be assessed in order to improve the roads for this facility and to repair that bridge. Is that true? Are the adjoining landowners or the people that have access, not necessarily adjoining landowners but those that have access to this road to get to their property, are they going to be required to help pay for the widening of the road and the repair of the bridge?

Mr. Harvey: Mr. Di Peppe, I have heard different versions of who is required to do what with regard to this road from different people. Apparently there are a number of legal documents that either have been or have not been duly recorded in the courthouse. That is a private issue that really the County would not be involved in because there may be disputes and ultimately a Court may have to decide who is responsible for maintaining and improving the road.

Mr. Di Peppe: So that is not an impact that we can consider among...because there are adjoining people and other people that use that road so you are saying that that type of impact cannot be considered and whether you... Because my question leads to that any time you do a Conditional Use Permit it is somewhat like a rezoning and you look at all the impacts on the people that are already there. And if there is a financial burden that can come with this we are not allowed to look at that is what you are saying. Because right now there are not and with this there could be...substantial, and so we are not allowed to consider that as an...

Mr. Harvey: As I said in earlier this evening, in our site plan requirements it specifies that the developer is responsible for ensuring all the improvements that are required or made. The Code does not specify that the County gets involved in who pays for that.

Mr. Di Peppe: Okay, thank you.

Mr. Fields: Alrighty, any other staff questions?

Ms. Kirkman: Yes. Joey, could you find out for us, there are a couple of veterinary clinics around here that do boarding as well. So, for instance, I know White Oak Animal Hospital does, the one up on Jeff Davis does...could you find out what their land use is and what their use is determined to be?

Mr. Hess: You want land use or zoning?

Ms. Kirkman: Their land use and their zoning district.

Mr. Hess: Okay.

Mr. Fields: And there was just a State ordinance that just came through that limited the number of animals, right? Or was it...

Ms. Kirkman: The number of dogs.

Mr. Fields: The number of dogs to fifty, right?

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Ms. Kirkman: That is correct. So Joey, could you see about the possibility of...the other piece of information I asked for is what does the Department of Agriculture define as a pound so when does that activity come into their regulatory scope. What kind of regulations, like who regulates when there is whatever this use is that involves cleaning of animal waste from an indoor...

Mr. Hess: On a daily basis.

Ms. Kirkman: Yeah. Like what agency, if any, would regulate that.

Mr. Fields: The Office of Drinking Water.

Ms. Kirkman: Yeah, and then there were a number of people that I do think it would be helpful to hear directly from. Some of these the applicant will need to think about...I mean the property owner will need to think about. But Mike Null from the dog pound and then the Office of Drinking Water, and then in terms of additional people just while I am going down the list this is really for the property owner to decide, M and M Soils and whoever has done their well work or well inspections, and if you could also in the meantime get copies of any engineering reports in terms of soils work, that would be helpful.

Mr. Fields: If there is nothing further, we are going to take a recess for thirty minutes while we get some sustenance and then come back and, of course, generally we will go into presentations by the public as we usually do our first evening item and then we will pick back up basically where we left off with this issue. We will do the public presentations, the one public hearing and then we will pick this discussion back up, which is actually the next item anyway.

REVIEW OF PENDING SUBDIVISION PLANS

None

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

None

OTHER UNFINISHED BUSINESS

None

APPROVAL OF MINUTES

April 1, 2009 Work Session

ADJOURNMENT

With no further business the meeting was adjourned at 7:02 p.m.

End of Work Session Agenda

7:30 P.M. REGULAR MEETING

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The regular meeting of the Stafford County Planning Commission of Wednesday, June 3, 2009, was called to order at 7:34 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,

DECLARATIONS OF DISQUALIFICATION

None

PUBLIC PRESENTATIONS

None

PUBLIC HEARINGS

7. RC2900127; Reclassification - Stafford Nursing Home and Retirement Community Proffer Amendment - A proposed amendment to proffered conditions to establish phasing of the development, site access, and other planned improvements and allow flexibility in unit types for a retirement community, zoned LC, Life Care/Retirement Community Zoning District, on Assessor's Parcel 44-119M consisting of 22.69 acres, located on the east side of Berea Church Road south of Falls Run within the Falmouth Election District. The Comprehensive Plan recommends the property for Urban Residential, Light Industrial, and Resource Protection land use. The Life Care Zoning would allow development of transitional housing for the elderly, including independent living units, assisted living facilities, and nursing homes. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the LC Zoning District. **(Time Limit: September 1, 2009)**

Mr. Fields: Our next item on the agenda is a reclassification, Stafford Nursing Home and Retirement Community Proffer Amendment.

Mike Zuraf: Good evening Mr. Chairman, members of the Planning Commission. I am here to talk to you about a request for proffer amendment for the Stafford Nursing Home and Retirement Community. This request is to amend proffer conditions on this property that is zoned LC. That zoning district is called Life Care/Retirement Community. The applicant is James Pietrzak with Stafford Residential 1 LLC and the agent is Bruce Hedrick with Smith Packet. The property location is on Assessor's Parcel 44-119M. The location of the site is shaded in light gray; it is located on the east side of Berea Church Road which I am pointing out here and on the south side of Falls Run which generally runs in this location. And then also to the south of this site is Brandywine Court within Stafford Industrial Park. The parcel size is 22.69 acres and currently the site is undeveloped. Looking at the current zoning, as I noted it is zoned LC, Life Care/Retirement. Surrounding this site, opposite Berea Church Road and over to the north and east is R-1, Suburban Residential zoning. This is England Run North and undeveloped land to the opposite side of Berea Church Road. Further down Berea Church Road towards Warrenton Road is A-1, Agricultural zoned land in this location, and to the south of this site, generally in this area, the lighter blue is M-1, Light Industrial land. Looking at the Future Land Use Plan, the future plan for this parcel is designated Urban Residential and Resource Protection where Falls Run is located. Across from Falls Run you have

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Suburban Residential land use and adjacent to this property in the direction of Warrenton Road the light gray is Light Industrial. This is an aerial view of the subject property. As you can see, in its undeveloped state, the majority of the site is still forested and you can see the developed parcels where the homes are located on the opposite side of Falls Run and then the adjacent industrial park to the south. Going over some of the history of the zoning of this property, in March of 2008 this site was rezoned to the LC Zoning District. The proposal included the construction of a retirement community with a variety of dwelling unit types and also that rezoning included proffers which included guarantees of specific access points, infrastructure improvements, maximum units and beds that would be located within the site, it specified certain monetary proffers that would be included per unit, and then features that would minimize the impact to adjacent properties. In August of 2008, after the zoning occurred, the applicant found that they would need to encroach into the Resource Protection Area and to do that, the way it was proposed, a variance would be needed from the Board of Zoning Appeals. That request was denied at that point. And so after that point the applicant had to go back to the drawing board and re-engineer the site. In December of 2008 the revised major site plan was submitted to the County for this facility and that site plan is still under review. That brings us to the purpose of this amendment. The main purpose is basically to allow access to the nursing home on a temporary basis off of Brandywine Court. That is the drive that is located within the Stafford Industrial Park. The proffers, as they were approved in their current state, basically required the access to this entire site run off of Berea Church Road so the entire property would serve out to Berea Church Road. In addition, what this amendment would do would establish some phasing of the development. That is specified in proposed proffer 3. And the whole reason for this is the applicant proposing that the phase 1 of this project be the nursing home. The nursing home, which I will identify better later, is located the furthest away from Berea Church Road, but it is closer to Brandywine Court. Phase 2 of the project would then be the remainder of the property further to the north adjacent to Berea Church Road. That is where the independent units and the assisted living facility portion of this project would be proposed. And included with it in this phase 2 are four buildings that would make up that element, which one building would be a combination assisted living facility and independent living units and then there would be three other buildings that would be consistent with the independent living, solely independent living units. A generalized development plan was included with this proposal to amend the proffers. This plan would maintain the original site design that was approved originally with regard to the general location and type of uses. The development phasing is one difference in this general development plan. The phasing is more so divided up within this plan. It goes through and identifies the location of phase 1 and how that site would be accessed. Through phase 1 it proposes the primary access to the nursing home by the way of Brandywine Court and then proposes a temporary emergency access road out to Berea Church Road. And then the plan goes into identifying the phase 2 of the project which would be the remaining build-out which would then switch the primary access to the site over to Berea Church Road. Full access improvements would occur there and then the access over to Brandywine Court would become the gated temporary access. So what is basically being proposed here is more of a linking of access improvements to the phasing of the development. Here is the phase 1 illustration provided of the development plan. The entire site, I am highlighting here, this is at the bottom of the screen and what I am circling is the end of Brandywine Court. This would be the initial primary access to the nursing home facility which is located in this area and then the emergency access would follow the future location of the main access drive through the remainder of the property and this would be a gated access. The plan then shows phase 2 of the development which identifies the remaining build-out. This would be the location of the assisted living/independent living units and then the other three units, the independent living units, are in this location here and here. You would then have this fully constructed and improved paved primary access off of Berea Church Road in this location and the access drive would then run down to the nursing home and behind the nursing home would be the future gated access to the whole facility. And the applicant has provided a better image to really see the phasing a little more clear. The hatched area at the bottom is your phase 1 location and the remainder unhatched area is phase 2 of the project. The original

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proposal included proffered exteriors. This is more for your information. The applicant has not proposed any changes to what was originally proposed but this was more so to remind you of what the units might look like. Looking at the transportation issues with this proposal, the applicant did submit a Transportation Impact Study that evaluated the impacts of the primary access of this nursing home site onto Brandywine Court. The nursing home itself would generate 284 vehicle trips per day and 43 peak vehicle trips per hour. The study looked at two intersections that go through the industrial park and it looked at the intersection of Brandywine Court onto International Drive. The report basically notes that this is a low volume intersection; it is kind of located in the back of the industrial park and there is a very low traffic situation here. The study then looked at the signalized intersection of International Drive with Warrenton Road and the study did note that currently there is an acceptable Level of Service of B in the morning and C in the peak hours in the evening. And the study does state that under the proposed development the current Level of Service would be maintained under this phase 1 proposal. It does state that no additional improvements would be recommended and staff does concur with the findings in this report. Also, in addition to the main issue of access in the phasing, additional amendments were proposed that tie some of the proffered improvements to the phases of development. This is due because the proffers call for several infrastructure improvement screening amenities that may more so be tied to the follow-up phase 2 aspect of the proposal. So I am going to go through and highlight the different phases of development and what proffers would be triggered at those phases. First the proffer amendment talks about what items would be provided prior to occupancy of the first building in phase 2 and those proffers include the off-sight improvements to Berea Church Road, Fleet Road and Warrenton Road. As you may recall, that is an older intersection that the alignment is a little bit off and the applicant is proposing to kind of improve that to bring that road and improve that intersection, improve the flow and improve the safety in that location. That would be done prior to phase 2 occupancy. Also, the entrance improvements to Berea Church Road into the site would occur; that is within proffer 16. And then the streetlights that were proffered along the frontage of the property would occur at the same time. Then the applicant gets into what would be done prior to the occupancy of the second building in phase 2. Here the applicant would provide the FRED transit bus stop; that is within proffer 18. Then several things would occur upon completion of each phase, including phase 1 and 2, that the applicant would provide split rail fence around the perimeter of the property, that is noted in proffer 27, and proffer 28 is that they would provide at least 25 percent evergreens within transitional buffers. Then upon completion of phase 2 at the end of the project the applicant would install the trail network and associated recreational amenities, that is through proffer 13, institute restrictive covenants through proffer 14, and additional light recreational amenities, that is within proffer 29. There are a few other proffer changes. Proffer 5 gets to minimum and maximum dwelling unit types. The applicant is proposing to increase the number of assisted living beds that might be allowed from 76 up to 127. And if that occurs, they would correspondingly reduce the number of independent living units that would be permitted on a one-to-one ratio. And then there were other minor amendments to kind of clean up language that were recommended by staff. Looking at the Comp Plan, the Land Use Plan designation recommends Urban Residential and Resource Protection. Staff finds that this request is consistent with the Land Use Plan designation. Staff does also note that although it would be more appropriate to separate residential uses from industrial uses, staff believes the impacts in this proposal would be minimal specifically because it is a temporary proposal that would then be changed over and access would be shifted. And also the industrial park itself really consists of lower intensity uses with more flex office and storage buildings and the nursing home use itself generates a lower volume of traffic and residents in that location would be more confined to indoor living than the other uses of the assisted living and independent living units. And this proposal also does not increase the residential intensity within the site. Staff recommends approval of the application with the proffers as amended; it is consistent with the Comp Plan. Allowing temporary access to Brandywine Court would have a minimal impact on the adjacent properties and the road network and staff believes the phasing proposed is logical

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and the proffers do provide clear timing of related improvements. And we will take any questions at this time.

Mr. Fields: Any questions for staff?

Mr. Di Peppe: I want to take a half step back. In between the time we did the rezoning and now there were some environmental issues that came up that had to be dealt with. Do you remember? Do you know what I am talking about? Can you give me just a little, and I do not want you going into great detail, what they were and how they were dealt with and is any of that going to be affected by these changes?

Mr. Zuraf: Are you just referring to the major water quality impact assessment?

Mr. Di Peppe: Yes.

Mr. Zuraf: Yes, that was provided to us by the environmental planning staff and they noted that as part of their major water quality impact assessment they will be kind of cleaning up some areas of the site. They found that along a certain area of the stream there were some trash that is going to be cleaned up and they will also be restoring portions of the RPA that were already previously cleared and then they also will be enhancing portions of the RPA in areas that they will need to be grading for the development.

Mr. Di Peppe: When will that happen?

Mr. Zuraf: That would happen when the site is developed.

Mr. Di Peppe: When we get to that particular part of that phase is what you are saying?

Mr. Zuraf: Yes, I think a lot of the work is... I cannot speak to when. Maybe the applicant can better speak to when that will occur but the RPA restoration I think this is happening along the stream that bisects the site. I would assume that the restoration would occur during the phase 1 and the phase 2 portion would occur at a later time.

Mr. Di Peppe: And then just two real quick questions. Under the proffer 18, the FRED transit bus stop will be added prior to the occupancy of the second building in phase 2. Do we know how many units are going to be in the first building in that phase 2? Because what I am looking for, these types of units are not necessarily going to have transportation access. I think FRED bus should be there at the occupancy of the first building unless we are talking about such minimal number that it would not have sufficient ridership. Because I think it is a small thing to have a FRED bus stop.

Mr. Zuraf: The independent living unit buildings would have 32 units each. If the assisted living/independent living unit occurred first, that has more. That could have up to 169 units if the assisted living building went up first.

Mr. Di Peppe: Okay. And then finally, I am a little concerned with proffer 29, that recreational amenities will be provided upon completion of phase 2. I think they need to be phased in as the buildings come online so that people living in those buildings, especially the independent living people, would have some... and maybe that is something I need to address the applicant with.

Mr. Zuraf: Yes.

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Mr. Fields: That is not exactly a question of staff.

Mr. Di Peppe: Well, I was wondering why they recommended that we take this, why they recommended approval when, for example, that everybody has to wait to the end to get to the recreational...

Mr. Zuraf: The applicant may be able to address some of that a little better. Staff did recommend that. We initially said okay, why don't you provide these up front. Their concern was if they are going building by building, specifically with the trail, they may put a trail in too soon and then a building comes in later and basically requires them to rebuild the trail.

Mr. Di Peppe: They do not know where the buildings and the trails are going to be when they start?

Mr. Zuraf: Well, the building may require extra grading and stuff, so they have some reasoning why that is phased in differently.

Mr. Di Peppe: I will talk to them. Thank you.

Mr. Fields: Alright, any other questions for staff? Mrs. Carlone?

Mrs. Carlone: Yes, but I will wait for the applicant.

Mr. Fields: Okay. Ms. Kirkman?

Ms. Kirkman: Yes. Mike, what is the section of our Zoning Ordinance that covers changes in proffers?

Mr. Zuraf: I do not know the specific number.

Ms. Kirkman: Jeff, I have been trying to find it. If somebody could locate that for me, it is related to some of my questions. When was the traffic impact analysis done?

Mr. Zuraf: Are you referring to the update? April 17th.

Ms. Kirkman: Okay. And was a Chapter 527 review done on this?

Mr. Zuraf: No it was not.

Ms. Kirkman: But this application was coming in well after the start time for those. Could you explain why not?

Mr. Zuraf: It was not done because there was a full traffic study already completed with the initial proposal and this was more so a proposal that focused on the adjustment to the access only for the nursing home, so we did not believe that a full revised study would occur because the applicant also is within the proffers maintaining all of the improvements that were called for in the initial traffic study.

Ms. Kirkman: But the initial traffic study was done before Chapter 527 reviews were required so it was looked at in a different light than a Chapter 527 review would be looked at. This proposal also changes the housing mix as well. And I believe a commercial project of this size is probably covered under the requirements for Chapter 527.

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Mr. Zuraf: Well, the way we looked at this was that the number of units were not increasing and the focus of this change was on the nursing home. That was our reasoning for it.

Ms. Kirkman: But this is a new... and this is why I was asking what our Zoning Ordinance says, I think our Zoning Ordinance says that any, and it may be the CUPs but one of those does say it is like the exact same process so I really...

Mr. Zuraf: I would have to look at that language.

Ms. Kirkman: Yes, I would really want to see on paper staff's reasoning in determining that a Chapter 527 is not needed and see on paper how that is consistent with the State law.

Mr. Zuraf: I would also believe that the assisted living facility, that is the increase that is proposed, I would think they would have a lower traffic generation than an independent living unit but I would have to check.

Ms. Kirkman: Yes, I want to see the estimates on that because while there may be lower resident traffic generation you may have more visitors since the residents are going out and it certainly requires more staff and employees. So, for instance, I know that now it is increasingly common to have home health aids come into assisted living facilities. So, are there any walking trails or recreational amenities that will be available to the residents or to staff during the phase 1?

Mr. Zuraf: No.

Ms. Kirkman: Okay. Those are all the questions I have for staff.

Mr. Fields: Any other questions for staff? Mr. Rhodes?

Mr. Rhodes: Yes. Mike, I think I know the answer I just want to confirm, on the phase 1, what remains for the modified phase 1, does not then create the requirement of payment of any cash proffers, correct? That is only applied to the units that are in phase 2?

Mr. Zuraf: That only applies to the independent living units.

Mr. Rhodes: Okay. And also, the same thing would go for the cash proffer paid out to the Parks and Rec. That only would initiate whenever phase 2 began?

Mr. Zuraf: Let me check that.

Mr. Rhodes: I just want to confirm that that is the way I understood was correct.

Mr. Zuraf: Yes, that would kick in in phase 2. It says at the issuance of the first independent living certificate of occupancy.

Mr. Rhodes: Okay. Thank you.

Ms. Kirkman: I did have a question on page 1 of the plan, in the discussions of the transitional buffers, under the second table, on note number 1 it says that they are assuming 100 percent substitution. Could you explain what that note means? What is being substituted for what?

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Mr. Zuraf: I would assume that maybe the engineer can help. I would say that if their requirement for 10 trees is that if there are 10 existing trees then that would count. That is what I am assuming.

Ms. Kirkman: Thanks.

Mr. Fields: Any other questions?

Mr. Rhodes: Yes Mr. Chairman. Sorry, there was one other question I wanted to confirm. Is there any specific time in which the phase 2 would have to be completed?

Mr. Zuraf: No there is not.

Mr. Rhodes: Okay, thank you.

Mr. Fields: Alright, any other questions for staff? Applicant, you wish to make a statement and then answer some of the questions raised?

Bruce Hedrick: Good evening Mr. Chairman, members of the Commission. It is good to see you all again. Staff did a great job in terms of analysis and boiling things down so I will try to keep my comments short and reply and respond to your questions which obviously you all have created some and I will comply accordingly. But since May of 2008 we have had a lot of progress towards starting the development of our project. We obviously purchased our site. The full campus site plan, as well as the nursing home building plans, have been submitted, reviewed and final approval is anticipated in the next few weeks. The Fleet Road improvement plans have also been submitted, reviewed and approval is pending the review of the right-of-way dedication plat that we have been able to obtain from the landowner. The process has begun in terms of financing for our skilled nursing facility and we anticipate starting construction, if all permits are available at the end of the month. While we have made some positive strides obviously the current economy has had an impact on our project. If you will remember, we have three levels of care on our campus; the independent living, the assisted and the skilled, and it is the more discretionary levels of care, the independent and to a lesser degree the assisted living that obviously has been impacted the most by our current economy. The downturn in the housing and equity markets obviously has affected our seniors' ability to provide and pay for these types of services. And, subsequently, the soft market has led to a very difficult and almost non-existent construction financing environment for independent and assisted living. The development of our independent and assisted living has always been market driven and currently, and unfortunately, it is on hold until the market can rebound. The skilled nursing however is more of a need driven type of services and the care predominantly is paid by third parties, either through private insurance, Medicaid or Medicare. Financing is still available for the skilled level of care through our various lenders. As you may recall, the skilled nursing facility also has a COPN expiration and moving forward with the CON will help us comply with that. The skilled nursing facility and the related services cannot be held hostage while the independent living and assisted living markets recover, nor can a freestanding building, the freestanding nursing facility, support the cost of all of the site-related infrastructure associated with the full campus development. The proffer amendment really focuses on three things: clarifying the phasing of the project, the temporary request to have access through Brandywine Court and adding some flexibility in terms of the unit mix in the independent and assisted living. As it has always been from the beginning of our project the skilled nursing facility is part of phase 1. The first phasing again, as Mike had mentioned, is the hatched again providing access out to the rear towards Brandywine Court. What you will also notice, and at the request of the Fire Marshall, is a gravel road emergency access only to Berea Church Road and it will also be gated at the top. The phase 2 will start with the independent and assisted living facility and, at that point in time, we basically change

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the original ingress and egress that we had originally anticipated which is off of Berea Church Road. The Brandywine Court access would, at that point, be emergency access only. Prior to our CO the first building on phase 2 we would obviously be doing the Berea Church Road improvements, the Fleet Road improvements, as well as the site lighting along Berea Church Road. The active adult piece, as you can imagine, at this point in time is the slowest moving of any product in the retirement continuum of care so these would be subsequent phases to the second phase. As part of our request, we are also asking for some flexibility in terms of converting independent to assisted living. Under no condition are we requesting that the density be increased at all. And really, the reason behind that is there is kind of a new level of care that is emerging between independent and assisted living and we are calling it assisted living light. And the State has also recognized this in terms of the residential licensing under assisted living licensing. What it allows us to do is provide very modest assisted living care in the independent units but it still needs to be licensed as assisted living and this request allows us, as the market matures and the product is defined, that we can take care of those needs and services without having to come back and realign our unit mix. In closing, we have been working on this project since 2005 and our commitment to meet the unmet long term care needs and senior housing needs for Stafford County's elderly and their family members has not changed. We are committed to the project. As evidenced by the pending approval of the full site plan development, we continue to invest time and money to get the whole campus started. We also continue to spend time and money looking for financing options for the balance of the campus. And, as you certainly are aware, we have invested a lot of capital in terms of getting this project to where it is today. Our development team is here to answer some questions. I will try to answer some of the ones I heard initially and then respond to any others. Bill Pyle is here with G & O, our civil engineer, John Riley with Kimley Horne, traffic engineer, and Charlie Payne with Hirschl Fleischer is also here. I think there was a question in terms of the environmental cleanup. Yes sir, we would be willing to take care of that in terms of phase 1. Do you want to address the question or should we respond to your questions first in terms of...

Mr. Fields: Well, if you are done with your statement you could take questions from the Commission before we open the public hearing.

Mr. Hedrick: Absolutely. Thank you for the opportunity. We are certainly here to answer questions and we hope you can support our proffer.

Mr. Fields: Okay. Are there any questions for the applicant? Mr. Di Peppe and then Mrs. Carlone.

Mr. Di Peppe: I have been a big supporter of this project since the very beginning because I think there is a tremendous need for this and I have seen it in my own family. But I would like to see, especially as I raise a point with staff, especially on your assisted living, that you put your FRED bus stop in. I am not talking about only for your residents, I am talking about for your employees for visitors so people can get in there and have access. I do not think it would be very expensive to do that, at the completion of that building have a small facility there for the FRED bus stop. And also later on if you do get to the independent living I would like to see some amenities at the end of the first building because those people are going to need some amenities. Like you say, you might build one building and who knows, 8 years before the next building goes up. I just think it is important; each new building will have residents and those residents will require recreational facilities and I would like to see some changes or at least those questions addressed.

Mr. Hedrick: In response to your last question first, the thought process was if we put in the full ring of walking trails as we continue to develop the project it would have to be ripped up and reshaped. I certainly see the merit in a series of phases along with each building and trying to provide pieces of that

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walking trail. So, certainly that is something we would be amenable to as each phase is done, providing a segment, if you will, of the walking trail.

Mr. Di Peppe: And what about the FRED bus stop?

Mr. Hedrick: Yes sir, I think we can do that.

Mr. Di Peppe: Thank you.

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

Mrs. Carlone: I do have quite a few questions. There is the FRED stop; you have already addressed that. I think you should go ahead and start applying for FRED to come in to get their feel on it first of all so that that is done and out of the way in time to go ahead and install. I do not know how long that will take but based on potential employees and then other help plus visitors. I noticed for recreation, number 13 and 29, there is a bit of concern. Just tell me right now how many units altogether?

Mr. Hedrick: The original zoning was for approximately 436.

Mrs. Carlone: Okay. So you have here under 29... I just feel this is not doing what you should be doing for the other people. Upon completion of phase 2, the applicant will provide a recreational amenity, in singular, for the residents such as shuffle board, putting greens, horseshoe pit, etcetera. You are doing that in singular. When you had come before us we had asked for more amenities because of the number of people there. You have a trail surrounding that but that is not sufficient for when you get to eventually the four other buildings which include assisted living/independent then three independents. Those people are mobile. I do not know whether you are going to rent them or if they are going to purchase those individual units but there needs to be more amenities for them.

Mr. Hedrick: I apologize. My assumption was that we were providing a menu of those, not just a, so perhaps...

Mrs. Carlone: Well, the way it is worded in here it is in singular, a recreational amenity. So, I recommend you change that to include several options for the independent living.

Mr. Hedrick: Yes Ma'am.

Mrs. Carlone: Also, with some of the wording here like entrance improvements, to put prior and take out or concurrent, prior to the issuance of the first certificate of occupancy the applicant, and this is number 16, the applicant "will have extended". This should be done when the first person is ready to go in there or whatever other individuals will be there. On number 16 go ahead and put "prior to the issuance of first certificate of occupancy for phase 2 of the project". The purpose of Berea Road the applicant "will have extended", to add that in, and then after the words "150 feet to 200" put "added the intersection". These are things that are needed. The FRED system, we have already discussed that. Street lights, again, number 17. Prior to the issuance of first certificate of occupancy, the applicant "will have installed" street lights along the frontage. Those should be in place. There are some other ones but to me the recreational. The shuttle bus service, there was a question there. I think I had asked this before and it was not addressed. Are these independent livings, will they all be rental or will they be condos? Are they going to be split up because I had asked before about the HOA. I am concerned about that.

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Mr. Hedrick: Which number is that?

Mrs. Carlone: That is number 8, the shuttle bus. This is the one from the community for travel to local areas and I guess doctors also. I had a question about the sequence but I think you have clarified that. It will be the skilled nursing home first, then the next project will be the assisted living. When you all were approved to have this assisted living it was based on having a nursing home and assisted living rather than more condos, if I understand this correctly.

Mr. Hedrick: Right.

Mrs. Carlone: Okay. And that is it.

Ms. Kirkman: Yes, I have questions. The concept of this when it was approved by the Board of Supervisors was to provide a continuing care community, independent living all the way to nursing home.

Mr. Hedrick: Yes.

Ms. Kirkman: What you are bring to us now is a project that builds the nursing home first, what is to guarantee if the economy does not recover, maybe your company goes belly up, what is to guarantee the continuation of the project so we really do get that continuum of care? Is there anything in the proffers that does that?

Mr. Hedrick: If you will look to the original proffers, it does speak to that this was to be done in phases. Under three (3), Uses, "the referenced property will be developed in several phases", so from the original start of our project, it has always been anticipated that this project would be phased. During the original rezoning process, there was discussion in terms of a timeline, and as we said then and certainly has proved to be correct, the markets change. None of us want a project that is under funded that ultimately goes belly up. That does none of us any good and specifically the residents that we are caring for. Phasing a project in the manner that we are suggesting is in spirit with the original application and the original approval that we have. In terms of the assurances that you have, we have been doing this for twenty-eight (28) years, this is not our first retirement project, this is not retirement project that has been phased. Please feel free to call any of the references that are listed on our website, in particular, one that do have a campus project. We have been able to deliver a prudent development plan and with the help and support of the community a continuum of care that meets the needs of the residents.

Ms. Kirkman: Well, that is really great that you have been able to do that in the past. But is there anything in the proffers before us that will guarantee that building of the phases? My concern is the nursing home goes up, what do we do than if the project can't be built?

Mr. Hedrick: We are not other developers, that is all I can say. Guarantees is what we have been able to do in the past.

Ms. Kirkman: Can we have staff look into if there is some kind of way to do a performance bond around that? I do not know what or if there is a proffer that could be voluntarily offered by the applicant in regards to that. Then, the next thing is, in your letter, you state that the reason this project is important again is because it is serving the needs of Stafford and you cite the numbers needed in Stafford for nursing home beds.

Mr. Hedrick: Um, huh.

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Ms. Kirkman: What guarantees do we have that these beds will be filled with Stafford residents? Is there anything in the proffers that sets aside us or percentage of the beds for Stafford residents?

Mr. Hedrick: No, ma'am.

Ms. Kirkman: Okay, and I noticed on the site plan, it looks like you have roads around the nursing home that are in the Critical Resource Protection Area (CRPA), is there anyway to design this project so you are not putting concrete in the CRPA?

Mr. Hedrick: Bill, I think we have addressed that in terms of your site planning as well as the WQ app.

Ms. Kirkman: Um, huh.

Bill Pyle: We had originally designed it without those impacts to the RPA, but then in dealing with the Fire Marshall, they required us extend access around the building and through the RPA and dealt with us with the environmental staff in order to get those allowed impacts approved by staff.

Ms. Kirkman: When the Fire Marshall asked you to do, or whoever does that over there, asked you to do that, instead of just running a road around the proposed site of the nursing home, is there any way to shift everything to the left so you don't have that road going through the RPA? Because you have some space over here that you are not using that is not in the RPA.

Mr. Pyle: Basically, the shape of the building is such...

Ms. Kirkman: I can see the shape of the building in the plan.

Mr. Pyle: I think I can point it out here, there is a public right of way here and there is setback from the right of way. So with the shape of the building, it is within about two feet of the setback line, right here, so the building cannot move any further to the southwest.

Ms. Kirkman: But can you change the shape of the building? You are supposed to design these projects to minimize the impacts to the RPA, when this was in front of us the last time, you did not have concrete in the RPA and now it does. What consideration was given to redesigning the building in order to avoid the impact to the RPA?

Mr. Hedrick: I am sorry ma'am, I did not realize that we were addressing site plan specific questions and I was only prepared to respond to the proffer amendment questions.

Ms. Kirkman: Well, my understanding at this point was... for instance, a proffer could be made to not impact on the RPA, so you have opened up the question of all the proffers by coming before us with a proffer amendment. So I am asking, what consideration was given to redesigning the buildings because this is not what was before us last time and I... You know, if there is a way to redesign it around impacts, that would make this a better project.

Mr. Hedrick: Okay, we will look into that.

Mr. Fields: Alright, other questions. We do have to do a public hearing and some other things and I am sure will have plenty of work session time on this as well.

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Mr. Rhodes: Mr. Chairman?

Mr. Fields: Yes, Mr. Rhodes.

Mr. Rhodes: Certainly, the jobs tied to this are a good thing and a positive thing in the county. It is unfortunate that the market conditions and financing are driving open ended deferral of the elements that are providing for the cash proffers to the county and that are providing the cash proffers to the park and recreation, because those elements are in the phase two (2) now. Given that many designs of the proffers are such that many are tied to the completion of phase two (2), which really has no end date certain. I suggest as we go forward from here, a consideration of after some period two (2) things, one for those are tied to the end of phase two (2) given that there may be just one part of one building that never gets finished, we never get to the end of phase two (2), whatever that may be. But after some date certain, the cash proffers kick in for whatever portion of the units that you have completed. Correction, not the cash proffers but some of the other proffers that were tied to the end of phase (2), that there be some date at which those get delivered even if you have not necessarily completed phase (2).

Mr. Hedrick: Recreational pieces.

Mr. Rhodes: Yes, and then the other portion would be, since the cash proffers could be deferred open ended until you initiate phase two (2) portions, maybe again some percentage of that could be provided up front to benefit the County and or after some period of time they start kicking in, which is an incentive to get moving with some degree of the development. Those would be the suggestions as we look at these a little further. Thank you Mr. Chairman.

Mr. Fields: Alright, any other questions. Alright, at this time I will...

Mr. Pyle: In response to your early question about the 100 percent substitution on the note on the GDP, that is intended to relate to, should existing vegetation be sufficient then perhaps a meeting with county staff is usually done to verify that these are sufficient to take the place of proposed planning, then yes that is the intention of that note. Thank you.

Mr. Fields: Okay, with that we will go ahead and open the public hearing. Is there anyone in the room that wishes to speak for or against, please come forward and speak. State your name and address for the record, you will have three minutes to speak.

Mike Churwick: Hi, I am Mike Churwick in Fredericksburg for thirty (30) year. I am one of the several doctors who not only have come and spoke to support this project but have also signed the petition. I want endorse this project and it is unfortunate the economy is such that we have to multi step it. I now that other hospitals have had to do this when they are half way through there building phase in this economy. The project is excellent, the people who are doing it are high quality people and have been in the business for a long time, the location is ideal, particularly as you pointed out getting the FRED integrated in so people can see there doctors, go get there radiation therapy. Whatever the healthcare that they need will be so readily available. One of my previous discussions, we talked about patients who are lost to follow up, imagine taking this project and putting it in a remote area of the county, patients just won't get to there doctors. That is just the facts of life. What I would like to emphasis and I think you are right, if we can integrate this into a low cost Fredericksburg usage, bus system usage, you will just make it that much better. Your picking up on that amenity thing is, I think, correct and one of the things, this is my third meeting that I have been to, I have been impressed with how this group has jumped at the proffers. When someone mentioned that they wanted more books for the library that what was originally

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requested, they said yes, so I think that you all can work that out. Your question that I do want to address since I am a physician, that I think I can help you with, you are going to see independent living, assisted living and skilled care more into many different things over the foreseeable future. What they are doing in Canada, what they are doing in Switzerland because of the cost restraints are what we probably face in the future. Lets take the worst case scenario, if they can only build the one building right now, it is better than what we have now. The gentleman from staff on two of the last talks that I gave, presented ninety Fredericksburg and Stafford County citizens, had to be exported to other nursing homes and even if the company goes belly up, and if it does we are in a load of trouble, we need that one building yesterday. Not now, yesterday. Nobody can give you the guarantees; I would like to tell you I think there is going to be lots of changes based on the cost for the future. I do not know how President Obama is going to pull this off but I can tell you there are going to be more changes. Soon we will not be using the word assisted living, we will be using other phrases. My only point on coming today is I don't want this project to be paralyzed instead of moving forward. We may have to multi step it, but I think the best way to do this is how can we make this happen and there are no guarantees.

Mr. Fields: Thank you sir. Anyone else who wishes to speak for or against? Alright, with that we will close the public hearing. We will bring this back to the Commission, we have a time limit of September 1st and so many other things on our plate tonight, I would assume that we are going move this to the work session.

Mr. Di Peppe: It is in my district, would you like me to make a motion?

Mr. Fields: Why certainly, Mr. Di Peppe.

Mr. Di Peppe: I was going to say the same thing, I would certainly like to see this project mover forward and I am sure that we can work through these details. I look forward to working through these details with you but I do think there are some unanswered questions and some things we need to sit down and talk about. I would be happy to sit down with anyone at any time and work through these issues. Mr. Harvey, how far do we need to move this out?

Mr. Fields: Well, the time limit is September 1st, so do we want to move to the July 1st work session and pick this up then.

Mr. Harvey: Right now for the June 17th meeting we have elimination of preliminary subdivision plan on the work session agenda, plus if SPCA is deferred it would also be on that session. Those would be the two items on the work session agenda for the 17th. The 1st of July is not spoken for yet.

Mr. Di Peppe: Maybe we should move it to...

Mr. Fields: I am thinking the 1st of July. I want to give plenty of time on the 17th because we have a busy public hearing, you said?

Mr. Harvey: For July 1st, yes.

Mr. Fields: For July 1st, that work session is fairly open?

Mr. Harvey: Yes.

Mr. Fields: That sounds like a good plan, is that okay with you?

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Mr. Di Peppe: Yes.

Mr. Fields: So motion to defer to the July 1st work session.

Mr. Di Peppe: Yes, sir.

Mr. Fields: Is there a second?

Mrs. Carlone: Second.

Mr. Fields: Seconded by Mrs. Carlone. Discussion on the motion? 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. Fields: Aye.

Mr. Di Peppe: Mr. Chair?

Mr. Fields: Is there anything that you would request of the applicant or staff to be ready for that?

Mr. Di Peppe: Well, I would be happy if you contact me through staff, I will be happy to sit down and work with you between now and then on all the issues that were raised. If any other Planning Commissions would like to have anything addressed they could contact me directly and we could have it all ready to go by the July work session.

Mr. Fields: Anything else anybody wants staff or applicant to be ready for.

Ms. Kirkman: Yes, just to recap what kind of language could potentially go in the proffers around, performance bond is the wrong word but it is the right idea about completion of the project. Potentially some kind of maximum time date for that second phase. I think the notion of trying to move up the cash proffers in some way was a good one. And then, some kind of language around a set aside for some percentage of beds to go to Stafford residents. And finally, for the applicant, what can be done about the concrete in the RPA?

Mr. Di Peppe: Mr. Payne has my home phone number, you can call me directly.

Charlie Payne: This is Charlie Payne with the law firm Hirshler Fleischer, representing the applicant. I just wan to press the point that it is very important that we get this moving forward as soon as possible, I know you have a lot on your plate but we are certainly able to answer a lot of your questions before July

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1st, I think the work session will be helpful. I just want to impress upon you, timing is key to move forward.

Mr. Fields: Alright.

Mr. Payne: Thank you very much.

Mr. Fields: Thank you. Okay, so then we are on...we voted on that right and we all agreed to defer it, so everybody knows what they need to do.

UNFINISHED BUSINESS:

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

Mr. Fields: Alright. Moving on, back to where we left off before we went to dinner, Stafford SPCA. We have heard from...we talked about staff and talked through this and heard some presentation. Now Mr. Hoyt and his team's opportunity to start, if they want to respond to many, multiple questions etc. We can start there and move from that point forward.

Patricia Healy: Good evening Mr. Chairman and members of the Commission. I am Patricia Healey and I am here to represent Bill Hoyt in the SPCA application. You mentioned responding to the residents, first I would like to thank the neighbors for the civility, almost cordial comments they made. I think that it is significant that no one is here to speak against the SPCA, the issue that is recurring throughout those comments was the location of the facility. I think as one of the neighbors said, there are issues that we are just going to have to agree to disagree and that is going to be an area of disagreement. We believe that this proposed location is a good location for the SPCA, they believe it is not. I do not think the location is an issue that can be addressed in the conditions. Other issues that were raised had to do with the water, septic, noise and process; these are areas that can and have been addressed in the conditions suggested by staff. We were here earlier and Mr. Hess addressed and you had some questions... I believe there will be additional questions you will want addressed at a later date about the report submitted from M&M Soils that confirmed that the septic system is adequate. I do not believe that addressed the reserve drain fields but there is information that we can have made available to you about specific locations. That was one of the questions raised by the neighbors, where would these drain fields be and to show that there is adequate service there. The water, you know we did have some information and we can provide additional about the adequacy of the water that would be available to provide the services needed for this SPCA. Noise was raised, certainly the conditions have made an effort to address the potential noise, in terms of the sound barriers and other issue there. I would point out that because this property is zoned A-1, just as in Meadowbrooke, anyone could go in by right and request a kennel license and the fact that this is much broader project actually gives the County the opportunity to put controls on it and to make sure there are protections in place. There was a question about the status of the SPCA organization, Mr. Hoyt has received the Certificate of Incorporation from the State Corporation Commission and it was issued on May 29th of this year that has incorporated that the SPCA of Stafford Inc. as a non-profit organization, he is the process of applying for the other requirements within the Commonwealth of Virginia for that. I think that is the general questions that were raised and certainly a number of recurring themes there. We

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believe there is certainly a documentation that has been presented or if additional is required to address the water and the septic issues. The location again, we are going to have to agree to disagree.

Mr. Fields: I also raised the question of the possibility or the technological, and we may require to the next session to get this answered. Do you Mr. Hoyt or anybody working together here have a technical answer to the concept of onsite fire suppression versus reliance on tankers?

Ms. Healy: Mr. Hoyt has been in contact with the Fire and Rescue people here in Stafford. Do you want to answer this?

Mr. Hoyt: Sure, as best I can. Mr. Fields, this is a pretty interesting question, obviously we are on a well and the flow rates that you would normally look for, for a traditional sprinkler system are not served by a traditional well. The nursing home, which interestingly enough was owned by Smith Packet, they are the one here this evening here before me, had a sprinkler system that stills exists and had a big tank inside the building with a pump attached to it that in the event that the sprinkler system would go off, it would have a certain amount of reserve water and works off of a generator and provides an initial amount of sprinkler response. Typically, in a structure like that you modify it, you put in a firefighter attachment so that a responding truck or wagon or squad can basically hook up jack into your building and continue fighting the fire using your existing sprinkler system but bringing the water supply in from tanker truck, that is one option. When we are looking at building the additional kennels, we have all heard the stories of these beautiful horse barns and horse farms and something catches on fire and twenty (20) horses die, they cannot get out and they are trapped, they cannot unlock the doors, they cannot escape by themselves. So you want to build a sprinkler system that is adequate, not just for fire suppression but for fire safety. What we have been working on is we want to be as green as we can as far as our facility, whether it be solar panels or geothermal, but there are imperviable surfaces out there. Kennels have big roof tops, blacktop spaces for parking is an imperviable surface, what are you going to do with the water? We do not want it to drain down into the Accokeek Creek, we do not want it to drain into blue line stream or anything else. We are working to collect all that water and would proposed to build a deep retention pond there in the back corner of the property where we currently have the memorial garden set. This is relatively new information Ms. Kirkman, but if you want to have a ready water supply there. It will not come from the well with enough flow to really supply it, you would have to build the world's ugliest tank above ground, which would really make the Meadowbrooke neighbors unhappy or you have to build a hole in the ground and fill it full of water. If you do it properly, it would channel all the run off from your gutters, down spouts, drains and parking areas and you run them underground and that water would then supply and fill up the reserve. That reserve ties in with the float, the float would kick on in case of a drought and you have not got the run off and it is really dry, not that we have that right now, but in case of a drought the float would kick on and the water supply would be kept maintained by your well. We would like to put in a second well but the one we have right now for the time being is sufficient, that way we handle the runoff, we handle the stormwater management, it goes into a holding pond and you bury what is called a fire pump. This fire pump is essentially an underground pump that in the event of a trigger by your fire suppression system throws enough water through your sprinkler system to put the fire out. It is not cheap, you are looking at probably 100 grand to build one of these obnoxious ugly above ground storage tanks. About 100,000 to 120,000 to do a really good job to collect the stormwater runoff and to tie it in with your well system, so that you have a ready supply of water that would handle your fire suppression and becomes part of a feature for your memorial garden park area. Again, it is relatively new technology, we do not see a whole lot of these things out there but we are looking for alternatives that are both environmentally conscious as well as provide a water supply to the kennels in the event of a fire. You make them brick and block, you try to use construction smart design. My wife just sent me a text that said the dogs got scared to death because the back deck got hit by lighting. You cannot predict

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Mother Nature, these things will happen, so if you are prepared for it and you can respond to it, great. The USA got cut back and we will not be getting city water and sewer any time soon down Andrew Chapel Road. So if we want to use that particular piece of property, I still do think it is a worthwhile piece of property, then you have to be creative about how you will supply the water for your sprinkler system. I think the system in place for the current old brick and block nursing home is probably sufficient. It needs to be updated and fine tuned but for your new kennel construction, I think that the retention ponds, stormwater management, fire pump is probably the best combination of the three resources. Thank you.

Mr. Fields: Are there any questions for Ms. Healy or Mr. Hoyt?

Ms. Kirkman: Mr. Chair, I have a question for the attorney please.

Mr. Fields: Sure.

Ms. Kirkman: Ms. Healy, you made the statement that under A-1, they could get a by right kennel license. Could you elaborate on that please?

Ms. Healy: I do not have the ordinance here, it is my understanding that in A-1, you can apply for a kennel license.

Ms. Kirkman: Well, what you can apply for and again this is... I was asking the Zoning Administrator about this earlier, the distinction between commercial and non-commercial kennel. What you can do by right in A-1 is the non-commercial. Mr. Chair, can I finish uninterrupted?

Mr. Fields: Go ahead.

Ms. Kirkman: And that is as best as I understand that piece of the ordinance, it is where somebody has a kennel in their home. Now, my understanding is that right now, what we have is an institutional facility on that property. Is that correct?

Ms. Healy: Actually, there is nothing in place right now.

Ms. Kirkman: It is the nursing home, correct?

Ms. Healy: It is formally the nursing home.

Ms. Kirkman: Right. Really the only place for a commercial kennel would be industrial, you are aware of that. Correct?

Ms. Healy: We are not talking about a commercial kennel here. I believe that was the discussion with the Zoning Administrator either, we believe what is proposed here is either the non-commercial residential or a commercial for profit kennel.

Ms. Kirkman: Could tell me how you believe this project differs from those uses?

Ms. Healy: Certainly, it is not a residential. Do you agree with that?

Ms. Kirkman: Yes, I do.

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Ms. Healy: And the other one, if you could read that definitions again, I believe there was something about pecuniary profit.

Ms. Kirkman: Well no, it says “Any place in or at which six (6) or more animals more than six (6) months of age are kept, boarded, groomed, bred or trained for pecuniary gain on a regular basis”.

Ms. Healy: The pecuniary gain is what I believe is the distinction here.

Ms. Kirkman: So, you are saying the only thing that distinguishes this project from that definition is the clause pecuniary gain?

Ms. Healy: No, that is not what I am saying. That is a significant difference.

Ms. Kirkman: So, what do you think or what would your position be about what the differences are?

Ms. Healy: I think if you look at the project itself and look at it in its totality, there is no comparison with the description that you have and the proposed here for the SPCA.

Ms. Kirkman: Because, a lot of, for instance, a lot of vets have kennels and this proposed...

Ms. Healy: I am not comparing it to a vet, I am comparing it to the project. You asked for a distinction between the project and a definition of a commercial kennel.

Ms. Kirkman: Okay, so the features of this project, your position are different than a kennel are what?

Ms. Healy: I believe the project itself, if you look at the proposed project itself, can we put the GDP up here so Ms. Kirkman can see what is being proposed.

Mr. Hess: Yes.

Ms. Healy: Thank you. I think the plan speaks for itself. I assume you did not get the answers you wanted from the Zoning Administrator and now your trying to get an answer from me. At this point, I can just say that I do not believe this is the same.

Mrs. Carlone: Mr. Chair?

Mr. Fields: Yes, are you still...

Ms. Kirkman: Umm, I am going to ponder that because I am trying to understand, so it had got kennels, that says kennel. We know kennel equals a kennel, it has got a barn, I guess a barn is different than a kennel and then it has... Would you say a dog park is what distinguishes it from a kennel?

Ms. Healy: I just believe that the proposal in itself is different. I do not think there is anything that I can say that is going to make this more clear for you.

Ms. Kirkman: Okay, thank you Ms. Healy.

Mr. Fields: Alright, any other questions?

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Mrs. Carlone: Ms. Healy?

Mr. Fields: Mrs. Carlone.

Mrs. Carlone: I think the very first session we had on this talked about having spading and neutering. Is that correct?

Ms. Healy: Yes.

Mrs. Carlone: Okay, and then they would be adopted out and they would pay to go ahead with the neutering. That would include the cost of neutering?

Ms. Healy: I am not sure, I do not have the details on that.

Mrs. Carlone: It seems that we discussed it.

Ms. Healy: Mr. Hoyt can give you details on the plan.

Mrs. Carlone: Okay. That is okay.

Mr. Hoyt: Mrs. Carlone the way most SPCA and Humane Societies work is that if an animal comes into the shelter, especially if it is an owner surrender, if the animal is intact the SPCA or Humane Society will typically have the animal current in all of its shots, spayed/neutered, micro chipped, they will do a behavioral assessment, the whole nine yards. To will make sure when the animal is adopted out it is suitable to be adopted. In ballpark figures, the average amount of money that an SPCA or Humane Society will have invested in an animal when it leaves its hands, obviously if you have a healthy litter of puppies, that can be a wonderful thing, but the average cost would be anywhere between two hundred and fifty dollars and four hundred and fifty dollars, give or take. The average adoption fee from the SPCA or Humane Society runs you about a hundred to a hundred and a quarter. Every adoption that goes out you are upside down in. Now for example, Stafford County Animal Control is required by the State to ensure that all the animals they adopt out are spayed and neutered, now they do not have spay/neuter facilities and so they have a voucher or discount or a coupon program that they try to use.

Mrs. Carlone: It used to be five dollars.

Mr. Hoyt: Well you figure the average cost of a spay for an adult female dog over sixty pounds will run you somewhere over four hundred dollars, it is not an inexpensive proposition. That is one of the problems if a dog owner pays twenty bucks to adopt it at a shelter and it costs six hundred bucks to get it healthy they are going to bring it back or they are going to turn it loose. It was our hope with our spay/neuter clinic, again a low cost spay/neuter clinic that we would target the populations that right now can not afford or simply do not have their animals spayed or neutered then again which leads you to your unwanted litters which again puts the strain on the animal control facilities when they are abandoned or run loose. Hopefully at some point in the future, again the relationship with the Stafford County Animal Control, to be able to provide the spay/neuter services for all the animals that animal control would want to adopt out so that way we would be compliant with the State mandate. Then again there are lots of Vets who do provide spay/neuter services, the trick is do you have a service that is affordable for the local lower third, or I guess the bottom third of the economic pyramid that is typically the worst about, are they keeping their animals current on their shots, are they having them spayed or neutered to prevent any unwanted litters.

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Mrs. Carlone: You brought up something that I did not know was still in effect, I know when I was on the spay/neuter committee it was a five dollar certificate that was given towards a vet, which was absolutely nothing. Real quick, this will be in the main building where the Vet will be, this is okay, this is really nothing important right now but I was just going to ask you if you will have the spay/neutering so it will probably be in the main building.

Mr. Hoyt: Yes Ma'am.

Mrs. Carlone: Okay.

Mr. Hoyt: The idea was to take the far western portion of the building, which had four beds in it at one point, it has its own separate entrance and there is no special plumbing in there that has to be torn out. We can basically go in there with a clean slate. We can put in good plumbing and we can put in good HVAC because you are basically creating two things. You are creating a lab where the animals will be tested, shaved, where they would be sedated and you would put a surgical suite or theater right next door to it. Not only can you provide the spay/neuter, but it also means you have the ability to provide some basic vet care for all the animals that are in your custody. If an animal gets injured, if it gets in a fight, if it hurts itself, if it gets sick, whatever the issue is, that you can provide those basic services without having to run them out. Stafford county Animal Control does not have an in house vet. Doctor Ludwin does come by from time to time and provides some free services for them, but again if they have to take an animal out to be cared for, it comes right out of their budget and they have to try to work out deals with local vets to provide that care. We wanted to be able to provide that in house. We think that is an important difference.

Mrs. Carlone: Okay, thank you.

Mr. Fields: Mr. Di Peppe.

Mr. Di Peppe: Can we have the computer back up please. Right here Mr. Hoyt, if you will, the new septic field here, the one that...the second field.

Mr. Hoyt: Yes.

Mr. Di Peppe: Is that entire drainfield on your property?

Mr. Hoyt: Yes Sir it is. You are referring the agreement Mr. Wilson referenced from 1979. There is lots of tribal knowledge involved in this particular piece of property. The nursing home was sold by the Wilson Family to Mr. Bagley and Quigley back in 1976 and that is a recorded transaction and part of that recorded transaction is the thirty foot easement and access over the bridge and up to the entrance to the now, well hopefully the SPCA property. After we purchased the property, and we have done our title research and did our homework, I was presented with an addendum signed in 1979 by Mr. Bagley and Quigley and the Wilson Family for the permission to expand the septic system on to property currently owned by the Wilson's that was not part of the nursing home property at the time. The nursing home agreed to become responsible for the road in its entirety and the bridge. Now any good teacher will tell you that you can write the best term paper in the world, but if you do not turn it in you are not going to get a grade. As far as this addendum is concerned, we do not know whether or not they actually went through with it, we do not know if they got that because they were looking to expand. We found some blueprints and some plans that show at one point they were looking to almost double the size of the facility and they would need to double the size of the septic. When we did our research on the septic, you show that

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rectangle, the new septic field, what is not on there is there is an additional septic line that lies at kind of almost where that bathing and storage triangle is, it looks to me that they laid one line out there with the ability to expand and build an additional septic system. Maybe that was what was being addressed in the addendum, maybe it was not. At this point who knows. We had the septic firm come out, they brought their transmitters, they brought out their lines, they put the flags every handful of feet for every single one of the lines. We had the surveyors out, they staked the entire property and that new/old septic system is located entirely within our property, it does not cross us over. Interestingly enough, if it did cross over, you would think Mr. Wilson or the Wilson Family would have recorded that and it would have come across when they sold the property to Meadowbrook, so that was the Meadowbrook residents would have know there was a septic system that was on their property and would have been on record as well. Lots of stuff may have happened back in the day, but the septic system that is there, that is ready for us to use and has almost twice the capacity that we are going to need is on our property and it does not cross on to the other property. What may have been contemplated at some point, thirty or forty years ago unfortunately was not recorded and has no bearing on this.

Mr. Di Peppe: The reason I ask and I have no way of knowing and I am not...I was approached and they said they would like to see the plat because he said it was maintained by Mr. Wilson, that part of the drainfield that is shown for this land is actually on his property so I would like to see some kind of evidence that it is entirely on your property.

Mr. Hoyt: Mr. Di Peppe, I would be happy, I would be thrilled to provide that for you. Additionally the question was raised about the reserve. M and M Soils, whether you believe them or not, says that the output from the kennel operations at full operations, not at just one kennel, at full operation with one hundred and twenty odd dogs plus cats plus people, puts us at about a thousand twenty-five gallons of effluent a day. The capacity of the current new/old septic system, not counting that one little feeder line at the top of the hill, is just shy of two thousand gallons a day. We almost have a hundred percent reserve capacity just in that field. If you can bring up that picture again, the rough GDP that no one likes, if you can scroll up, which I guess is east. I had four guy walking around doing core samples all around the property. The soils were in better shape the further up the hill, the higher up you went in the topo, the lower you went the poorer the soils got, so from where that septic system is up towards the nursing home was in pretty good shape. When you headed down towards the bottom of the field it was medium and when you got to the very bottom it was pretty much yuck. The best soils that they found was over there where it says dog park 1, that whole section on the left hand side, so then again we have got plenty of capacity with the existing septic field we can go above it, we can go below it, we can tie it in. Again according to them, I am not obviously the expert I just simply pay them to come out and do it, was tons and tons of capacity and exceptionally good soils in this corner. As someone pointed out in Meadowbrook Estates they had to get cute with some of their lot lines, they had to use some alternative septic systems and you are right as you go towards the bottom of the hill the soils are not great but when you go towards the top of the hill the soils are actually pretty good.

Mr. Di Peppe: Can I ask one other question while we have this map here. Where did you say the pond might be, the stormwater.

Mr. Hoyt: If we can scroll back in the opposite direction, the closest homes in Meadowbrook are the ones in which are on the bottom side on the outside corner of the property. In consideration for the neighbors what we did was we tried to develop a courtyard concept. If you notice the outdoor run were all pointing away from Meadowbrooke. Nothing, no runs were pointing towards the Meadowbrook direction and we tried to maintain a huge thick buffer at the back of the property for noise attenuation and to try to be a good neighbor, we put in some walking trails. Again for consideration, can be altered you do not want to

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cut down a tree to try to put a trail in one specific location, but it was contemplated we would put the storage pond, it kind of looks like a rubber duck there in the middle, but somewhere in the thick of that green buffer. It does not have to be terribly huge or wide, it end up being relatively deep, but an eighty thousand gallon retention and that was a maximum they came up with. Somewhere between sixty to eighty thousand gallons could be held in a concrete or gunite lined tank with proper safety and fences and things all the way around it and screens. You can even make it a little bit of a fish pond or an architectural feature, but you want to have your water supply close to your building rather than being at the opposite end of the property. Obviously it is less expensive when you are running pipe and it is a lot easier to get the water there rather than transferring a long distance.

Mr. Di Peppe: So you are saying the water will drain naturally to that point or you are going to have to pump it to that point. Because if it...for example and I was interested in you whole idea about taking the water off of impervious places and capturing that water in the pond, but is it going because I can not tell the topo from this map. Is this because It thought this was at a higher point.

Mr. Hoyt: It is.

Mr. Di Peppe: How are we going to get water to run up hill?

Mr. Hoyt: A big huge submerged fire pump. It has to be a monster to flow at the kind of a rate that you are talking about for the sprinkler system. The fire pump is submerges, a backup generator that is hooked up to it and it will flow a thousand gallons per minute or whatever the obscene number it is that would run all the sprinkler heads. When you are looking at some of this NFPA13 stuff it looks pretty scary when you realize they want you to run a certain amount of sprinkler heads full out, full boar for an hour before firefighters can respond. Granted we are a three iron from the Brooke Fire Department but right now the bridge is in such lousy condition that it is my understanding they are not going to bring any heave equipment across it anyway. So you are on your own to be able to respond to a fire until that bridge gets resolved.

Mr. Di Peppe: Thank you.

Mr. Rhodes: Mr. Chairman.

Mr. Fields: Yes Mr. Rhodes.

Mr. Rhodes: Mr. Hoyt from the last discussion a ways back, as I understood it, this is like a total conceptual plan. I know the wildlife refuge portion in now off it but this was not necessarily something you wanted to go out and do from the beginning. At that time you said something like, especially the wildlife refuge as I recall it was something along the lines of I may never get to all of that, but these were the concept, as I understood.

Mr. Hoyt: The core of the SPCA is going to be your, being able to take in animals, get them healthy, get them trained, get them adopted. Having a spay/neuter clinic is an important thing to keep the populations down, it is a nice amenity that the more upscale SPCA's and things have. Animal shelters, let face it, get a bad wrap. They end of being described as animal concentration camps, they look bad, they smell bad, you stick them in the worse part of the industrial park somewhere so it is bad coming in and it is bad going out. It is not the kind of place you want to take your family up to, it is not a scenic destination, it is not a destination in and of itself. Basically it is a prison for animals. We realize we had a beautiful piece of property and if we could put in some of the amenities that could bring people up, walking trails for dog

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is passive recreational use, we could always use more walking trails, but it was one more thing to bring people up to use the facility. To put in a dog park, we have not got one anywhere in Stafford, it is not rocket science to do a dog park, but we have not got one. Stafford County does not have the money to build on right now. I toured them all up in Northern Virginia, I saw nine dog parks in Arlington in one day. If you can bring people up to a dog park, if they can learn good social behaviors, if they have one dog perhaps their one dog may be looking for a playmate. Guess what we have a whole kennel full of, it is kind of a grocery store in a shopping center, it is you loss leader. It brings people in and when they are there you hope that they will buy, they will adopt, they will get educated, they will get better informed, they will learn about the needs and the plight of animals in your community, so that is why we wanted to create more than simply just a shelter.

Mr. Rhodes: With the business model, if you will that you had of the concept, what would be the phasing order of development that you would see at this point?

Mr. Hoyt: The dog park is the easiest, least expensive thing to do. That is probably a hundred grand to build and you can get lots of volunteer labor to do it and that can be build in probable three months. We are now in the first part of June, we will not get before the Board, assuming we survive the Planning Commission process, we will not get to the Board until August or September, so we can scratch out 2009. From the time that we begin doing work, figure three months to the dog park. The existing nursing home is a sixty year old building, it is brick and block, she ain't beautiful but her bones are good. We have got probably three or four months of renovation from wiring, to replacing plumbing, to redoing HVAC systems. Each of the different parts of the facility require their own HVAC because you do not want dogs and cats healthy and unhealthy animals breathing the same air, so you have got again if I say four months it probably will be six or seven and not counting permits, add a couple more. So your first year is really going to be tied up with renovating the building, doing the spay/neuter clinic, sitting aside enough room to have handle a dozen or fifteen dogs and fifty or sixty cats, it is going to be small potatoes for animals for the first year and change. The dog park is pretty easy, the walking trails are going to be pretty easy. The barn is not a complicated thing, but it is relatively expensive thing. So first year and change renovations plus dog park. If you are looking to build a commercial kennel, if you are going to build one that is not going to freak the neighbors out, that is going to have all the sound absorption, all the noise attenuation, all the special runs, the heated floors, the music systems, the indirect lighting, the plants, the built in flush systems, if you are going to do it and do it right you are at one hundred and seventy-five dollars to two hundred bucks a square foot. So figure a seven thousand square foot commercial kennel for non pecuniary gains, about a million five. You add in t that little corner of the triangle which is going to be your food prep, you bathing area so you are at two million and change. Like Ms. Kirkman was asking Smith-Packett, how are you going to guarantee that this thing is going to get done, it is not going to start then you are going to fade away? I had a banker at on point explain to me when I got into the gym business, the organizations with the worst credit were churches, Karate studios and non-profits. We are talking about a two or two and a half million dollar kennel, that is going to take extensive fund raising and in today climate especially, they are not going to let you begin construction until you have all the money or until you have got the money guarantee or some kind of a surety in place to finish the job. Realistically when is that big commercial kennel going to be done? I would say probably two and a half to three years out. We would like to do the second kennel, I believe what we proffered is we would not do the second kennel until we can come back and get another CUP from you, that we had proved ourselves, we had earned our stripes and then go back out and looked to do another one. If we are doing a poor job, the neighbors are not going to sit still for doing a second kennel if we can not manage the first one very well. It is a project obviously we are in a recession. Dr. Withrow sent a couple of nice emails out saying hey it is a recession, everyone is suffering where is the money going to come from? There is no SPCA in Stafford, Prince William County or Quantico. The demand is there the funding will come, but obviously

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it will not be easy, it is not going to come overnight.

Mr. Rhodes: The core of it is the functions, the way I sense it is the functions you would have somewhat in the main building and some of it would be in kennel 1. In your business model there were a couple dynamics or reactions that I had as I was listening last time. In your business model how important to the overall construct is the barn and the horses, because that is an acreage issue, that is a harder sustainment issue etcetera.

Mr. Hoyt: It is not a huge one.

Mr. Rhodes: Okay.

Mr. Hoyt: Anybody that knows or who works around dogs...one hundred and twenty dogs is a lot of dogs. One hundred and twenty Chihuahuas is not nearly as strain as one hundred and twenty Labrador Retrievers. And Labs and German Shepherds and even Rotties will do just fine in your traditional kennels. But if you have ever been around a two hundred and ten pound Great Dane or a Great Pyrenees or what have you, they require a lot more room, both for the kennels and for exercise. For as long as I have been in Stafford County I have seen horses running loose, I have seen livestock running loose, I have seen when Danny Chichester's animals used to get loose on US 1, I have been on 95 in a traffic jam when a horse trailer overturned and you have dead horses on the road and you have other horses that are running loose. I wanted to be able to provide a facility that we could bring in whether it would be a goat, a sheep, a cow, a horse, or large dogs. Get them in, get them sheltered, get a Vet down and take care of them and get them out to a place that is better suited to take care of them long term. Is it life and death for us right now? No. Is it on my top five list? It might be six or seven.

Mr. Rhodes: So that could be another phase, if you will.

Mr. Hoyt: Absolutely.

Mr. Rhodes: And then the other reaction I had as I was dwelling on this for a while, the dog park is something we do not have. It is nice, but it might have a tangential effect in getting somebody to get a friend for their one dog they have, but it does drive other business up here, if you will, as far as the traffic disruption and so forth. Maybe that as a later phase could minimize some of the impacts while things settled in. How critical do you think that is to your business model of your construct?

Mr. Hoyt: The dog park?

Mr. Rhodes: Yes.

Mr. Hoyt: It is really hard to do one kind of without the other. I responded to another earlier email from one of our detractors today about a piece of property I was looking at on Courthouse Road, the more remote you location the lower your adoption rate. If you have a piece of property on UD 1 or on 610 with higher traffic counts and better visibility, you will have higher adoptions. If you will notice that Pets Plus just moved into the old Durango's or the Mad Moose, whatever that was. They did it because they had better exposure, better parking, better accessibility. If we do not have visibility from Andrew Chapel Road, we do not have visibility from Courthouse, we do not have visibility from US 1, the trick was how do we bring people back to let them know the SPCA is there, to let them know we have animals that are there and available for adoption. Because ads in the newspaper just really do not cut it, the pictures on PetFinder.com are cute, but it does not replace actually having a chance to meet or encounter these

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animals. So for us having the dog park, having a way to bring people out to the facility to expose them to what we have got there really is crucial to be able to make the rest of the project work.

Mr. Rhodes: Okay. Thank you.

Mr. Fields: Are there any other questions? Mr. Di Peppe and then Ms. Kirkman.

Mr. Di Peppe: I understand that SPCA is now incorporated. But you were not trying to imply that they were also a non-profit.

Ms. Healey: No we are in the process of filing the other papers that are required within the Commonwealth of Virginia. The question asked what was the corporate status, and they have received an Incorporation certificate.

Mr. Di Peppe: Do you have any timeline of getting the non-profit status?

Ms. Healey: I believe that will take several months.

Mr. Hoyt: Mr. Di Peppe, myself and the other directors are going to spend basically the month of June to finish up the by-laws, that is your governing document for the SPCA going forward. It will get submitted, Form 1023, to the IRS the end of June and we will get our acknowledgement letter back almost immediately. The IRS can take up the eighteen months to theoretically respond. I have hired a firm that does nothing but specialize in getting non-profits established. We have been told to expect four to six months to get a final determination letter. In the mean time we have relationships with four other established non-profit 501C3 so we can become a fiscally sponsored agent, so that we can begin to operate, we can begin to do some fund raising but we are doing it under their auspices.

Mr. Di Peppe: Thank you.

Mr. Fields: Ms. Kirkman.

Ms. Kirkman: Yes I had a question for Mr. Hoyt. You said you had a soil engineer out there taking core samples and that they had done some calculations to come up with the statement that you would only be processing one thousand twenty-five gallons of effluent, if you could get us copies of those engineering reports that would be great.

Mr. Hoyt: I would be delighted to.

Ms. Kirkman: And then there was a lengthy roadway inspection report submitted to us that indicated the bridge needs a significant amount of work to carry traffic. Who is going to pay for that?

Mr. Hoyt: Ms. Kirkman, as I am sure you are well aware, this is a case which will eventually end up in court. The documents that we have, the documents that are recorded, our position and without getting into our legal strategy, is that the responsibility to maintain the bridge and the responsibility to maintain and repair the roadway lay with the property owner which was originally Mr. Wilson. He then sold fourteen odd acres to Mrs. Gardner, actually to somebody else and she sold it to Mrs. Gardner, a number of years back. Then Mrs. Gardner subsequently subdivided that fourteen odd acres into two pieces, she now resides in one and she sold the other half to Mr. Trainor. This was obviously an issue for both of them and in their sale documents when she subdivided the original house off, the agreement between

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parties was that in the event the nursing home was no longer obliged to pay for the road or the bridge repairs, that both Trainor and Gardner would contribute 50/50 to affect those repairs. We are not looking for anybody to pay for improvements above and beyond what the road was or the bridge was intended or as it was built back in the day. If the road was a good healthy strong sixteen foot wide and we were going to be required to do a twenty foot wide road, then the improvements above and beyond its original condition are going to need to fall to us. The bridge unfortunately has degraded to the point where, as far as our engineer is concerned, it should be condemned. You should have crossing guard light and arms out there saying no vehicle crossing. That is going to be an expensive proposition, it is unfortunate that it needs to be taken care of. We are not looking to imposing a burden on Mr. Trainor or Mrs. Gardner. But as it stands right now, if we were to say forget this CUP, what a waste of my time, I am sorry for wasting y'all's time and we all go home. I can not get a fire truck to come put out a fire on my property. I can not get fuel oil delivered to my property. I can not get roofing tiles delivered to my property because the bridge is collapsed. It needs to be ideally repaired, but realistically it has to be replaced. Now you have got some issues with Army Corp of Engineers, wetlands, blue line streams, RPA, all your favorite things. It is not going to be an easy process, it may be a quarter million bucks, it may be one hundred thousand dollars. But the bottom line, at the end of the day is regardless of what use goes on up there at the top of the hill the bridge is a disaster, I take a chance every time I drive a car across it. We sent a copy of the engineers report out to the Fire Chief. We sent a copy to the Chief at Company 5 right there at Brooke, because when I was a volunteer fire man way back in the day I would not want to be put in harms way because a bridge we are driving across to go render aid is unsafe. Just like the bridge that feeds down towards your house, the schools buses can not come across it. We have an issue, whether it be Mr. Wilson and his garage. Whether it be his deliveries or his customers, UPS will not come across it. The tractor trailers that used to deliver to the Nursing Home stopped coming across it. If the engineer says it will not even hold three thousand pounds and that is a small SUV, the need is unfortunately is severe. Y'all have looked at the pictures. You have three I-beams and you have two of them hanging out in the middle of the air. It is not Bill Hoyt's opinion that is an issue. If your I-beams are not touching anything it is not a safe bridge. Now there is a recorded agreement, there is a recorded document that says who is responsible for that bridge, who is responsible for the road and I guarantee the Mrs. Gardner is not happy and I am quite sure Mr. Trainor is not going to be happy about it but it is an obligation that they understood, they certainly knew what they were getting into when he bought the property from her when she subdivided it. She is an attorney. She was not a neophyte to this. I hate to be the spoiler, I hate to come in here at the eleventh hour, but I just got to the party. I am not here to pay for everybody else's drinks. The bridge is a disaster, it needs to be replaced. The road needs to be improved and I do not mind taking the leadership roll, I do not mind paying my fair share, I do not mind being a good neighbor, I do not mind contributing. But it is not the business or the right of the Planning Commission to dictate to me that I have to go back and effect repairs when in fact I have a contract that says to the contrary.

Ms. Kirkman: So the reason this bridge issue is before us is because we are considering a Conditional Use Permit. The use can not be begun until the bridge is repaired. So could you tell me yes or no, will you be paying for a hundred percent of the cost to repair the bridge?

Mr. Hoyt: You said that...

Ms. Kirkman: I would just like a yes or a no please.

Mr. Hoyt: Well you are not going to get one...

Ms. Kirkman: Okay, that is all I need to hear. Thank you.

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Mr. Hoyt: Well you are going to get an answer from me anyway. We will explore our legal options, we will make demand on both Gardner and Trainor and if the need arises that we have to pay for the bridge and sue to recover then that is something we will certainly explore and it is certainly within our resources to do.

Mr. Fields: Alright, any other questions? We have explored this once again, to another level. I believe at least we need at the next work session, in my mind we have expressed a desire to hear from people from the Office of Drinking Water, Animal Control, people that would regulate all of the activities in terms of cleaning the effluent, etcetera, etcetera. Soils and well people as well.

Mr. Di Peppe: Could we get that information both from Mr. Hoyt and from Mr. Wilson about the disagreement. I both of them could present their information to the County Attorney so we can get some kind of determination whether that drainfield is entirely on Mr. Hoyt's property.

Mr. Fields: Yes we want to make sure that we have...

Mr. Di Peppe: I do not know if that is possible to do, if the County Attorney can look at that. I am sure Mr. Hoyt said he would be happy to do it and I spoke with Mr. Wilson earlier. I would like to get that issue settle once and for all.

Ms. Kirkman: I had requested from staff that they give me the specific citation that said where in our Zoning Ordinance or Subdivision where it says a major site plan is required for a new use. I guess since another feature appeared to this project tonight, which is the pond, we will need another drawing that shows the location of that pond, if that is going to be a part of the project and the fire suppression system. And Mr. Hoyt agreed to get the engineering work to us. Can we have whoever has been working on your well, inspecting your well as well as the one from M and M Soils as the next meeting?

Mr. Hoyt: What date is that going to be?

Ms. Kirkman: It has to be at our next one.

Mr. Fields: June 17th.

Mr. Hoyt: Sure.

Mr. Fields: Mr. Mitchell, this is the Aquia district. We are sort of assuming we are going to defer, but you certainly have the privilege to make the motion.

Mr. Mitchell: About the specific date of the next meeting, I do not know.

Mr. Fields: June 17th.

Mr. Mitchell: My motion is to defer to that specific meeting date and try to bring in some more information and data that the Commissioners have asked for and that would be perfect.

Mr. Di Peppe: Second

Mr. Fields: Moved by Mr. Mitchell and seconded by Mr. Di Peppe. All those in favor signify by saying aye.

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Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mrs. Carlone: Aye.

Mr. Field: Aye. Opposed? Alright, see everybody on June 17th. I appreciate everybody's time and I appreciate the thoroughness and civility in which we have been handling this.

Mr. Fields: Let's take five.

The meeting resumed at 10:10 pm.

9. 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) (Deferred at May 20, 2009 Regular Meeting to June 17, 2009 Regular Meeting)**

10. Update to the Comprehensive Plan

Mr. Fields: Alright, here we are, back to work. We are going to...what did you have? Mike is already there so I guess Mike is going to tell us what we are going to do next.

Mike Zuraf: I think number 10. One little line...

Mr. Fields: We have not done the clustering in Agricultural Zoning District. Do we need to...is staff here for that or...

Mr. Harvey: Yes sir, Mr. Stepowany is here.

Mr. Fields: If that is okay Mike, I am sorry.

Mr. Zuraf: That is fine.

Mr. Fields: Go ahead.

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Jamie Stepowany: You want the cluster?

Mr. Fields: Yes. The time limit is August 17th so we actually have to look at this pretty quick, because we are only going to have one meeting in July, right?

Mr. Harvey: Correct. You have scheduled a meeting for July 1st.

Mr. Fields: When is our August meeting?

Mr. Harvey: Your August meeting would be the third Wednesday in August.

Ms. Kirkman: August 19th.

Mr. Fields: So we have one...we have to dispose of this in two meetings.

Mr. Harvey: As Mr. Stepowany is probably going to explain, that puts us in a time frame for when we have to advertise. We either pretty much have to authorize the hearing tonight or schedule another meeting or request additional time.

Ms. Kirkman: I would like to make a motion that we request additional time. That is really not...this is a very complex...

Mr. Di Peppe: I will second that motion.

Mr. Fields: There is a motion on the floor to request from the Board of Supervisors time in addition to the standard time limit for clustering. Any discussion on the motion?

Mr. Rhodes: What drove the time limit?

Mr. Fields: The Code drives the sixty...

Mr. Stepowany: Ninety days.

Mr. Fields: Ninety days.

Mr. Rhodes: Right, so the Board can extend that?

Mr. Fields: Yes, we have done that on several issues. I think because of the summer breaks and the complexity of clustering, if we can get some extra time and I think would be helpful.

Mr. Rhodes: Or else we meet the 5th.

Mr. Fields: If they do not feel there is a compelling reason...if we do this, indeed can do this, then we want to get it right. That is for sure. So there is a motion and seconded on the floor to request an extension of time. Is there any further discussion? All those in favor signify by saying aye.

Mr. Mitchell: Aye.

Mr. Di Peppe: Aye.

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Ms. Kirkman: Aye.

Mr. Rhodes: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Okay, if staff will help me draft a letter, I will write to the Chairman.

Mr. Harvey: Yes sir.

Mr. Fields: Alright, so lets take an overview...

Ms. Kirkman: Before that we had two other Ordinance matters.

Mr. Fields: Lets go ahead and get an overview on this.

Ms. Kirkman: Oh this.

Mr. Fields: This here.

Ms. Kirkman: Got it.

Mr. Fields: While we are on it and then we will move on.

Mr. Stepowany: This was identified as work session item 4, which is Ordinance O09-27, Clustering in the Agricultural Zoning District. This Ordinance was established by the Board of Supervisors sub-committee. It makes changes to the Subdivision Ordinance, Zoning Ordinance and the Design and Construction Standards for Landscaping, Buffering and Screening. Better known as the DCSL. Resolution R09-102 approved May 5, 2009 to refer this Ordinance to the Planning Commission for a recommendation and authorized the PC to make any technical or clerical changes as it deems necessary. I have in the presentation that because. Based on May 5th, I had a time limit of August 3rd. There are thirty-one days in May and thirty-one days in July, which is ninety days from May 6th, not 8/17/09 as on the agenda. So the third or the fourth would not be enough time to come back and reconvene August 5th. We would still have to get a couple days extension even to go to August 5th, just for some clarification.

Mr. Fields: Alrighty.

Mr. Stepowany: With the ninety days from May 5th. Just to go back to that discussion. The Ordinance revises Table 3.1 to permit cluster development in the A-1 and A-2 Zoning District and adds specific uses, which are permitted in the preservation lot, common open space in preservation areas also in the A-1 and A-2. This was modeled after Hanover County. The Ordinance revises Table 5.1, which is our Cluster Concept, the main regulation table for cluster developments for any zoning that has clustering. It added minimum tract size for the A-1 and from twenty-five acres and in A-2 to fifteen acres. No other zoning district has a minimum tract size. Allocated Density which is already required in clusters, A-1 is .33 dwelling units per acre and A-2 is one dwelling unit per acre. It has revised OSR, which is the abbreviations in the table to Open Space Ratio for lots only and I will explain that more as we go along with this. A-1 is .7 open space ratio for your lot and A-2 is .5. It added open space factor for all zoning districts and again I will explain that more in a minute. The minimum lot size for the A-1 is two acres and A-2 is twenty thousand square feet if served by public water and sewer. For open space this Ordinance

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add a definition for preservation lot and preservation areas to Sections 22-267, which is the cluster section of the Subdivision Ordinance which has its own list of definitions and 28-25 which is the definition section of the Zoning Ordinance. It adds definitions for Common Open Space, Dedicated Open Space, Landscape Open Space and Usable Open Space to Section 28-25 of the Zoning Ordinance. Those definitions already exist in 22-267 of the Subdivision Ordinance. It amends the definition in 22-267 of open space to required open space and added required open space to 28-25. That is for...and maybe we can get more detailed. Required open space is a new term in clustering. It is based on a percentage of the tract of the open space factor in Table 5.1 and it consist of either the common open space, useable open space, landscape open space, dedicated open space and all but one acre of a preservation lot. That is your...what is your required open space. Any of those types could be counted towards your required open space. Preservation area must be within a common open space or on a preservation lot and by definition a preservation area includes all RPA property. Required open space does not include the required open space within each lot other than the preservation lot. The open space ratio that we talked about, the OSR, determines how much open space each lot is to have. Additional modifications to definition of the Zoning Ordinance, it amends the definition of allocated density, I will explain that in a second. It adds a definition for density, which did not exist. It adds definition for net buildable area and it adds a definition for open space factor. Measurements section of the Zoning Ordinance, 28-24 adds allocated density, which is multiplied net area of the site in acres by the allocated density listed in Table 3.1 and Table 5.1, that term was deleted from Section 28-38 Performance Regulations. Definition of net area already exists, the measurements section adds net buildable area, which is to multiply the net buildable area by the open space factor as listed in Table 5.1 to determine the required open space. Subtract the required open space area, which includes RPA from the net area to determine the residential net buildable area. If you remember when we discussed allocated density and you subtract the wetlands, the flood plains and any slopes greater than thirty-five percent, that gets you to the net area. So what a cluster has to do, it has to subtract that area to get the net area, then you have to go to Table 5.1 and figure out what your required open space is based on the open space factor. Whatever that acreage is you subtract that and what you have left over is your net buildable area and that is what all you lots have to be within, is that acreage that your lots have to be used in. And then it adds a definition for fractions, because we always...when you start doing these multiplications and adding and subtractions, you always come out with fractions, and what is the County procedure on .6 and .5 and .4, do you go up or do you go down. So instead of just going by procedures, we added that to the measurements because to determine a lot of these calculation you may come out with a fraction. Finally in the DCSL which is the Landscape Manuel, the Ordinance amends Table 2, Transitional Buffers to require the residential lots of a cluster subdivision to provide a buffer, especially if the adjoining property is agriculture. That was one of the emphasis that the Board sub-committee felt that if you were going to have small lots in a cluster subdivision next to an agricultural farm, there should be some additional buffer in addition to just the residential buffer to agriculture. Add non-cluster to the existing single family detached then add Section 110.2 of the Street Buffer Section to require street buffers along arterial and major collector streets and any existing streets of a cluster subdivision. This will apply to all clusters, not just A-1 and A-2. That is a brief overview and I will be happy to answer any question.

Mr. Fields: Any quick questions? I think you know we will digest all of this and work on it earnest at our next work session.

Ms. Kirkman: I have one clarifying question. The Table 2 on page 16 of the Ordinance. The C A B C, what do those letters mean?

Mr. Stepowany: Those are the types of buffer yards, I can provide those in the Landscape Manuel. C is fifty foot wide...

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Ms. Kirkman: If you could.

Mr. Stepowany: Okay.

Ms. Kirkman: I just wanted to point out that the first sentence on the next page, page 17, does not have a verb. It is missing something.

Mr. Harvey: We have noticed there are a couple grammatical issues that need to be straightened up in the Ordinance. Mr. Chairman, I know, probably yourself as well as other Commissioners are visual type people. Would you like us to show you some examples of what these cluster subdivision could potentially look like.

Mr. Fields: I think that is good, that really gives us a sense of what it is going to look like.

Ms. Kirkman: I just had two more clarifying questions.

Mr. Fields: Sure.

Ms. Kirkman: So on Table 5.1 you have an asterisk that says if serviced by public water and sewer. Does that mean you have to be on public water and sewer to do a cluster?

Mr. Stepowany: It is complicated, because there is currently an asterisk for allocated density and you see it underlined there. That is actually a strike through, but because of the height of the asterisk it goes underneath it not through it. And we struck out, under asterisk, dwelling units per gross acre because that is not the definition of allocated density. It is a conflict. So in the A-2 minimum area cluster lot we have twenty thousand square feet, with the asterisk and that is what the asterisks apply to, yes it has to be on public water and public sewer in order to go down to a minimum twenty thousand square foot.

Ms. Kirkman: But not for two acre lots.

Mr. Stepowany: No, two acres does not have any asterisks to it.

Ms. Kirkman: And do we have any research that shows that we can currently get two acre lots on well and septic? Any recent plans where they have been coming in that small?

Mr. Stepowany: I know I have had a couple of A-2 subdivisions with lots close to or smaller than two acres. I can not say if we have had any...obviously A-1 is three acre lots.

Ms. Kirkman: Right, and those have been coming in around four and a half acres and the A-2's have been coming in around three acres. So can you bring any recent subdivision plans that have drainfields and reserves that show a number of two...I want to see how this really can work on a well and septic on two acre lots.

Mr. Harvey: I guess the most recent example I can think of with an A-2 subdivision that was by-right and had one acre lots was the Williams Subdivision. But it was on water and septic, it was not on well and septic. Those lots were all around 1 acre to 1.2 acres.

Mr. Fields: That actually had septic and reserves?

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Mr. Harvey: Yes.

Mr. Stepowany: Yes.

Mr. Fields: Boy, that was some good soils.

Ms. Kirkman: Or they were all alternatives.

Mr. Fields: That may be true.

Mr. Di Peppe: Or they are all going to fail in six years.

Mr. Fields: You are always so negative.

Ms. Kirkman: Just a clarifying question. So it is possible to build these under this Ordinance without public water and sewer?

Mr. Stepowany: In A-2?

Ms. Kirkman: In A-1.

Mr. Fields: I think it is contemplated that they are without public water and sewer.

Ms. Kirkman: That is what I am trying to clarify.

Mr. Di Peppe: That seems to be the issue before you get into all this...how do you build a cluster...

Ms. Kirkman: I did not want to open the whole discussion, I just wanted to clarify that I was understanding the Ordinance correctly. The last thing that I want to make sure that I am understanding correctly about the Ordinance is although you have to have one preservation lot in the cluster there is no minimum size for that lot. Is that correct?

Mr. Stepowany: There is no requirement to have a preservation lot it is encouraged to have a preservation lot. That is correct there are no size limits on the actual preservation lot. It was intended to be...

Ms. Kirkman: Encouraged but there is not requirement.

Mr. Stepowany: There is no requirement to have...

Ms. Kirkman: And then on the open space we are allowing things like concrete swimming pools and golf courses to be included as open space.

Mr. Stepowany: That always has been...

Ms. Kirkman: I understand it always has been, but I want to make sure that is continuing in this Ordinance.

Mr. Stepowany: Yes.

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Ms. Kirkman: Okay, thank you.

Mr. Fields: Any other quick questions? We have to move on, we can think about it and ask questions off line unless there is something burning in your consciousness. Alright, Ms. Kirkman did not quite make the fence vote. She had a question on the fence which we voted to send to public hearing.

Ms. Kirkman: And this may not be an issue, but I wanted to make sure my understanding...when I read this regarding the agricultural areas, what I think it say and please let me know if I am right or wrong on this, you can not have a fence anywhere on the street facing side that is higher than five feet. Is that correct?

Mr. Fields: Are we working on an answer?

Mr. Harvey: Yes I am looking for the Ordinance to read it. That is correct, it would be a front yard or a street facing side yard which would have a limit of five feet high for the fence in the A-1.

Ms. Kirkman: So if I have a hundred acre lot in an A-1 district and my house in all the way in the back and so ninety acres of that hundred acres is between me and the side street, I can not put a fence anywhere in there. Is that correct?

Mr. Harvey: That would be correct if the fence is within the side yard.

Ms. Kirkman: So here is the problem with this Ordinance in A-1. That severely inhibits livestock uses. I just do not think people understood...I could see if it was in the side setback, limiting it to five feet. But if you are saying anywhere in the side yard, I just would submit to my colleagues that perhaps that is an unintended consequence you did not mean to recommend be legislated into law.

Mr. Fields: Well, that certainly raises a very good question, doesn't it? Does anybody...since we all voted for it we can certainly move to reconsider the vote and defer to the next work session and see if we can tweak that.

Mr. Di Peppe: Do you want me to make that?

Mr. Di Peppe: I will move to reconsider the vote.

Mr. Fields: Alright, there is a motion to reconsider the vote.

Mrs. Carlone: Second.

Mr. Fields: Okay. Any discussion on the motion to reconsider? Okay, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye.

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Mr. Rhodes: I abstain.

Ms. Kirkman: Mr. Chair, I believe I have to abstain from that because I was not there.

Mr. Fields: Right, you were not there. The motion passes 4-0, two abstentions. And now the motion is back on the floor so do we want to move this to the next work session to see if we can answer definitively what the resolution of that agricultural possible unintended consequence is? We do not want to move it to public hearing with that flaw in it.

Mr. Di Peppe: Do we need somebody from the...

Ms. Kirkman: No, we just need somebody from Planning to make sure that that is what the language says.

Mr. Di Peppe: Because I know it was originally referred by Bob Gibbons.

Mr. Harvey: Yes, the issue started with the Board of Zoning Appeals and it was a residential concern. But Ms. Kirkman raises a good issue; in the A-1 it could be a residential issue or an agricultural issue rather than a strictly residential setting.

Mr. Fields: Right. Okay, so we will just get an answer to that and then staff can come up with some alternative language?

Mr. Harvey: Sure.

Mr. Fields: Okay, thank you. Okay, now Mike. Thanks. Sorry to make you wait.

Ms. Kirkman: There was one other issue which was apparently we have to, while we are on ordinances, the Board approved the time limits for plans and even though they sent it back to us exactly the way we sent it to them Mr. Harvey informed me the Planning Commission has to again vote to send it to public hearing. So, I am not sure why we need to do that again but we should do that so we can get it scheduled for our July 1st meeting.

Mr. Harvey: The Board referred the time limits ordinance back to the Commission. They adopted the ordinance to initiate and refer to you. I would defer to the Commission as to when you want to schedule that public hearing.

Mr. Fields: Okay.

Ms. Kirkman: We cannot get it on next time, right, because that is too quick?

Mr. Harvey: Right, July 1st would be the earliest meeting.

Mr. Fields: Alright.

Ms. Kirkman: I move to send this to public hearing July 1st.

Mr. Di Peppe: Second.

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Mr. Fields: Second, 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. Fields: Aye. Opposed? Alright. Mike, you are on.

Mike Zuraf: Comprehensive Plan. Staff has provided the Commission with revisions to the Comprehensive Plan that were made by the Board of Supervisors. Specifically, in your package you received the sections of the Comprehensive Plan that included revisions. So that includes chapters 2, 3, 4 and the appendix. And I am just going to hit on the highlights of what the main changes are within this.

Mr. Fields: I would not call them highlights.

Mr. Zuraf: The first thing is that the Plan reflects the removal of the Urban Development areas from the land use map. The Board suggested that they should be designated subsequent to this plan but prior to the deadline that is imposed by State Code of July 1, 2011. In place of the Urban Development areas, the land use map identifies the redevelopment areas that the County has been working on with a separate consultant. Some of the other land use map changes; the Urban Service Area limits have been revised to reflect what the Board had worked on late last year. The Board then also further adjusted some of the Urban Service Area limits. They expanded the 2019 Urban Service Area expansions to allow for future expansion of public utilities to certain areas of the County, including the Roseville Area, Hidden Lake, Lake Arrowhead and Hartwood Church area. And then also they did...

Mrs. Carlone: Sorry, what did you say in Hartwood? What section?

Mr. Zuraf: The area of the intersection of Hartwood Road and Warrenton Road, where Hartwood Elementary School is.

Mrs. Carlone: Yes, right.

Mr. Zuraf: Also, the map was amended to designate rural residential land use outside of the Urban Service Area basically where A-2 zoned land is located.

Mr. Fields: I am sorry, say that again.

Mr. Zuraf: Where you have A-2 zoning...

Mr. Fields: What is recommended there?

Mr. Zuraf: Rural Residential land use. Also then, within the Urban Service Area where you have A-2 zoning, a new land use designation takes place of that to identify it as low density suburban residential, so

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as not to kind of create confusion to a citizen reading it and they see Rural Residential in locations that are in the Urban Service Area. Also, some of the future land uses that belong to the some of the main commercial corridors were redesignated to commercial from residential, specifically parcels that were fronting on main corridors like Warrenton, Route 1 and Garrisonville. They were amended from residential to commercial. Also, the land use plan build-out was revised. The big change in the land use plan build-out was the future land use future residential build-out. That was a big decrease, basically from 36,000 future units down to 25,000 approximate future units. And the big reason for that was the removal of the Urban Development Areas.

Ms. Kirkman: Which we will be required by 2011 to put back in.

Mr. Zuraf: Correct.

Ms. Kirkman: So, when we are looking to build out we will need to add this plus 14,000 because that has got to go in.

Mr. Zuraf: It will have to go back in.

Ms. Kirkman: Thank you.

Mr. Zuraf: Now, it may overlap with some areas that have development already planned so it may not be an automatic or definite addition of 14,000. The Board was looking at locations and considering options such as locating them in areas where you already have approved on-built subdivisions so you may get some overlap in the build-out. Also, the financial impact models finding were removed from the plan. And then also some of the background data; basically that was all within the appendix. They did keep some of the information and included recommendations that the model be updated and adopted as a separate element of the plan and revised annually. Also, all references to the comprehensive impact fees were removed from the plan since the Board voted not to pursue that program. We have provided to you, I think you just received it tonight, the Resolution R09-237 that was adopted by the Board on May 19. That was basically their action to disapprove the Comp Plan that was recommended by the Planning Commission. It was a motion to kind of return the revised Comp Plan to the Planning Commission and initiate a joint public hearing between the Board and the Planning Commission on July 7th. Basically initially and requiring us to advertise the plan as amended by the Board. And also provided tonight was some additional language that the Board approved; it is identified as number 10 in the top corner. It is additional language adopted by the Board yesterday that would be included into the proposed draft that would basically require future Board action to expand the 2019 expansion Urban Service Areas as opposed to it just being an automatic change ten years down the road.

Mr. Fields: I can't let this alone, I am sorry. You have got to indulge me. The last line there, the expansion of the Urban Services Area in the year 2019 will be dependent upon future actions of the Board of Supervisors to extend public infrastructure and services to those areas. The final location of an expansion of the Urban Services Area boundary will be made when the Board takes official action to include expanded areas within the Urban Services Area at a future date. I mean, does that just basically say the USA boundary is completely nebulous up to any future...I mean, that to me does not say that there is a boundary that has any certainty whatsoever.

Mr. Zuraf: Well, I think it is basically saying that we have this map that says in 2019 this should be expanded and, whether that happens or not, I guess we cannot say today, but...

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Ms. Kirkman: Madam Attorney, since this looks like it was just drafted last night, and probably through a well thought out rational process, could you take a look at this because this does seem to conflict somewhat with the requirements of 22-32 regarding public facilities. Not the one you are looking at, but this other one. Because I do not understand how it can be on the Comprehensive Plan but not be on the Comprehensive Plan.

Mrs. Roberts: Actually that was changed at the advice of attorney Pat Taves and I was not in the meeting and was not privy to those discussions of the exact wording.

Ms. Kirkman: If we can just verify with him that this is the right language.

Mrs. Roberts: Sure.

Ms. Kirkman: Because this seems to be saying it is part of the Comprehensive Plan but not really. Which is fine with me but I just want to make sure we are doing it correctly.

Mrs. Roberts: Okay.

Mr. Fields: Alrighty...

Mr. Zuraf: And one more point also. Mr. Taves is also advising that the approval Resolution for this Comprehensive Plan include some language that is basically stating that approved valid developments that have been approved for water and sewer shall maintain their entitlement to receive public water and sewer in the future, even if they end up as a result of this new plan being outside of the growth area.

Ms. Kirkman: And what lawsuit area we settling with that language?

Mr. Fields: Why would we do that? I have been told, when I was on the Board of Supervisors, by counsel that was retained by the Board of Supervisors that you had absolutely no guarantee for water and sewer in the same sense. That goes contrary to everything that I have been told is legally possible to defend the extension of water and sewer. I do not understand that at all. It is a difference of philosophy.

Mr. Harvey: Mr. Chairman...

Ms. Kirkman: I guess in the end we get to choose the language we use in whatever motion we pass.

Mr. Fields: I guess so.

Mr. Di Peppe: I have got a question though. If we have this joint public hearing and we have a vote and if we get a negative vote on the Planning Commission side and a positive vote on the Board, do they just...does it pass?

Mr. Zuraf: Yes, it would.

Mr. Di Peppe: So why are we having a joint public hearing?

Mr. Harvey: Mr. Chairman, the joint public hearing is for a matter of convenience. The Board of Supervisors wants to have the Comprehensive Plan potentially disposed of this summer. This joint public hearing is a vehicle for them to try to keep to their desired schedule. In talking to...

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Ms. Kirkman: And what is the thinking? Why the rush given that they have held onto this for however long?

Mr. Di Peppe: Because they finally got it the way they want it.

Ms. Kirkman: No, why...are there any projects that are dependent on this plan getting passed?

Mr. Harvey: No. In the discussion I have been in is that the Chairman in particular but also the Board in general felt like they want to try to dispose of this during the summertime so it was not an issue lingering into the Fall.

Ms. Kirkman: Oh, on into the elections. Okay.

Mr. Harvey: Mr. Chairman, I had some discussions with Mrs. Roberts and in the motion from the Board, it authorized the County Administrator to advertise the joint hearing and the Commission, at the last meeting, said that you all are planning on participating, but Mrs. Roberts suggested maybe we have a motion to affirm the Planning Commission's desire to participate in the joint hearing.

Mr. Fields: Alright. Is there such motion? Alright, well, I guess nobody made it. Is there a motion to affirm our participation in the joint public hearing with the Board of Supervisors?

Mr. Mitchell: Motion.

Mr. Fields: Moved by Mr. Mitchell.

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Any discussion?

Ms. Kirkman: Mr. Chair, I am going to oppose the motion.

Mr. Di Peppe: Mr. Chair, I am going to oppose the motion because I think we ought to have an opportunity as a Commission to give our recommendation and I think it is going to be lost in the other vote. If we have problems with this after a three year process we ought to be able to state...they normally would send them back to us so that we could say yeah we agree or don't agree and we are completely being cut out of that process and I think it is wrong and bad.

Mr. Fields: Well, if we have a, let me ask this scenario, if we have a joint public hearing is there a legal requirement that we vote on it at that public hearing?

Mrs. Roberts: Under State Code, when they denied your plan and sent it back to you, you have sixty days. However, your summer schedule would not allow you that without a special meeting.

Ms. Kirkman: Mrs. Roberts, but the State Code also says the Board has to return the plan to the Planning Commission within ninety days. It is well past that ninety day limit. So, what meaning do those time limits have given that the law does not specify any consequences if they are not followed?

Mrs. Roberts: Well, the consequences could be that we could have filed a mandamus to make them act within the statutory timeframe.

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Mr. Fields: Okay...

Mr. Di Peppe: Motion to turn down the Comprehensive Plan.

Mr. Fields: We have to have the public hearing. You will get your day. But not if you do not participate, you know. You gotta pay to play.

Mr. Di Peppe: Can we send a letter asking to have separate?

Mr. Fields: They are determined to do it this way. Alright.

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

Mr. Fields: I know. I am asking if there is any more discussion. Any more discussion on it? Alright, motion on the floor is to affirm our willingness to participate in a joint public hearing on July 7th. All in favor signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye. Opposed?

Mrs. Carlone: No.

Mr. Di Peppe: No.

Ms. Kirkman: No.

Mr. Fields: Alright, motion fails as a tie, as I interpret that. So, according to this there is nothing changed. Do we go or do we not go? We failed to affirm or deny that we are going to show up on July 7th. So, do we show up or not?

Ms. Kirkman: You can give us a legal opinion next time, how about that?

Mr. Fields: I am asking what we do. I promised them I would show up so I will be there.

Mr. Zuraf: And, Mr. Chairman, you do have two additional work sessions that you could potentially discuss these changes if you would like and make follow-up suggestions. It is up to the Planning Commission.

Mr. Fields: It is tough; it is unfortunate that we have two fairly significantly different visions of this Comp Plan after all this time. Like I said, this Comp Plan has been brought with...it is the nature of the County but I am not happy with that after all this time that since day once this Comp Plan has been bitterly factionalized and divided. And I take responsibility, along with everybody else, for not being able to provide better leadership to this County to come up with something of a consensus about the future of the County. Whether one side wins or one side loses, whether you win on a 4 to 3 or lose on a 4 to 3 or a 15 to 17 or whatever the vote is, if we get a Comp Plan that is eeked out in a narrow margin of victory in a bitterly factionalized debate, we do not have a consensus by anybody on the future of Stafford County

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and ultimately all the citizens have lost. I do not mean to cast dispersions on my colleagues, I think you do a great job, but collectively all of those that this county looks to for leadership, whether appointed or elected, past, present or future if we can not bring a better product, a better result to this county it is really sad.

Mrs. Carlone: It is really sad that we have come to this point that we can not get something that is so important for interim and out years.

Mr. Fields: I am sad which ever way it goes. Obviously I have different philosophies and people will have different philosophies. The fact that we have never even come close to a consensus on this. That is just the way it is.

Mr. Di Peppe: As Chairman of the Comprehensive Plan, I would like to state for the record that the Board worked backwards from what they wanted. The question was never in doubt and all along the process they were going to do exactly what they wanted to do, and that was their prerogative. I thought the process was violated from the very beginning and all through it and it is extremely unfortunate because we are going to end up with a pro development plan and we are going to have a lot of problems in Stafford County because of it.

Mr. Fields: I am just sad that there was so much work and at the end of the day we still have not come close to an consensus on it. That is my biggest disappointment on it.

Mr. Mitchell: Point of order, we voted on an issue and now we are re-discussing that issue.

Mr. Fields: Point well taken. I guess that was the secretary's report for tonight?

Mr. Mitchell: Yes sir.

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Fields: Planning Directors report.

Mr. Harvey: Mr. Chairman, I am reporting on activities at the Board of Supervisors meeting last night. As the Commission knows they have referred time limits to you and you have disposed of that issue. Also, they discussed the lot yield referral and they continued that discussion until August. They wanted to get some more legal guidance on that proposed Ordinance. The Board also disposed of the Buildable Area Ordinance, they chose not to adopt the Ordinance yesterday.

Ms. Kirkman: What was the vote on that?

Mr. Di Peppe: Four to three.

Mr. Harvey: Yes, thank you.

Ms. Kirkman: That answered my question.

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Mr. Di Peppe: I was there.

Mr. Harvey: The Hills of Aquia Commercial Rezoning was denied. That concludes my report.

Mr. Fields: Alright.

COUNTY ATTORNEY'S REPORT

Mr. Fields: Madam County Attorney.

Mrs. Roberts: Nothing tonight.

SECRETARY'S REPORT

Mr. Fields: We had the Secretary's report. Committee reports.

COMMITTEE REPORTS

Mr. Fields: Mr. Rhodes and I are continuing on the corridor study with...give staff a lot of credit. We took a tour of several road corridors and got a good sense of it. We got a lot of very valuable information and there is nothing like hands on and eyes on. This is a continuing process and we will keep moving forward with it. I think we are starting to get some ideas on how to move forward with it. I think both in terms of transportation, but in terms of the land use component, it was instructive because you start to see certain kinds of patterns emerge as you drive those corridors that are logical. The roads are dismal.

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

April 1, 2009 Regular Meeting

Mr. Fields: Alright, the approval, we have April 1st minutes. Is there a motion to approve?

Mr. Di Peppe: I have an issue, but I believe it is with the regular session. I do not have any trouble with the work session.

Mr. Fields: Okay, do we have those as well?

Mr. Rhodes: Yes.

Mr. Fields: Okay, work session minutes. Motion to approve, do I here a motion to approve?

Mr. Rhodes: So moved.

Mr. Mitchell: Second.

Mr. Fields: Seconded.

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

Ms. Fields: You are going to abstain, okay. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye. Opposed? Five with one abstention. Now we have the regular meeting minutes for April 1st.

Mr. Di Peppe: Yes, I would like to see if we could defer this to the next meeting to give Stacie a chance to look at the tape or DVD, whatever. There was a portion where I was having a discussion with Mr. Hoyt and he stepped away from the microphone when he spoke and he did not...I do not think she could hear it, but part of the discussion that I thought was very important did not make it into the meeting. Stacie said she could look at the tape and get those words back in.

Mr. Fields: Okay.

Mr. Di Peppe: If that is alright with the rest.

Mr. Fields: Do we need an official motion to defer that?

Ms. Kirkman: No, we just won't act on it

Mr. Fields: We just don't act. Alright, is there anything else that we need to deal with tonight.

Ms. Kirkman: I just have a request of staff, if we could go back to the practice of giving us our packets in three hole punch, so we can put it in notebooks.

Mr. Harvey: Sure.

Mr. Fields: Alright, anything else? Very well we stand adjourned. See you guys in a couple of weeks.

ADJOURNMENT

With no further business the meeting was adjourned at 10:52 p.m.

Peter Fields, Chairman
Planning Commission