

STAFFORD COUNTY PLANNING COMMISSION

July 1, 2009

The work session of the Stafford County Planning Commission of Wednesday, July 1, 2009, was called to order at 5:38 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Nugent, Stinnette, Zuraf, Stepowany, Schultis, Hess and Hudson

DECLARATIONS OF DISQUALIFICATION

None

Mr. Fields: We are going to move quickly to a couple of our ordinance committee while we are waiting for Mr. Rhodes. Then we are going into closed session in a few minutes, just to let everybody watching and in the audience know where we are headed.

REVIEW OF PROPOSED ORDINANCES

1. Elimination of the Preliminary Subdivision Plan Process (**Deferred to August 19, 2009 Work Session**)
2. 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)
3. Clustering in Agricultural Zoning Districts (Referred to Planning Commission by Board of Supervisors) (**Time Limit: August 17, 2009**) (**Deferred to July 1, 2009 Work Session**)

Mr. Fields: First up is the clustering in the Agricultural Zoning Districts. I understand we are still...the Board did not act on our request for deferral.

Mr. Harvey: That is correct Mr. Chairman. It is on their agenda for July 7th.

Mr. Fields: So at this point we do not really know weather we are supposed to...if they do not act on it then we will have to call a special meeting because this time limit expires before our next meeting.

Mr. Harvey: Correct, your August meeting is the 19th.

Mr. Fields: I have not heard any communication directly from the Chairman. Are we assuming there is any problem with the extension or we have not heard any reason to believe we will not be granted the extension.

Mr. Harvey: I have not heard any questions or comments to that regard.

Mr. Fields: Okay, that is the best we can figure out. In that case, Mr. Stepowany.

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Mr. Stepowany: Thank you Mr. Chairman and members of the Planning Commission. As I said there has not been a lot of extensive questions asked on this. At the last meeting you asked staff to provide two things. One was we presented an example of a similar subdivision in Hanover County, with a preservation lot and a preservation ordinance. The density for that subdivision was one unit for every 6.25 acres and they are required to have reserve drainfields. All those lots have primary and reserve drainfields. In addition to that, staff has reviewed the ordinance and made some recommended clerical and administrative changes and those are in bold print in the ordinance. Staff would recommend the Planning Commission consider those changes and forward to the Board at such time of the public hearing. I will be more than happy to answer any questions the Planning Commission may have.

Mr. Fields: I do not recall that we talked about this. If we have I apologize. In going back over this, I keep seeing the HOA concept keep creeping up into this. While HOA's can be constructive, I have also found in the area of Stafford that I represented where there are not any really large HOA's like Aquia Harbour, these smaller HOA's despite good intentions on everybody's part, are not extremely functional particularly when it come to maintaining and dealing with a lot of property issues and things like stormwater systems. Was it discussed in the Committee or among staff if there were alternatives to an HOA structure, that might be a little less...as you know particularly since people are going to take advantage of some of these rural clustering subdivision, one would anticipate and actually hope that many of these like the A-1 subdivision are much smaller in scope. There are medium size parcels owned by a family, say seventy-five acres and they want to subdivide a few lots to create some income for the family or they are no longer able to use it agriculturally. It is a typical scenario in Stafford for these, and quite often could be fifteen to twenty units. A twenty member HOA is hardly capable of raising enough money or having enough cohesion sometimes to do things.

Mr. Stepowany: I know we talked about it and one of the questions raised by staff in the last version brought about a lot of clerical changes was, if you go to page 9 of the ordinance. Under preservation area, this is just as an example, fourth from the bottom where it talks about the conservation easement. It says to be considered as a preservation area, such area so considered must be conveyed with restrictive covenants to a bona fide homeowner's association and the County, the question was should that be or the County. In the subcommittee discussion, I believe the subcommittee had the same basic concerns as you and with the PDR programs and the potential TDR programs and the County getting more involved in conservation easements and the guidelines for conservation easements that the County wants to be partners with the Homeowner's Association mainly for the protection of the conservation easement. Actually the County conservation easement may be more restrictive than... let's say the Homeowner's Association goes out and gets a third party to be the holder of the conservation easement. That was discussed at the subcommittee meetings and that is why that sentence that says "a bona fide Homeowner's Association and the County". Alternatives to a Homeowner's Association, I would have to refer to Mr. Harvey. I think we sort of talked about that, but I think it came down to this specific language to... I guess the word bona fide is the main issue, but there was some discussion at the subcommittee and that is also why we included "and the County" when it comes to the conservation easements.

Mr. Fields: It could be "or the County".

Mr. Stepowany: That was the question by staff, should it be "or the County" and the answer is no, it is "and the County" that if it is a preservation area and needs to be placed in a conservation easement and the conservation easement need to be coordinated with the Homeowner's Association and the County, or it can be just County. The Board was agreeable to having a conservation easement being controlled by just the County. It was not an extensive talk, but it was a thought.

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Mr. Fields: Jeff, do you have anything to add? I am sorry, Ms. Kirkman.

Ms. Kirkman: I have a follow up question. What staff does the County currently have on board that would have responsibility for monitoring the County's conservation easements?

Mr. Stepowany: Well we have the PDR staff. That starts with Mr. Neuhard down to Kathy Baker...

Ms. Kirkman: But what staff do you have for enforcement and going out? I am sure Mr. Neuhard does not do that.

Mr. Stepowany: I understand what you are talking about, there are rules that you have to apply with if you are the keeper of a conservation easement. I have not been involved in the PDR program, so I would have to again refer to Mr. Harvey on that question.

Ms. Kirkman: Do we have any staff position for that?

Mr. Harvey: We do not have any staff positions dedicated for that purpose. I guess part of it would have to be dictated by how they set up the easement and what the recording is for the easement and the inspection process. Ultimately, if there is a violation of the easement, there would be one entity in the County working with the County Attorney's Office to insure compliance with the covenants of that easement. So it may be some enforcement action through, this is where I am getting a little off of the field, but through some civil action if something was noncompliant or whatever the case may be. Most situations with these preservation areas you either want to leave them alone or allow someone to farm them. From a maintenance standpoint, there may or may not be that much as far as the home owners would have to deal with. They may have to deal with, if a tree fell off the common area onto someone's property, they may have to deal with that issue. Right now the County does not have a specific program to deal with this, it is something we would have to work out as we move along and prepare for when we start getting these types of easements and setting up the program.

Mr. Fields: Are you through with your questions?

Ms. Kirkman: Yes.

Mr. Di Peppe: Mine follows along the same lines, I am wondering about the County and liability and small home owners. I believe, Mr. Fields this was in your district, I seem to remember a situation of a stream and beavers taking trees down, clogging streams. If I am not mistaken, the Homeowner's Association was non-existent or was not functioning at that time.

Mr. Fields: It had not really been constituted in exchange from when the developer, and they did not want to be a Homeowner's...

Mr. Di Peppe: Yes, and then I am wondering are we allowed, this might be a legal question, but are we opening up the County to certain liability issues if they take on the conservation easement? Who is actually responsible for whatever happens?

Mr. Stepowany: Again, I can only speak on behalf of what was discussed at the subcommittee meetings and this came up again with the Deputy County Administrator who is also the Chairman of the PDR program. He is very much aware of the County's commitment to the PDR programs and conservation easements that the County will be the holder of those easements. Also as Ms. Kirkman talked about, there

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are responsibilities and liabilities in maintenance that as a holder of the conservation easement the County will be responsible for that and I am sure that the Deputy County Administrator is very much aware of that. Whether or not it is on paper or not, I do not know. This was part of his recommendation and the members of the subcommittee of the Board of Supervisors recommendation to include the County in the drafting of these conservation easements in the preservation areas. I am just trying to hope that this is almost the same concerns that Mr. Fields has raised with small Homeowner's Association and we are asking them to take the responsibility of large conservation easements.

Mr. Fields: Let me, I do not mean to split hairs here and forgive me again if I am also asking an obvious question. In the language here on preservation areas, also on page 9, I am looking at "to be considered as preservation areas, such areas so considered must be conveyed, with restrictive covenants, to bona fide homeowners." Conservation easement, at least the term of easement that I am using, is that the underlying property itself does not change ownership but an easement is placed on it and the easement changes the pattern of usage of the property. This is indicating the property itself, the underlying property is transferred to the Homeowner's Association, is that really two different things Mr. Attorney? This seems to indicate that the fee simple ownership of the property transfers from the developer or owner of the parent parcel to the Homeowner's Association or the County as opposed to an easement which simply transfers the ownership is not the same. Am I getting that straight?

Mr. Nugent: That is generally the interpretation of the word convey or conveyance. This says such areas so considered must be conveyed. Preservation areas ordinary language of conveyance is fee simple.

Mr. Fields: So that is different than a conservation easement.

Mr. Nugent: It is different that a classic easement. Now a conservation easement may have its own variation that might be a blend of that, I am certainly not familiar with it, but I would doubt it.

Mr. Fields: Okay. You kind of see the question there. That is really two different situations.

Ms. Kirkman: Was that the intent of the Board, that there be a conveyance of the property itself rather than just the easement?

Mr. Stepowany: An open space parcel, in this place, a preservation area which is going to be within your required open space, all required open space is either conveyed to the County because it is a dedicated open space or it is under the ownership of a Homeowner's Association. That is the common practice right now. What this ordinance requires is if it is a preservation area within any of the required open space, the preservation area also has a conservation easement whether the conservation easement is a third party, the Homeowner's Association and the County. They could dedicate the preservation area to the County, but I do not think that is the overall intent that the preservation area has to be dedicated to the County. If I remember correctly, that question was raised, what if they want to convey the open space area to the County, they basically could because that would become what we refer to as dedicated open space.

Ms. Kirkman: The County would have to accept it.

Mr. Stepowany: And then the County would have to accept it and the County would then have the liberty to place it in a conservation easement if it wanted to.

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Ms. Kirkman: But there is no requirement for preservation space in a cluster, is that correct, under this ordinance?

Mr. Stepowany: There is no minimum requirement, but if it is like an RPA or meet the criteria, it must be a preservation area.

Ms. Kirkman: So there is no requirement for a minimum amount of cluster development to be in a preservation area.

Mr. Stepowany: No.

Ms. Kirkman: So why would anybody go to this hassle?

Mr. Stepowany: If they could place their areas within the open space, like the preservation area, meet the minimum requirements and go with the smaller lots and either meet the lot yield or get a little bit more of a lot yield than what they would have gotten if they went with the by-right three acre zoning, or in the case of A-2 if they have water and sewer go down to twenty thousand square feet and they are able to get the same or a couple more lots.

Ms. Kirkman: They can do that without putting anything in preservation.

Mr. Stepowany: Correct, that is the case for any cluster subdivision.

Ms. Kirkman: Again, to get back to my question, if they can do the cluster without putting anything in preservation and given all the hassle that is being described about the preservation area, why is that even in this ordinance? Why would anybody put in a preservation area?

Mr. Stepowany: I can not answer that.

Ms. Kirkman: If somebody could shed some light

Mr. Di Peppe: Well, this past experience that I have seen in the past, sometimes what ends up in a conservation easement is land that is unbuildable. Then it takes it off the tax rolls. If somebody owns the land they have to take care of it, sometimes I have seen in other developments, sometimes what ends up is all the land is really not very valuable to build on and it ends up in an easement and they give it to somebody and they are responsible for it and have to take care of it.

Ms. Kirkman: So are you suggesting that the reason why this preservation piece is in this ordinance is because there are pieces of land that no respectable conservation organization will accept for a conservation easement and this is a way to get it in a conservation easement?

Mr. Di Peppe: I can not speak to anybodies motivation. I an just saying in the past, I have seen land end up in easements and given to someone else that was unbuildable, then it is off the tax roll of whoever owns the property, they do not have to pay taxes on it and they do not have to maintain it, they do not have liability for it and maybe it is just coincidental that is often is land that you could not build anything on ever. So it is not very valuable to whoever owns it and it is a way to take care of it. Now, does that mean that there have not been some really good conservation of land the really need to be protected, land does really need to be protected. I am just offering that up, as you say, why does that sometimes happen?

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It has just been my experience that if someone owns it they do not have to pay taxes or maintain it or have liability.

Mr. Stepowany: Mr. Chairman, to add on to what Mr. Di Peppe said, not only do you have that but there is also, I believe, a tax benefit.

Mr. Di Peppe: Yes, they sell tax credits.

Mr. Stepowany: They get in return, financial aid.

Ms. Kirkman: So this makes HOA's able to hold conservation easements?

Mr. Stepowany: Yes.

Ms. Kirkman: In their expertise in conservation is what?

Mr. Stepowany: I can not answer that. I know that is one of the options. That may be why it is the HOA and the County as a joint partnership for the conservation easement.

Mr. Di Peppe: Because if you have a legitimate organizations that take on conservation, that's a whole nother...

Mr. Fields: I think we probably ought to move on.

Mrs. Carlone: Would this be placed in the HOA, the joint responsibility if this is what it is going to be. Would this be included in the HOA? Does it make it quite clear the responsibility?

Mr. Stepowany: The actual conservation easement?

Mrs. Carlone: Yes.

Mr. Stepowany: That would have to be arranged between the HOA and the County Attorney's office and all the agreements of that easement.

Mrs. Carlone: Okay.

Mr. Stepowany: But this is to allow such an arrangement to be made.

Mr. Fields: Okay, we have asked for an extension on this, so hopefully that will be granted. I think we need to move on, we have a couple of other things.

4. Fences, Walls and Hedges (Referred to Planning Commission by Board of Supervisors) (**Time Limit: August 17, 2009**) (Request sent to Board of Supervisors for postponement) (**Deferred to July 1, 2009 Work Session**)

Mr. Fields: Let us pick up the fences, walls and hedges issue hopefully and see if we can get done with this real quick. Even if Mr. Rhoades is not here we are going to have to go into closed meeting. We have other things to do as well.

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Mr. Harvey: Yes, Mr. Chairman. I will speak to this ordinance. I know at your last meeting there was discussion about the ordinance and how we would deal with a situation where you may have a rural lot and the need potentially for a larger size fence along the property line. In reviewing that, the Zoning Administrator and County Attorney's office and myself discussed it. We have included in your package two ordinances, one ordinance which includes the definition of street facing side yard and another ordinance basically as it was originally referred by the Board. We are suggesting that the Commission maybe consider a separate amendment that deal with the fences in the A-1 and A-2 because it may be going a little bit beyond what the Board initially had asked. So, we would suggest that the Commission consider the ordinance version that has the definition of street facing side yard and that we come back in your August meeting with an attempt to try to address some of the other issues specifically dealing with A-1 and A-2 for the larger lots and how we deal with fences along the streets in those cases.

Mr. Fields: So you are suggesting that we move forward recommendation on 09-32 and then come back and address in more detail A-1 properties?

Mr. Harvey: Yes sir.

Ms. Kirkman: Mr. Chair, I am really not comfortable...

Mr. Di Peppe: Yes, because we are going to be in a lurch between now and then with whatever this ordinance says. There were some problems that we had raised and we just want to make sure that the ordinance does what the Board had intended.

Mr. Fields: Well, we are on a time limit of August 17th on this.

Mr. Harvey: Again, Mr. Chairman, this is one where the Commission has requested a time extension as well.

Mr. Fields: Have we been officially granted it?

Mr. Harvey: That is going again on the 7th to the Board.

Mr. Fields: Okay.

Ms. Kirkman: And I have a question about the definition of street. Does street include private access easements? Or does street, by definition, have to be VDOT maintained?

Mr. Harvey: I can check that, I have my code with me.

Ms. Kirkman: Because that was the issue around the streets, was we did not want to have private access easements included in that and...

Mr. Fields: Having to put a 300 foot fence around a private access easement is an unintended consequence of this ordinance as written, right? Are you looking up street?

Mr. Harvey: Yes sir.

Mr. Di Peppe: Mr. Chairman, while he is looking up street, I do not know if we can draft a letter to the Board maybe outlining in bullet form just a couple of our concerns that if we pass this as written we feel

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that we might be creating some problems for the County and that is why we are asking for the extension. I do not know if that is helpful at all or not.

Ms. Kirkman: But we can modify this but we just need time to do it. We are allowed to make changes to this, is that correct? Sometimes it is sent to us, take it or leave it. Is this is the take it or leave it category or can we modify it?

Mr. Harvey: I believe there is room for modification. If I remember, the resolution the Board passed referring it to you. I guess the one question we might have is how would any change to this affect the intent, because right now the interpretation of the ordinance is you can have the 8 foot high fence along the street and the request that came down was to specify it was along the street facing side yard you had the smaller fence requirement. So, in one aspect, if you are discussing with A-1 and A-2 you can be going in the opposite direction of where the ordinance is intending us to go.

Ms. Kirkman: But, as I recall, what was clarified for us as to the intent, was this was for the new subdivisions that really have the minimum size lots with the standard sort of square shaped lots, that sort of thing. It did not take into account the large areas in agricultural, whether they are A-1 or A-2 where there are private access easements, very large lots, agricultural uses, those sorts of things.

Mr. Harvey: Yes. The issue from what I understand is more or less a residential setting where you have a residential house and a fence right along the street. It is a board on board type of fence which is designed for privacy rather than for security which you might find in some other areas where you have livestock and those types of things.

Mr. Fields: Am I asking the wrong question? Can we simply leave A-1 out of the ordinance, out of 09-32? Because that is the only issue, right, with A-1 zoning or is it with all zoning districts?

Ms. Kirkman: It is not because we have this A-2 stuff I know in the Aquia district...

Mr. Fields: If we took the A-1 and A-2 out would it be okay then?

Ms. Kirkman: But I think it only applies to A-1 and A-2, is that correct?

Mr. Harvey: The way this ordinance is drafted it is uniform across all the zoning classifications.

Ms. Kirkman: So, if we took out A-1 and A-2 that would address the problems it creates but it would not address the new subdivisions in A-1 and A-2.

Mr. Fields: Right, but I am saying then we come back later and address A-1 and A-2. Rather than hold this up for the other zoning districts simply because of A-1 and A-2, just recommend a version of this 09-32 that simply does not address A-1 and A-2 and we come back with another ordinance to address the more complex situation of how you define uses in A-1 and A-2 as opposed to simply zoning districts. There is a pretty good precedent for it and I think one of the most constructive things we have done. Again, I think one of the best things you do sometimes are not dramatic and go unheralded. But I know one of the best changes that we have made in the County, thanks a lot to your efforts Mr. Harvey and staffs' work, is to go to buffers by use rather than simply by zoning district. And this exactly seems to be to me to be in the same category that we have already set the precedent for that the side yards, this regulation when you get to A-1 and A-2 properties, it has as much to do with the use as it does the zoning

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classification. I would hate to keep just holding this up because of one specific problem. Do you see any problem with that Mr. Nugent?

Mr. Nugent: I do not. I just have in mind that this issue came down as I recall and I only got involved since the last meeting, but as I recall the issue was raised by the Zoning Administrator that this was something recommended by the BZA simply because of a problem that developed with regard to an evidentiary issue at some prior hearing.

Mr. Fields: Right. So, I think we would like to keep things moving and give the BZA some tools at least as far as that we are comfortable with them. I am perfectly comfortable with this concept in every zoning district except A-1 and A-2. I have not heard from you gentlemen. Do you have any problems with us passing it without A-1 and A-2 so we can address the A-1 and A-2 issues separately?

Mr. Howard: I do not have any problem with pulling A-1 and A-2 out. I am not sure leaving them in creates an issue either.

Mr. Fields: I think our concern with it right now is if you leave it in you could get some unintended consequences of trying to apply the regulations that are designed for residential type subdivisions to really rural areas without having been required to do things in a rural property along a private access easement because in terms of this it would be kind of unfair to the property owner I think.

Mr. Howard: I understand that. And many of the A-1 certainly has yards that abut streets and there is a long half a mile of fence. I am not sure I know of any that over 5 feet so that why I am not sure what the issue could be.

Mr. Fields: Okay.

Mr. Howard: Taking it out, I have no issue with that.

Mrs. Carlone: Mr. Chair, I would like to proceed with the take-out.

Mr. Fields: Do you want to make a motion then to recommend approval of 09-32 absent discussion of A-1 and A-2?

Mrs. Carlone: A-1 and A-2, you said it.

Mr. Fields: Okay, so moved by Mrs. Carlone. Is there a second?

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Is there any further discussion on it?

Ms. Kirkman: Could I get clarification on where we are in our process? Are we making a recommendation to the Board to approve this or are we making a recommendation to send it to public hearing taking out A-1 and A-2?

Mr. Harvey: Yes, a motion to refer to public hearing would be in order.

Mr. Fields: Okay. So we are referring to public hearing 09-32 absent A-1 and A-2. Okay?

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Ms. Kirkman: We will still need the Board's approval of an extension but this will demonstrate that we are moving forward.

Mr. Fields: Right.

Mr. Harvey: So, Mr. Chairman, we will proceed with your August meeting for the public hearing.

Mr. Fields: Okay. Any further discussion on this then? All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, with that, very good. Mr. Rhodes, we are glad you made it safe and sound. We are now, pursuant to some requests by staff, we are going to go into closed meeting. We need a motion for resolution to authorize closed meeting, where as the Planning Commission desires to consult with counsel and discuss in closed meeting certain legal advice concerning Wyche Road properties and whereas pursuant to Section 2.2-3711A.7, of the Code of Virginia, such discussions may occur in closed meetings. Now therefore be it resolved that the Planning Commission on this first day of July, 2009 is hereby authorized discussions of the afore stated matters in closed meeting.

Mr. Di Peppe: So moved.

Mr. Fields: Moved by Mr. Di Peppe.

Mr. Mitchell: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

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Mr. Fields: Aye. Opposed? Alright, if you will excuse us, we are going into closed meeting.

The meeting resumed at 6:36 p.m.

Mr. Fields: The first item that we have to do, we have two things to do. The first item is a resolution to certify the actions of the Planning Commission in a closed meeting on July 1, 2009. Whereas the Planning Commission has on this first day of July, 2009 adjourned into a closed meeting in accordance with a formal vote of the Planning Commission in accordance with the provisions of the Virginia Freedom of Information Act and whereas the Freedom of Information Act as it became effective July 1, 1989 provides for certification that such closed meeting was conducted in conformity with law. Now therefore be it resolved that the Stafford Planning Commission does hereby certify that on this first day of July 2009, that to the best of each members knowledge, 1) that only public business matters lawfully exempted from open meetings requirements under the Virginia Freedom of Information Act were discussed in the closed meeting to which this certification applies and 2) only such public business matters as were identified in the motion by which the said closed meeting was convened were heard, discussed or considered by the Commission. No members dissent from the aforesaid certification. Is there a motion to that effect? Is there a motion to certify?

Mr. Rhodes: So moved.

Mr. Fields: Moved by Mr. Rhodes.

Mr. Mitchell: Second.

Mr. Fields: Second by Mr. Mitchell.

Ms. Kirkman: Mr. Chair, I am going to abstain from the motion. I need to reread Chapter 15. I am not at this point one hundred percent certain that everything we did complied, so I am going to abstain until I get a chance to reread Chapter 15 of the State Code.

Mr. Fields: Does that contravene the statement that no members dissent from the aforesaid certification by your abstention. I am sorry, if Ms. Kirkman abstains from the motion, does that contravene the last statement of the motion which states no members dissent from the aforesaid certification?

Mr. Nugent: Yes.

Ms. Kirkman: I am not dissenting, I am just abstaining.

Mr. Fields: But you are dissenting from this certification.

Ms. Kirkman: I am abstaining from voting on it.

Mr. Nugent: By abstaining, you are not certifying.

Mr. Fields: Right.

Ms. Kirkman: I am going to abstain.

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Mr. Fields: Then the point is moot, I guess. So we did not have a certified closed meeting. Where does that leave us?

Ms. Kirkman: The rest of you all can vote however.

Mr. Fields: I think everybody else but you Ms. Kirkman, unfortunately, reads that last line as saying that your abstention eliminates the possibility of us certifying the closed meeting as being compliant with the Freedom of Information Act. So, by that we would be left with an uncertified closed meeting and no way to close the loop, so to speak, on that. I am not sure exactly where that leaves us.

Ms. Kirkman: Why don't you just eliminate the line where there is no dissent.

Mr. Fields: Because I think that line is required by Code, that is why the attorney put it there, I assume.

Ms. Kirkman: No, I do not think

Mr. Nugent: What was the Section you asked to review?

Ms. Kirkman: Chapter 15 of the State Code is where the FOIA law is located.

Mr. Nugent: I thought you referenced a particular section. You did not?

Ms. Kirkman: I do not have it with me.

Mr. Howard: Can staff get a copy and we could recess and she could...

Ms. Kirkman: During the break I... Can we just hold on the resolution until we get to the break?

Mr. Fields: There is a course of pending action that came out of closed meeting and now is, I think, in jeopardy from being legitimate because the question of the closed meeting is now in question. I really do not want to start a motion that I am not sure is... If we do not certify that the closed meeting is in accordance with the law, then we are left with the potential that we have an unresolved... We were not properly acting in our closed discussion in the closed meeting to come to the point where we felt that we needed to make the subsequent motion that follows this certification motion.

Mr. Di Peppe: Can we recess for ten minutes and allow the...

Mr. Fields: We have other people waiting to do stuff, I would rather move forward. Can staff review this while we move to other issues?

Mr. Nugent: I will make the effort. I am not making any promises.

Mr. Fields: Thank you. Give it your best shot. Let's move forward until at least our break with the next item on the agenda. So Mr. Mitchell if you will hold on to your motion then until we resolve this other issue. Alright, number 5, reclassification South Campus.

Mr. Howard: Point of order.

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Mr. Fields: Yeah, I do not know the proper... We have a motion sort of sitting on the table. I appreciate the point of order there, Mr. Howard.

Mr. Howard: We can make a motion to table that motion, we can also make a motion to suspend the rules and go back into that room and have Ms. Kirkman review the information that she is concerned with.

Mr. Fields: I will entertain a motion to simply table that motion while we research the Code. How is that?

Ms. Kirkman: We have completed the research and I withdraw my objection.

Mr. Fields: Very good.

Mr. Howard: You have to restate the...

Mr. Fields: So let's go back to... Let's start this all over again, I hate to do this, just for the cleanliness sake, a resolution to certify the actions of the Planning Commission in a closed meeting on July 1, 2009. Whereas the Planning Commission has on this first day of July, 2009 adjourned into a closed meeting in accordance with a formal vote of the Planning Commission in accordance with the provisions of the Virginia Freedom of Information Act and whereas the Freedom of Information Act as it became effective July 1, 1989 provides for certification that such closed meeting was conducted in conformity with law. Now therefore be it resolved that the Stafford Planning Commission does hereby certify that on this first day of July 2009, that to the best of each members knowledge, 1) that only public business matters lawfully exempted from open meetings requirements under the Virginia Freedom of Information Act were discussed in the closed meeting to which this certification applies and 2) only such public business matters as were identified in the motion by which the said closed meeting was convened were heard, discussed or considered by the Commission. No members dissent from the aforesaid certification. Do I hear a motion?

Mr. Howard: So moved.

Mr. Fields: So moved by Mr. Howard.

Mr. Rhodes: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

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Mr. Fields: Aye. Opposed? Motion is resolved 7-0. Thank you very much and thank you Ms. Kirkman for raising the issue. It is important. I have sat through closed meetings where, in the Board of Supervisors, where I had some questions and it is important to have those resolved before you certify. I respect your cautiousness. Mr. Mitchell, you now have a...

Mr. Mitchell: Mr. Chairman, I would like to make a motion to delete the Wyche Road project from tonight's agenda due to their incomplete application and asking for a second.

Mrs. Carlone: Second.

Mr. Fields: Second by Mrs. Carlone. Any further discussion?

Mr. Nugent: Excuse me Mr. Chairman, that would include the cancellation of the public hearing.

Mr. Fields: Cancellation of the public hearing. Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, motion carries 7-0. Now reclassification South Campus.

REVIEW OF PENDING REZONING/CONDITIONAL USE PERMITS

5. 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) (Deferred at June 17, 2009 Regular Meeting to July 1, 2009 Work Session)**

Mr. Zuraf: Good evening Mr. Chairman and members of the Planning Commission. This case request for a reclassification on the South Campus property was tabled at the June 17th Planning Commission

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meeting. At that meeting the Planning Commission raised several concerns with the application. Several revisions were made to the proffers in response to the Planning Commissions concerns. The first change was in response to concerns that the applicant proffer to mitigate lighting impacts from other light sources other than parking lot lighting. In response, the applicant made an addition to proffer E, which would deal with electric signs. Basically in this language they are adding would prohibit electronic signs as those electronic signs can emit a lot of light and have possible impacts on adjacent properties. They have made that change and the specific language that they used was language that is right out of the proposed sign ordinance legislation. And so that will provide some consistency there, and they did add additional regulations or prohibitions within the proffers that deal with all outdoor lighting on the sight and that was in proffer H. The second issue is dealing with, there was a request to include some sort of signage that identified the Resource Protection Area limits. The applicant included a proffer that would provide a RPA sign every one hundred feet wherever there is development up along, adjacent to Resource Protection Areas. Also there was a request that the applicant revise proffer 5D, to require the use of porous pavement. The applicant did consider that but has not made that change. They did not make any changes to the proffers on that. Staff did talk to Steve Hubble in Code Administration and he did note that it may be premature to specify any certain specific types of BMP's prior to really good soil engineering being conducted because that could be a use that may have no effect if we find that the soils are not suitable for that type of BMP. The fourth item, it was requested that the applicant revise proffer 1D to require affordable office space and that change was not made. The applicant kept with the proffers as they were originally worded. The fifth request dealt with a request to provide interpretive signage to describe historical events on the property. The applicant has included new language in proffer 7A that would comply with that and they would include signage up to twenty five hundred dollars as far as cost. Sixth item dealt with the issue of insuring water quality for adjacent wells to the site. Previously the applicant had separate agreements with the property owners. The applicants went ahead and included the language right into the proffers, within new proffer 5E. This was after a meeting with the County Attorney staff. They made adjustments to that language and incorporated that into the proffers. One of the changes to note in this proffer was that a homeowner would have the ability to choose remedies within certain situations, as opposed to the previous language. Basically, in the previous version the applicant had all the power in deciding what would happen. Here they have adjusted that to provide some leverage to the homeowner. The seventh item was questions or concerns about the extension of South Campus Boulevard off site towards Courthouse Road. There were requests to have the applicant talk to the Stafford Soccer League property adjacent to the site. I understand that the applicant may have done that, they are here to talk about that and address that. Also, the applicant has added a proffer to provide a monetary contribution towards the future construction of that road, should it get approved, where it would be ten cent for every gross square foot of office and retail space. Those are the main changes that we have provided to you and the applicant is here. I will answer any questions at this time.

Mr. Fields: Any questions for Mr. Zuraf?

Ms. Kirkman: Yes, I have a question. You know the transportation proffers are quite complicated so please help me understand this correctly. There are no improvements offered regarding the intersection of Courthouse Road and Route 1, Correct?

Mr. Zuraf: Correct.

Ms. Kirkman: And then I went back to the traffic impact analysis that we gotten and in fact I can not even find an analysis of the impact on the intersection of Route 1 and Courthouse. Is that correct?

Mr. Zuraf: I would have to defer to the applicant on that or look through the traffic analysis.

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Ms. Kirkman: It is pretty large and if I have missed it, just if the applicant could be thinking about that and show me where it is contained in the TIA, since you are not, understandably so, do not know this several hundred page document by heart. But I am concerned about that. If I understand this correctly, if this rezoning is approved the applicant could move forward with the construction of this, prior to the completion of the courthouse interchange and all that traffic is got to go through Courthouse and Route 1.

Mr. Zuraf: Some of it, yes. I guess there will be... Some of the traffic will go through that direction but some if it will head to the south.

Ms. Kirkman: Right, but they assumed that a lot of the traffic was going to be coming off of 95, so they included analysis of the impact on the interchange itself. So if it is coming off 95, right now the only way for it to come off of 95 and get to their project is through Courthouse Road and Route 1.

Mr. Zuraf: Correct.

Ms. Kirkman: So maybe the applicant can address that.

Mr. Fields: Any other questions for Mr. Zuraf? Alright, Mr. Patrick, do you just want to start by picking up where we were with Ms. Kirkman's question?

Mr. Patrick: Sure. Thank you very much, I am Sherman Patrick. I am with Compton and Duling. We are here this evening representing Old Potomac Church LLC. To go directly to the question raised by Ms. Kirkman, there was a traffic analysis that included all of the intersections from the I-95 interchange all the way over to the subject site and extended to the south on Route 1 down to the adult detention facility or the jail. So all of those intersections were analyzed and we have our traffic consultant here today that can provide your more explanation on that. You will recall we have had a couple of meetings where we talked about transportation and we talked about it in the transportation committee as well. The answer...

Ms. Kirkman: Excuse me, if I could just interrupt because I am looking at these updated tables and I do not see it in there. Could we have the engineer up?

Mr. Patrick: Sure. The TIA was in two parts and I think what you are looking at is one of the parts that you may not...

Ms. Kirkman: I may not have, okay.

Mr. Feeney: I am Jeff Feeney with Kimley-Horn. The original traffic impact analysis included those intersections dated June 19, 2008. The copy you have is a response to VDOT comments and it is a supplement to the original. I have a copy if you would like to see it.

Ms. Kirkman: That would be great, thanks. The June 19th impact analysis, that is superseded by the January 29th one.

Mr. Feeney: It is a supplement to it.

Ms. Kirkman: This is a supplement, it does not replace it.

Mr. Feeney: Yes.

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Ms. Kirkman: Okay, thank you.

Mr. Fields: Are there any other questions for the applicant at this time?

Ms. Kirkman: I had questions about the proffers.

Mr. Fields: Okay.

Ms. Kirkman: If we could start with the proffer under number 3, Architectural and Site Design, Letter H, outdoor lighting generally.

Mr. Patrick: Yes.

Ms. Kirkman: The last sentence, illumination required by building codes is exempt from this proffer. I think this could be construed in several different ways and I want to maybe get a little better language on this. I am assuming what you mean by this is that if a building code requires you to do something in a certain way, then of course this would not apply.

Mr. Patrick: That is correct.

Ms. Kirkman: But I believe the strict construction of this sentence would mean any type of illumination that is required by building code would be exempt from the additional protections. So if you could ... This language, if we could somehow say... In fact do we even need to say that illumination required by building codes is exempt. If it is required by the building code its got to be done.

Mr. Nugent: All of the illumination would be protected or covered as it is intended to be.

Ms. Kirkman: Yeah. So would the applicant be willing to just simply strike that last sentence?

Mr. Patrick: Yes Ma'am. That language in fact cam from staff, I received it by email and we adopted it as it was given to us.

Ms. Kirkman: Under the first proffer, Land Use, Letter D affordable office. First I want to confirm that the applicant is not willing to change the language of this proffer. Is that correct?

Mr. Patrick: Mr. Chairman, we have struggled with this proffer because as we discussed at your meeting back in May and discussed it again in June. The applicant's vision for this property is to build a quality office campus for medical services. We look at the office market in this area, there seems to be an abundance of affordable office. We are not sure what to do with this. We are familiar with affordable housing and I think this is the first time any of us have encountered affordable office. We do not know what to do with it. I can not say we are unwilling to make a change to it, but the fact is what we are doing is building a medical office campus that will serve the residents and create employment opportunities and we are just not sure what else you are looking for here.

Mr. Fields: Understood and I think that is reasonable. I was asking a fairly broad conceptual question, this is my request initially. So I regret that at the time I made the request I don't have a sophisticated metric to define. As you know even with the affordable housing issue, which has gone in much more detail, it is still a very elusive concept how you would define it. I certainly...personally I am content if there is any proffer language in there simply saying that you want to strive to provide a balance of office

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space for smaller or non-large start up kind of things. I understand you are struggling with the language. I appreciate your efforts in trying to even grapple with it. I know it was somewhat of a left field request, though I think you can see that it has value to the community. You do not want to have everything simply affordable. It is just like, de facto what happens to a lot of modern shopping center construction, you look out through them and you realize that only as many individual cell phone entrepreneurial companies try to have shops in these shopping centers, what ends up devolving is that mostly corporate tenants because they can afford the rent. That is regrettable, I think, in any mix of business. I can not offer you a precise metric to solve that problem, so that is all I can say on it. I think you have tried to make an attempt and I am thankful for it. That is the best I can do.

Ms. Kirkman: I had two questions, well a question and maybe a possible solution. It is really hard, I agree, I think when we make suggestions we need to try and come up with specific suggestions on language, which is what I tried to do around the lighting. On the affordable office space, I guess one of the things I did not understand is the statement that the applicant shall diligently coordinate with Medicorp. That is my first question. I do not understand what this has to do with Medicorp.

Mr. Patrick: There is already a program that Medicorp administers and facilitates to provide... to do things to attract physicians and medical users to this area. So it is part of their overall program in providing medical services and improving medical services in Stafford County. There is a program that they have...

Ms. Kirkman: So the reduced lease rates would only be available to those medical practices that participated in the Medicorp program?

Mr. Patrick: Yes, the intent that is...sort of like the balancing that Mr. Fields was talking about. In the medical profession you want to have a balance of different medical services, and you want to have those in proximity to the hospital. So that program is flexible, it is based on demand and technology as it evolves. So there are not rigorous metrics that go along with that, but it is an effort by that organization and Mr. Hart has cooperated with them on other efforts to try to bring people into the County.

Ms. Kirkman: So if there were a local medical practice, that was owned by someone who lived in Stafford and ran their business in Stafford and they wanted to relocate and take part in this reduced lease rate, but did not wish to be affiliated with Medicorp, they could not participate in a reduced lease.

Mr. Patrick: I am sorry. I can not answer that question.

Ms. Kirkman: I am just trying... that seems to be what the language of this proffer says because it says Medicorp and it says out of area doctors. So, if the applicant could clarify that the only people that could participate in the reduced lease rate are out of area physicians or medical practices affiliated with Medicorp. If we could just... during the break if you could get that clarification.

Mr. Patrick: Okay.

Ms. Kirkman: Then I did consult with our attorneys' office on a couple of issues. Regarding, boy we are getting into little subsets of letters. The second proffer, Transportation, letter A, little number 2 small letter a.

Mr. Patrick: Could you direct me to the page.

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Ms. Kirkman: Okay.

Mr. Patrick: That might be easier.

Ms. Kirkman: Would that be easier? I am so used to writing out all of those numbers, page 5 of 21.

Mr. Patrick: Okay, thank you.

Mr. Fields: We are approaching... we are a little past seven already Ms. Kirkman, is this... do you have a lot of other things to do? Should we pause and break or are we within inches of wrapping this up.

Ms. Kirkman: I think I can wrap this up within moments, and I want to give the applicant the opportunity to address these during the break so that when we come back they can... I did consult with our attorneys' office and here you say may be accessed by existing Old Potomac Church Road as improved per the proffered conditions and you refer to another rezoning. Our attorney has suggested that in fact those conditions do need to be spelled out in this proffer rather than referencing another proffer. Last, two more here, to speed things up I am not going to give you the page number because it will take me a minute to figure that out. Proffer 2 A 5 and proffer 6 B, both state that approval of the rezoning authorizes construction of roads pursuant to 15.2-22.32 and 6 B does the same for water and sewer and our attorneys' office has said that they are not comfortable with that language and we need to strike the authorization language if the applicant will consider that.

Mr. Patrick: We did hear about that and we are agreeable to striking those two.

Ms. Kirkman: Lastly, I wanted to find out if all the adjoining property owners have reviewed and agreed to the language regarding the well water issue.

Mr. Patrick: Six weeks ago we sent out a private agreement to the surrounding property owners. At your last meeting you expressed a preference to have a proffered condition that basically mirrored and had some improvement to it. We have done that now and have provided that to the surrounding property owners. We have not heard back from all of them, but we provided it to them.

Ms. Kirkman: I have heard from three property owners and I just wanted to know if they have worked things out with you in the meantime.

Mr. Patrick: Two had agreed to the private agreement, we provided you a copy of that at the last meeting. We understood that one of two family members was out of town and that those two individuals wanted to consider them together. We still have not heard back from them. There was one property owner, Mr. Snyder who has other concerns, which he is talking to us about and we will continue to work with him on those other issues as well as the well agreement. Because that is a negotiation, I do not want to say too much of it now and I know you have a limit on your time. But we have taken the proffers from the private agreement and put them here with improvements suggested by Mr. Nugent.

Ms. Kirkman: Okay. And then later on if the applicant could just, not now, but later if the applicant could speak to why they did not choose to alter the proffer regarding use of porous concrete, that sort of thing.

Mr. Patrick: Okay.

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Mr. Fields: Okay we are at 7:05, we need to take a break. My hope would be that we can pick this issue right back up when we come back and take care of it and move on. Just to give everybody a heads up, I am going to take sort of a poll when we get back on who is here for what issue. We have a lot of people that have been waiting for two issues on the work session that we have not even gotten to yet. So, we have to move forward to the public hearings, but if there is not a lot of folks for the public hearings, I may try to move forward some of these items first so that people that have been waiting can move forward. So we will just see. Hopefully we can get this resolved during the break, because I do not really want to then wait through the entire public hearing to come back to South Campus at that point if we are this close to resolving. Alright, recess to 7:30.

6. 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) (History - Deferred at June 3, 2009 Regular Meeting to July 1, 2009 Work Session)**

(Discussed during regular meeting)

REVIEW OF PENDING SUBDIVISION PLANS

7. SUB2800594; Lexington Farms - Preliminary Subdivision Plan - A preliminary subdivision plan for 11 single-family residential lots, zoned A-1, Agricultural, consisting of 50.8 acres located on the north side of Mountain View Road approximately 400 feet west of Rock Hill Church Road on Assessor's Parcel 17-54 within the Hartwood Election District. **(Time Limit: September 9, 2009) (Deferred at June 17, 2009 Regular Meeting to July 1, 2009 Work Session)**

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

None

OTHER UNFINISHED BUSINESS

None

APPROVAL OF MINUTES

April 15, 2009 Work Session

May 6, 2009 Work Session

ADJOURNMENT

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The meeting was adjourned at 7:05 p.m.

End of Work Session Agenda

7:30 P.M. REGULAR MEETING

The regular meeting of the Stafford County Planning Commission of Wednesday, July 1, 2009, was called to order at 7:36 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Nugent, Stinnette, Zuraf, Stepowany, Schultis, Hess and Doolittle

Mr. Fields: Any declarations of disqualification?

DECLARATIONS OF DISQUALIFICATION

NONE

Mr. Fields: Hearing none, before we open public presentations, let me just do this for housekeeping and moving forward with the evenings process in an efficient way. Number 11 on the public hearing, the reclassification of Wyche Road properties has been cancelled for public hearing tonight. We anticipate it being rescheduled for the August meeting at this point. The rest of the items, let me just kind of get a show of hands on items 8, 9, 10, 12, 13 and 14. Those items that are scheduled for public hearing tonight, are there any people that are here to speak on those public hearings? You do not have to come forward now, I am just trying to get a poll. Anybody else? I do not want to keep you and I promise we will move forward in a timely fashion. We have had people on earlier items that have been sitting here since 5:30, so I am going to try to kinda move forward with some of those items before we get to those public hearings. I promise I will not keep you waiting forever, but I am sort of trying to be fair and not keep these folks waiting longer than we already have. I mean we have not been stalling, but it just takes some time. But with that we always want to have the public presentations. People come at 7:30 and expect to be able to do that. If anybody wants to make a presentation to the Planning Commission on a topic that is not included in the items listed for public hearing, now is your opportunity to do so. You need to state your name and address for the record, you have three minutes. When the green light goes on, your time starts, when the yellow light comes on there is one minute left and when the red light comes on your time is up.

PUBLIC PRESENTATIONS

NONE

Mr. Sitzman: Good evening, my name is Gary Sitzman and I would like to speak on the proposed I-95/Route 630 interchange. I would like to say that I believe the new interchange was completed about four years ago, we called it the Centerporte interchange. It is three miles south of Route 630. It is one of the most under utilized interchanges in this region. Not only was it completed, but the access road from the

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parkway to Route 630, which is three miles, is already half completed to Route 628. It is simply a matter of creating a road one and a half miles from 630 to 628 and you basically have eliminated the necessity of the interchange here at the Courthouse. Thank you.

Mr. Fields: Thank you, sir. Anybody else who wishes to make a presentation? Alright, seeing none we will close the public presentations. Let's pick up where we left off and see if we can resolve the South Campus issue and then we will move on.

UNFINISHED BUSINESS:

15. 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) (Deferred at June 17, 2009 Regular Meeting to July 1, 2009 Work Session)**

Mr. Fields: So I guess Mr. Patrick, we were wrapping up a couple of items related to that.

Mr. Patrick: Thank you Mr. Chairman. There are two issues that you asked us to look at during the break. One had to do with the affordable office. We talked a little bit at the work session about how difficult this is. The first thing we did when posed with this question, was to ask ourselves well what is affordable medical office. Because we are creating a medical office campus and kind of an assumption that went along with that was there was going to be some kind of discount. Immediately we realized that we are creating a new market, so we do not know what the market is yet. Medical offices next to a hospital that has just been built and just been opened is kind of hard to know what the price is there. The other question that we asked ourselves was who benefits. Who is it that qualifies for this medical office, what are we trying to accomplish, who is going to benefit, I think is the bottom line. We knew after deliberating on that some, that Medicorp had this program that attracted additional medical services to the County. If you ask the question who benefits, the citizens of Stafford County benefits through them recruiting and bringing people in close to the hospital that provide services that may not be here. They are making the choices as to which types of uses are needed to round out the medical services that are available to the community and to us the only metric that we could think of that was outside of our own decision making process was to say that we would participate in Medicorp's program. So that is what we put before you. I am sorry that in the fifteen minutes or twenty minutes that we had we did not come up with any better ideas. I think that this applicant, Mr. Hart and Mr. Brown, have shown a great deal of cooperativeness and willingness to be creative and think outside of the box. I hope that you will realize that they will continue to do that for this issue and other issues that may come up, but right now it is the best we have.

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Mr. Fields: I think that we also recognize that, this is just the Planning Commission phase too. If some future thought or dialogue with the Board of Supervisors as it goes through, there is some more time to think about it.

Mr. Patrick: Absolutely.

Mr. Fields: I think you are aware of whatever reservations and issues and concerns and questions we had on it, so that issue has been accomplished.

Mr. Patrick: Yes.

Mr. Fields: Alright, was there anything else that we needed to...

Mr. Patrick: The second was a question about porous pavement.

Mr. Fields: Right.

Mr. Patrick: And we have talked about this and deliberated quite a bit too and we realized that we may not have done a great job explaining the issues. What I would submit to you that we have suggested to the best of our ability is we are giving you a tool box of different ground water recharge strategies, and that was the ultimate goal to recharge the aquifer. We believe that porous pavement is a very important tool in that tool box, but not the only tool. We also believe that in some instances that is not going to be the best tool. Our engineer is here this evening, Bruce Reese, to explain that in much better detail than I can, and if you would like to hear that explanation he is prepared to talk to you a little bit about the variables that need to be considered when you choose an infiltration device verses porous pavement verses something else. We have to offer this evening, a revised proffer condition on porous pavement, you will recall we had a real short turn around this last cycle, between your June 17th meeting and tonight. We are sorry we did not get this in the first draft that came to you, but I do have something that I can offer you this evening that we think is an improvement and is closer to what Mr. Di Peppe was talking about. It puts porous pavement up front giving it the emphasis that I think the he intends, but again I still have to defer to Mr. Reese to explain to you the more scientific and technical reasons that we need to have other tools in the toolbox.

Mr. Fields: Well if we can do that in maybe two or three minutes. Mr. Reese if you do not mind. I do not want to put you under the gun, I know it is highly complex, but if you could really distill it for us.

Mr. Reese: I will sure try. Mr. Chairman, I am Bruce Reese, I am with the Engineering Groupe and I am a professional engineer in the Commonwealth. You have to be careful about confusing LID technique with recharging the ground water. Although they can do the same thing, they do not have to. Technically I could probably put a huge bowl that would collect all the water and let it evaporate and I would meet all of my LID requirements. I would reduce runoff, I would not let any pollutants leave the site, but not a drop of that water would get into the ground water system. So I could meet LID without necessarily meeting the ground water recharge, that is were the infiltration practices associated with LID techniques are used. Porous pavement is one, but it has got limitations, you have got to be careful about the material under the porous pavement, it can not be a clay material, you have to be careful about the slope of the parking lot or sidewalk. There is a lot porous pavement concepts that do not necessarily involve asphalt or concrete, brick pavers is a porous pavement, turf pavement can be a porous pavement, but you have got to be careful where you put that especially in a medical office park. So there are a lot of ways that we can recharge the groundwater, not all of which need to involve porous pavement, and we will make every

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attempt to try to accommodate those. If porous pavement works, we will love to use it, but we have got to be careful. We can not put it on a fill area because you can not have the runoff getting into the fill because you now have structural integrity issues. There are things that you have got to be careful about, you do not want water running off of an adjoining side slope coming onto the porous pavement, so there are things that you have got to be careful about that are site specific that we really will not know about until we get to the final engineering. I hope that was two minutes worth of education.

Mr. Fields: That is excellent. Alright, do you have a question Ms. Kirkman?

Ms. Kirkman: Sure. I went through the traffic impact analysis, the June 19, 2008 one and again regarding the Courthouse Road and Jeff Davis intersection, is that engineer still here? If you could step forward please, I just want to confirm my understandings.

Mr. Fields: Okay.

Ms. Kirkman: Since I am having to put two different TIA's together, I want to make sure my understanding is correct.

Mr. Reese: No problem.

Ms. Kirkman: Without any improvements, based on table 10.4 on page 40 it looks like the traffic at buildout, the wait times could...well they would go from eighty-five seconds per vehicle to three hundred and sixty...you know, way higher per vehicle with no improvements. The improvements that are references that show a fairly minimal increase in wait times, those improvements include...are you assuming that the courthouse interchange with the new connection to Jeff Davis happens in those calculations?

Mr. Reese: No, those improvements were identified in the TIA that was done for the Stafford Hospital and so those are the results with this additional traffic with those improvements.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Alright, are there any other questions for the applicant or staff before we move forward with this. This is our decision point and we have to move forward with this, this evening. Well we technically do not, but we will not have another meeting unless we call a special meeting so I am assuming we got all the questions answered. Again, hopefully this will solve a lot of problems as this moves forward to the Board of Supervisors. I think all of the questions and concerns that have been raised are part of the record of the Planning Commission and certainly I encourage every Commissioner, with something of this magnitude that we have spent this much time on, I certainly as always encourage every Commissioner here to have a lengthy discussion with their Supervisor before this gets on their plate. That is one of the main services that we provide and one of the requests that I gave my word as Chairman to the Chairman of the Board that in our effort of cooperation and working together that I would always encourage people to make sure we have these conversations. We have seen a lot of material and spent a lot of time on this. I think our opinion...all of our supervisors need to hear our opinion. So, with that in mind, this is in the Aquia district, so it is up to Mr. Mitchell to make a motion.

Mr. Mitchell: Mr. Chairman, I would like to make a motion for RC2800486, Reclassification of the South Campus.

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Mr. Fields: To recommend approval?

Mr. Mitchell: Recommend approval.

Mr. Fields: Is there a second.

Mr. Howard: Second.

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

Mr. Di Peppe: Just real quick, I do appreciate the research and the efforts on pervious parking lots and the attempt for infiltration and to get the water back in the aquifer.

Mr. Fields: Yes, Mrs. Carlone.

Mrs. Carlone: I just hope there is continuing conversation with the neighbors, that they are watched out for, as far as their well water. We did receive an email and we take these to hart and want to make sure that you take care of those people.

Ms. Kirkman: I just want to confirm with the motion maker that your motion includes the amendments to the proffer that were offered tonight, which were this new language on environment, the...

Mr. Fields: Lighting.

Ms. Kirkman: The striking out the last line on the lighting phrase. That the applicant will spell out the proffered conditions concerning Old Potomac Church Road and the striking of the two proffers regarding the approval of construction. Those were offered by the applicant.

Mr. Mitchell: Those were also apart of my motion.

Ms. Kirkman: Having said that, I want to say that I really do appreciate the work that was done by the applicant to try and meet the concerns of the Planning Commission. Unfortunately, we have run up against a time barrier here and I support the efforts of the applicant, I wish we had more time to discuss this, because I still feel a bit uncomfortable about the situation about the potential impacts on water supply for the adjoining property owners and the traffic impacts on the Courthouse/Route 1 intersection. I feel we could have worked those out with more time, and because we have not been able to do that, I can not support the motion but I do feel like if we had more time we could have gotten there.

Mr. Fields: Any other discussion? I would just like thank all the people involved in this, the owners and their staff of engineers and planners. You guys have spent all the time that we have asked you to spend and provided every piece of information and considered every issue that has been raised by the Planning Commission and I truly respect that. I think we have always all felt that this was a good project, I appreciate your tolerance for the time that we have taken, this is our job to try to bring all these things to the table and get them on the table. Like I said from the beginning, I think I would echo Mrs. Carlone's concerns to that you make sure we are in a constant dialogue with the adjoining property owners. I think that is very important. In the final analysis I know anything...a rezoning that brings to the core redevelopment areas of Stafford County high end employment, is in the final analysis one of the most important factors to creating a more sustainable future in the County and so I applaud your efforts and wish you all the best of luck. I appreciate you working through even some ideas, like affordable housing,

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that may seem somewhat undefined. I appreciate you taking the time to engage in them and we will just keep working on these things in a cooperative way. Is there any further discussion?

Mr. Di Peppe: Just real quick I also want to say I appreciate the applicants efforts when we met in the very beginning with the applicant on the archeological information and about their willingness to make certain changes and go the extra mile for not only to find out exactly what is there and get it correct in the record, but for the signage. Thank you.

Mr. Fields: Alright, any further discussion? Hearing none, all those in favor of recommending approval of this rezoning application to the Board of Supervisors signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Ms. Kirkman: No.

Mr. Fields: Motion passes 6-1. Thank you all very much, best of luck.

16. 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 uses. The Life Care Zoning District 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) (History - Deferred at June 3, 2009 Regular Meeting to July 1, 2009 Work Session)**

Mr. Fields: Stafford Nursing Home and Retirement Community.

Mr. Zuraf: Mr. Chairman and members of the Planning Commission, item 6 was tabled at your June 3rd public hearing. There were several concerns raised at the meeting regarding that proposal and the specific proffers that were proposed to be amended. Since that meeting, staff and Mr. Di Peppe met with the applicant to discuss those issues and we provided to you some revised proffers that have been offered by the applicant and some subsequent information. I will go through some of the issues that were raised at that meeting and how the applicant has responded. First, there was a question raised by the Commission if a new traffic study would be needed in this case because this was a proffer amendment and also because

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there is an increase proposed within this amendment, and increase of assisted living units while reducing independent living units. Staff did determine that the assisted living units do have a slightly higher traffic generation than the independent units and what that results in is a slight increase in the traffic generation from the previous proposal of thirty-three additional trips per day and an increase in the peak hour trips of five additional peak hour trips in the morning and two additional in the afternoon. You did receive a revised trip generation memo that outlines all of that from the traffic engineer. Then also the question would be, then what about the VDOT 527 traffic impact assessment, that would not be required because that is tripped when there is one hundred or more peak hour trips that are generated from the use and the revised analysis of traffic generation shows a peak hour trip generation of ninety-five in the afternoon, so they do not quite meet the requirement of a traffic study.

Ms. Kirkman: Mike, could you clarify that is ninety-five trips for the entire project.

Mr. Zuraf: Yes.

Ms. Kirkman: Okay, thank you.

Mr. Zuraf: Staff did review this with the County Transportation division and they did see the increase as nominal and also did not see the necessary need for a new traffic assessment in this case. The second issue was a request that the applicant provide certain amenities earlier in the project. They have made several amendments to address that. They have revised proffer 8 to specify that shuttle bus service will be provided for both phase 1 and phase 2 of the project. They revised proffer 13, which stated that the walking trail that is planned around the site would be phased in with each building that is constructed as they move along. Also proffer 18 dealt with the FRED bus stop, they are proffering to provide that prior to the first occupancy of the first building in phase 2, previously it was prior to the second building in phase 2, so they bumped that up. Proffer 29, the other recreational amenities, those will be provided incrementally with each building that is built on the site. The third issue was concerns that were expressed with certain terms that were used in the proffers, in response to that the applicant has deleted the use of the term where in certain instances it states that things will be provided concurrent with certain actions and that has been deleted. Also in several proffers, the word shall was replaced with will. The fourth issue, the Commission requested that cash proffers be provided earlier in the project, to address this, the applicant has revised proffer 9, which dealt with the recreation monetary proffer. They have divided that monetary proffer up to four phases. That was a total monetary proffer of one hundred thousand dollars and that is in four phases throughout the project. Specifically the first phase would be twenty-five thousand prior to the occupancy permit of the nursing home, prior to the first building opening up as opposed to before it was later in phase 2. Also, there was a request to construct the assisted living building at the start of phase 2 and the applicant did amend proffer 3 to comply with that. There was a request to include assurances that all elements or types of units within the project are constructed and timing mechanisms be included, the applicant did not proffer that and the County Attorney did provide an opinion on that the timing elements within the proffers would likely not be an enforceable act. The next issue was to set aside a certain percentage of beds for Stafford residents. That also was not proffered, the County Attorney also did weigh in on that and stated that type of proffer may be in violation of fair housing laws and constitutional law. There was also a request to enhance RPA mitigation in areas of proposed encroachment for the access road around the nursing home, so the applicant did revise proffer 28 which did state that RPA near the nursing home would be further mitigated with indigenous planting and in addition to that, trash and debris present along the perennial stream that bisects the property, that the area within that situation within the RPA will be cleaned up. The last point, the applicant has revised proffer 13 to add in the installation of a historical marker to the site to reflect some of the historical events on the property. I will answer any questions at this time.

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Mr. Fields: Are there any questions for staff?

Ms. Kirkman: The issue I had raised was that the GDP shows a paved road in the Resource Protection Area, your report does not address that. How is that issue resolved?

Mr. Zuraf: That it shows a paved road?

Ms. Kirkman: The GDP, which is part of this application, shows a paved road in the Resource Protection Area.

Mr. Zuraf: Yes.

Ms. Kirkman: How is that issue addressed?

Mr. Zuraf: That is something that the applicant actually received a waiver for that because that basically became a requirement under the site plan review for the nursing home for safety purposes. It was a request from the Fire Marshall and that road is continued to be proposed. Was your request to ...

Ms. Kirkman: I asked if the GDP could be revised to move that out of the RPA by somehow reconfiguring the building. The only reason why the road is required by the Fire Marshall is to have that go back behind the building. So if they change the configuration of the building or moved it to the left, then the fire access road would not be in the RPA. Lets be clear, this is the applicants GDP not the Fire Marshall's GDP.

Mr. Zuraf: That was not revised. The GDP was not revised.

Ms. Kirkman: And there was no proffer to stay out of the RPA.

Mr. Zuraf: No.

Ms. Kirkman: Thank you.

Mr. Fields: Alright, are there any other questions of staff? Alright, I assume the applicant is here. I do not assume, I know because I see him sitting right there, waiting patiently. I think you see we have been moving as fast as we can, we have a lot on our plate tonight.

Mr. Hedrick: Mr. Chairman and members of the Commission, my name is Bruce Hedrick and I am here on behalf of the applicant. I certainly appreciate Mr. Di Peppe and Mr. Zuraf's time in terms of meeting with us and trying to address the Commission members' questions and comments. We are here to respond to any questions you may have and certainly hope you support our request. Thank you.

Mr. Fields: Alright, are there any members of the Commission that have questions for the applicant?

Mrs. Carlone: I was looking through here, I know there was...about the gravel road, you were going to put a road from Berea Church Road to the facility, the nursing home. There was something at one time; do you recall what that was? It is in the back of my mind that y'all were going to have a temporary road.

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Mr. Hedrick: Yes Ma'am, that is correct. At the request of the Fire Marshall, we are providing a emergency secondary access to Berea Church Road vis a vie a gravel road that would support the emergency equipment and it would be locked on Berea Church Road only accessible for EMS services.

Mrs. Carlone: Okay, I was trying to find it in here, I must have missed it. I know that was one issue that we discussed. I did not see it in here, have I missed it in the revised...but anyway there will be, you will go through with the secondary road because of the Fire Marshall. I was looking for it.

Mr. Hedrick: Yes Ma'am, I believe it is under proffer 3, next to the last sentence, page 2. Proffer 3 under development phasing.

Mrs. Carlone: Oh here it is, I see it, the last sentence. That is fine, that was one of the issues. Thank you. And the amenities, you have added them in for the future condos.

Mr. Hedrick: Yes Ma'am and we changed them from singular to plural and incremental with the projects as we bring them on line.

Mrs. Carlone: Good, you took care of mine.

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

Mr. Di Peppe: First, let me thank you for when we sat down and had the meeting, because you were very forthright and we did not get every single thing that the Commissioner's asked for but for example, Mrs. Carlone brought up the question of the historic sign. The only thing I am asking for there, I thought there was a specific amount proffered, either sixteen or eighteen hundred dollars towards that sign. I do not see that in the proffers, a specific amount.

Mr. Hedrick: I am certainly agreeable to add that fifteen hundred.

Mr. Di Peppe: Yes sir. I think there was one particular sign we were talking about and there were some phone calls made that it would cost sixteen hundred. Whatever in that, you can word it, but I would like an amount and also I would like to recognize that it was Mr. Rhodes that brought up about the phasing in of the contributions, which got the County twenty-five thousand dollars more up front, which we were not going to get. That was Mr. Rhodes suggestion and I also appreciate that you, even though that we had to go into the RPA because of the requirements of the road going around, that you have agreed for additional plantings to try to increase the effectiveness of the buffer. I did not know if you needed to put any kind of qualifier how much more, when you say you are just going to do more, I am a little concerned. I did not know if there was anything with the wording.

Mr. Hedrick: Here is a thought that we could add. The nursing home on a freestanding basis basically impacts approximately .28 acres of encroachment. We are willing to do a one to one mitigation on that. Currently it is .2 in terms of our improved WQIA. Again, that would add an additional .08 acres that would account for and quantify the additional mitigation that you are referring to.

Mr. Di Peppe: One other quick question. I know that they wanted some language about Stafford County residents and I know your company has built these types of continuing care units for some thirty years. Is it true that most, the majority of the residents of the nursing home come between a seven to ten mile radius, so we are...it is essentially serving this region. Whereas you can not quantify that legally and say

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X percent but the figures will bear out the majority do come from...most of the residents do come from the close in general area.

Mr. Hedrick: Yes sir, that is correct.

Mr. Di Peppe: Thank you.

Mrs. Carlone: Mr. Chair.

Mr. Fields: Go ahead Mrs. Carlone.

Mrs. Carlone: The only other thing was, I think we discussed it before but it is a requirement so I am sure you will go ahead and put it in, but that is the signs no disturbance beyond this point from the RPA, it is a requirement.

Mr. Hedrick: I am sure that will be in the site plan.

Mrs. Carlone: Thank you.

Mr. Fields: Ms. Kirkman.

Ms. Kirkman: Are your engineers here tonight?

Mr. Hedrick: Yes ma'am.

Ms. Kirkman: Okay, I would just like to here why this can not be redesigned to stay out of the RPA.

Mr. Hedrick: I can certainly speak to part of it. I think your original question was have we changed the building configuration and we may not have the benefit where we started, I apologize, I only have one copy and I can circulate this. This was the original GDP and again I apologize for... you can see it is a linear building. That is kind of where we started in terms of our building and what you have in front of you is where we ended up today. So you can see there has been a dramatic change in terms of the building configuration and we certainly have tried to reduce and minimize the impact we have on the RPA and the area in question is the additional ambulance drop off that was required by the Fire Marshall. They have again kind of pushed the whole building in this direction. Again, I apologize if you would like me to circulate this I can. We have worked quite hard in terms of reconfiguring the building in terms of not only the constraints of the site but more importantly we have building design criteria that we also have to abide by in terms of a skilled licensed nursing facility. But Mr. Powell is here is you would like to ask him some specific questions.

Ms. Kirkman: If he could answer as to why this could not be redesigned to stay out of the RPA.

Mr. Hedrick: Again, we have done as much as we can in terms of the building design and layout to provide for the numbers of services we have within the building and to provide within the constraints of the site given the additional Fire Marshall requirements.

Ms. Kirkman: If you reduce the square footage of the nursing home you would be able to stay out.

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Mr. Hedrick: We are in a culture change, we are moving away from the semi-private rooms of yesteryear and trying to provide more private accommodations. This building tries to address that, so removing square footage takes us back in time to the semi-private rooms and we are trying to get away from that.

Ms. Kirkman: Okay.

Mr. Fields: Alright, any other questions for the applicant? Alright, where are we with this?

Mr. Di Peppe: I think we are ready.

Mr. Fields: Ready to move, it is in the Falmouth district.

Mr. Di Peppe: Thank you Mr. Chairman. At this time I would like to move for approval of RC2900127, the reclassification and the proffer amendment changes.

Mr. Fields: Recommendation of approval.

Mr. Di Peppe: Recommendation of approval, yes.

Mr. Howard: Second.

Mr. Fields: Any discussion?

Ms. Kirkman: Yes, Mr. Chair, I am going to oppose the motion because it is clear that the intent of the Ches Bay act is to keep land disturbing activities and impervious area out of the Resource Protection Areas and it is possible to build this project without doing that. The applicant simply chooses not to, so for that reason I am going to oppose the motion.

Mr. Fields: Any other comments or discussion? Unfortunately, I also will oppose it, though I think as far as it goes and the corrections and efforts you have made are fine. I really have no problem with the continuing care. This goes back to a long standing philosophical battle I have had with the whole independent living housing issue and the question of whether proffers for housing are an average for all types across or if certain types of housing get to have a privileged position in that. It has always been my contention, contention not only by myself, but by other that the...when we discuss a housing type like a single family dwelling or a townhouse or a condominium basically they are an apartment, that the impact is, that we require in proffers for all levels of public service including education etc., are averaged across the type and though some make the claim that if you live in a age restricted type of thing, you are exempt from proffers for education. It has always been my main... I maintain that we are averaging across housing types because there is plenty of single family homes that do not contain children, where the builder of that home will certainly have to pay the proffer because you cannot guarantee who will move it to it, that children will not be in it. I guess the idea here is that you guarantee that the children are not there, but like I have said, I feel that the averaging across types is part of the idea that we all benefit from public education, just like we all benefit from Fire and Rescue and Public Safety. It is no reflection on the integrity of the applicant, just my own philosophical point that I just do not support the waiving of the education proffer for independent living senior housing. I am just being consistent with all my votes from the first time I got on the Board of Supervisors.

Mr. Mitchell: Mr. Chairman?

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Mr. Fields: Yes, sir.

Mr. Mitchell: I am going to support this issue. If you stop and look at the need for this county and numerous counties, nursing homes and retirement communities are a must. Today's baby boomers will eventually be tomorrow's retiree and at some point they will definitely out number the work force. So I will definitely be supporting this because of the need. I think that is one of the issues, no offense to anybody, we could talk about a lot of philosophical things but there is a need and I will be supporting it.

Mr. Fields: Thank you sir.

Mr. Di Peppe: I moved for support and I have supported this concept from the very beginning. I would just like to reiterate why, I believe it is extremely important to have a continuum of care as you age so you can allow local residents to age in place. I have brought this up a number of times, where my own family has had to travel to Richmond for many years to take care of a great aunt. People the were born and raised and have families in Stafford and have children and grandchildren, want to be able, when they need to have additional medical care, to be able to age in place and be able to participate in the lives of their families and their grandchildren and their grandchildren's families. I think it is so important in this particular development has a thirty year record of doing extremely fine development of this type. I am happy to support this in our district.

Mrs. Carlone: Mr. Chairman?

Mr. Fields: Yes Mrs. Carlone.

Mrs. Carlone: Basically, I approve this. However, I had expressed concerns before and it just dawned on me. What happens to the couple that are in the independent living and then the husband or wife goes down to the next level, what happens to that remaining spouse in independent living? I have a concern there but I will go ahead and support this but if you read the most recent Post newspaper, there was an article about having waivers for moving the spouses, one or the other, to join the spouse in the next level.

Mr. Rhodes: Mr. Chairman?

Mr. Fields: Yes Mr. Rhodes.

Mr. Rhodes: I would just like to thank Mr. Di Peppe and the applicant for the very effective efforts during the deferral period to address so many of the issues that we raised the last time. Thank you Mr. Chairman.

Mr. Fields: Thank you for that.

Mr. Howard: Mr. Chairman?

Mr. Fields: Yes sir.

Mr. Howard: I would also like to reiterate some of the comments made. I think Mr. Di Peppe did a great job meeting with the applicant. The applicant has a great history, in terms of their business and how they operate. It is probably likely that somebody on this Commission will at some point need their services, in fact, I think it is great for the county, I think it is great for Stafford that we are moving forward with

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bringing quality health care to the market, which includes nursing home and assisted living components of that. I appreciate the hard work and effort that went into this.

Mr. Di Peppe: The only thing with the approval, did we get nailed down the number on the historic sign?

Mr. Hedrick: \$1600.

Mr. Di Peppe: Alright, \$1600, Thank you.

Mr. Fields: Alright, no further discussion, all in favor of recommending approval signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Opposed

Ms. Kirkman: No.

Mr. Fields: No. Motion passes 5-2. Thank you very much.

Mr. Hedrick: Thank you.

Mr. Fields: Alright, Lexington Farms Subdivision Plan.

17. SUB2800594; Lexington Farms - Preliminary Subdivision Plan - A preliminary subdivision plan for 11 single-family residential lots, zoned A-1, Agricultural, consisting of 50.8 acres located on the north side of Mountain View Road approximately 400 feet west of Rock Hill Church Road on Assessor's Parcel 17-54 within the Hartwood Election District. **(Time Limit: September 9, 2009)**
(History - Deferred at June 3, 2009 Regular Meeting to July 1, 2009 Work Session)

Natalie Doolittle: Mr. Chairman and members of the Commission this preliminary subdivision plan was deferred at the June 17th meeting so that the applicant had time to submit the materials that were requested. This included a copy of the soil work and full size copies of the preliminary plan which the applicant indicated that he provided directly to the Commission. Also copies of the minor subdivision plat for Rock Hill Reserve which was recorded in November, I believe. Also since the last meeting it was discovered that a proposed boundary line adjustment between parcel A and existing lot 2 of Rock Hill Reserve was not shown and that has been corrected and sheets 3 and 8 that were affected by this have been updated and provided to you. If you have any questions, I can answer them. Also the applicant and engineer and AOSE are here to answer questions.

Mr. Fields: Alright, are there any questions of staff? Mrs. Carlone.

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Mrs. Carlone: Natalie the only question I had was at what phase, this does not have anything to do with this right now, but later. At what phase will there be a decision about the, I think there are two properties that have duel streets, you said it was not required to put the driveways, but when will that come about?

Mrs. Doolittle: Which lots are you...

Mrs. Carlone: I am look at 11 and 7, both have two roads.

Mrs. Doolittle: I believe that is at the time of building permit.

Mrs. Carlone: Okay, thank you.

Mr. Fields: Any other questions? Alright, Mr. Shircliff did you have anything to add or did you have anything to say. I do not hear any questions coming forth. Mr. Shircliff did you say you were going to change the name Shircliff Road to Carlone Road?

Rob Shircliff: As you all know, I revealed at the last meeting that I have sold the property, so it will be up to the owner to decide what to name it. You can blame Victor for that.

Mr. Fields: Alright. Thank you. Are there any questions for Mr. Shircliff or anybody else involved in the process? The AOSE? Alright, Mrs. Carlone, it is in the Hartwood District.

Mrs. Carlone: I recommend approval of SUB2800594, preliminary subdivision plan for Lexington Farms.

Mr. Rhodes: Second.

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

Ms. Kirkman: Yes, I believe the Commissioner from Hartwood meant to say she makes a motion to approve the subdivision plan.

Mrs. Carlone: Thank you.

Mr. Fields: Any discussion on the motion? I would just like to say thank you to Mr. Shircliff. I think at least in my two years, at least a year and a half tenure this in by far the fastest preliminary subdivision plan we have moved through. I would like to suggest to all the people contemplating this preliminary subdivision plan if you do a really good job and have a great idea it is really not that hard. We appreciate your work Mr. Shircliff, we appreciate your efforts and good luck to the person that develops the property. I hope you keep the spirit in which I know Mr. Shircliff has approached this sometimes controversial industry to heart as you move forward. With that, all those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Carlone: Aye.

Mr. Howard: Aye.

Mr. Mitchell: Aye.

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Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Thank you, sir. Good luck to everybody. So the two folks that have been waiting patiently, which public hearing item were you here for.

Mr. Zuraf: 8, 9 and 10.

Mr. Fields: 8, 9 and 10, so we are coming up anyway. Very good. Thank you for waiting. Mr. Zuraf.

PUBLIC HEARINGS:

8. RC2900102; Reclassification - Telecom Tower, Leeland Road VRE Station - A proposed reclassification of Assessor's Parcel 46-93G consisting of 2.04 acres, located on the west side of Leeland Road and the south side of the RF&P Railway at the Leeland Road VRE Commuter Station within the Falmouth Election District, from PD-1, Planned Development-1 Zoning District to M-1, Light Industrial Zoning District. The applicant proffered to limit the use of the property to a 150 foot tall monopole telecommunication facility, and ancillary uses and commuter parking lot. The Comprehensive Plan recommends the property for Suburban Residential land use. The Suburban Residential land use would permit single family residential development at a density of three (3) dwelling units per acre. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the M-1 Zoning District. **(Time Limit: September 29, 2009)**

Mike Zuraf: Yes Mr. Chairman, if I may I would like to combine the presentations for items 8, 9 and 10 because they all apply to the same...

Mr. Fields: Please, I think we are all in favor of that.

9. COM2900103; Comprehensive Plan Compliance Review - Telecom Tower, Leeland Road VRE Station - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for a 150 foot tall monopole telecommunication facility, located on the west side of Leeland Road and the south side of the RF & P Railway at the Leeland Road VRE Commuter Station on Assessor's Parcel 46-93G within the Falmouth Election District. **(Time Limit: August 30, 2009)**
10. CUP2900104; Conditional Use - Telecom Tower, Leeland Road VRE Station - A request for a Conditional Use Permit to allow a 150 foot tall monopole telecommunication facility in an M-1, Light Industrial Zoning District on Assessor's Parcel 46-93G consisting of 2.04 acres, located on the west side of Leeland Road and the south side of the RF & P Railway at the Leeland Road VRE Commuter Station within the Falmouth Election District. **(Time Limit: September 29, 2009)**

Mr. Zuraf: I still may take a while, computer please. Agenda items 8, 9 and 10 are an application for the Leeland Road VRE Telecommunications Tower. Item 8 is a Reclassification, item 9 is a Comprehensive Plan Compliance Review and item 10 is a Conditional Use Permit. The applicant in this case is the Virginia Railway Express. The subject parcel is Assessor's Parcel 46-93G and is shaded in on this map. For orientation, the existing VRE parking lot is where I am pointing. This is Leeland Road and the rail line is in this location. The parcel size is 2.04 acres. The first item 8, the request is to reclassify the property from PD-1, Planning Development 1 to M-1, Light Industrial Zoning District. Looking at the

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existing conditions of the property that is highlighted in red and the site itself is wooded at this point and surrounding it to the west, south and north is wooded land. To the east is pavement, the VRE parking lot is in the location adjacent to the site to the east. I have highlighted where the proposed tower would be located on this site for orientation. Looking at zoning, this is kind of hard to see, but the site itself, PD-1 Zoning and also to the north, west and south is surrounded by PD-1 Zoning and to the east is M-1, Light Industrial zoned property. The land use plan in this location recommends this site and all the land around it as Suburban Residential. The only other land use designation is down to the south on the other side of Primmer House Road, that land is institutional, that is an existing elementary school. Looking at the zoning history of this property, the PD-1 zoning on this property is due to this site being part of the Leeland Station development. Back in 1995 the land was reclassified from M-1, Light Industrial to PD-1 district with proffers. The specific proffer that applies to this parcel is proffer 15 and that proffer basically required this property to be dedicated over to the County and utilized as an extension of the commuter parking lot. Since that time the land has been transferred over to ownership of Potomac and Rappahannock Transportation Commission, the entity that runs VRE and that proffer restriction remains on the property today. Looking at the purpose of this request, the applicant, VRE, is proposing an enhanced two way radio network which would allow them to maintain contact with trains along the rail lines during emergency situations. This project is being funded through the Department of Homeland Security. Looking through their network and their rail line, this site was identified as an optimal location for putting the radio equipment and tower. Now to do this, to achieve this, the applicant had two alternatives for them to consider to go through. The first alternative which they have chosen to go through with, would end up in this tower being managed privately and that would allow co-location on this tower. If the tower was to be managed privately and include co-location of other cell providers, the tower would be classified as a telecommunication facility. In doing so, this requires a rezoning because a telecommunications facility is not allowed in PD-1 and then requires the Conditional Use Permit as well. Through this alternative, VRE wanted to go through this route, they would basically have the tower built for them and they would have the ability to collect revenue by the other users on the tower. The second alternative to them would be if the use was limited to VRE, there would be no co-location and would be considered a public facility, they would be able to maintain their current PD-1 Zoning because a public facility would be allowed by right and they would not have to go through Rezoning or a Conditional Use Permit. They would have to go through Comprehensive Plan Compliance review. They are going forward with alternative one and that is why we are here. The proposal itself would be to add a hundred and fifty foot tall mono pole telecommunication facility to the planned parking lot extension. The parking lot expansion on this site would accommodate an additional two hundred spaces. The tower itself will be sited within the parking lot expansion area. Improvements would include a equipment compound that would be screened with a board on board fence and the potential for the co-location of four additional carriers on the tower. The tower itself would be located on the highest point on the site. This is an overview of the site. The orientation is changed here, this is north, the rail line, this is the current parking lot as it is today and this is how the parking lot would be expanded on the site. You can see the topography lines, this is the high point on the property and the tower would be located in this location within the parking lot surface area. Zooming in a bit, you can see how within the compound the tower would be located here and you would have the potential for equipment shelters on that site. The applicant has also provided an elevation of what this monopole tower would look like. This is the ground level and they showed a potential one hundred and fifty foot tower with all possible co-locators on that tower, with the VRE radio equipment on the top of the tower and the fencing at the bottom. The applicant has also included several photo simulations. These were generated as a result of a balloon test they conducted, it allows you to see what the view shed might be with the tower in place. This first picture is from Leeland Road looking to the north and you can see where the tower would be located in the distance. This is looking at the tower from within the Leeland Station subdivision, looking also again to the north, the tower is located in this location. This is one of the closer points, this is within the parking lot of the

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elementary school, the tower is located here. This other vantage point is from the north at a high point within Hickory Ridge subdivision looking to the south across the way. The top of the tower is barely over the top of the tree line. Looking at the evaluation of the impacts from this proposal, the site is forested and slopes down from the tower down to the railroad. With this proposed development of the parking area and tower the site would be graded out, all the trees would be removed and there likely would be some retaining walls around the perimeter of the site to be able to get that large surface parking area in place. There are no wetlands, flood plains or cultural resources that were identified on the site. Looking at the traffic generation, there would be four hundred vehicle trips per day generated from this additional parking area and one hundred peak trips per hour. Based on this a transportation impact study is not required. The proposal itself also would not increase the number of planned parking spaces already approved for this site under the previous PD-1 Zoning. The applicant is including some proffers with this request. They will look to restrict uses on the property, maintain the restriction that a commuter parking lot would be allowed on the site and ancillary uses. Then also include the potential for the telecommunications facility on the property. The additional proffer that was offered is to insure the tower site maintains through connections along the parking lot travel ways so you do not have dead end situations along one of the long travel ways through the parking lot. Looking at the proposal against the Comprehensive Plan, the Land Use Plan has a noted recommended Suburban Residential in this area, so this Light Industrial Zoning is inconsistent with what the Land Use Plan recommends, but staff would note the proposed zoning is consistent with the established M-1 Zoning on the existing commuter parking lot that is right to the east and also the proffers would maintain the current use restrictions while also allowing the tower, but bottom line you would not have industrial manufacturing uses permitted. Also staff will note that the latest draft of the proposed Land Use Plan would recommend institutional use on this property as it is publicly owned. Continuing on with the Comp Plan, the tower is consistent with the telecommunications plan element, there are minimal impacts on residential uses in this situation. The uses planned to the west, within the Leeland Station area include planned recreational ball fields and further beyond those ball fields are some commercial uses that are planned. The tower does meet recommended set backs from residential uses and then also the nearest planned residential use to the west is four hundred and sixty feet from the site, also the tower would provide for co-location of cell providers and reduce the need for additional towers in the area. Looking at the positive features of the reclassification, it is consistent with the established zoning and development pattern in the area. It does maximize the use of the telecommunications facility with the co-location potential and then the proffers would restrict the permitted uses and is consistent with the telecommunications plan. The negative features with this, as it is inconsistent with the suburban residential land use that is recommended and there may be some potential visual impacts by nearby residential uses. Staff does recommend approval of the application with the proffers that are submitted as well. The telecom facility, as opposed to public facility would help to maximize the use of this tower by co-location and avoid the need for additional towers in the future. Moving on to the Comp Plan Compliance review, this is a request for a compliance with comp plan for a new telecommunications facility. To assist with this evaluation the applicant did provide to you the State Historic Preservation Office Report, SHPO report as it is called and a NEPA report, which evaluates the environmental impacts of this proposal. There also are propagation maps included and as we have already seen the photo simulations. In looking at the telecommunications plan, that includes overall sighting criteria for towers and then also does include facility design standards. I will go through those briefly. Looking at the sighting criteria, it calls for existing tall structures to be utilized for co-location. There are no existing tall structures in the vicinity that would allow for that. The SHPO report notes there will be no visual impacts upon historic districts or other cultural resources. The facility will not impact the Stafford Regional Airport. Staff did send this request on to the Stafford Regional Airport and they determined there would be no impact to their operations. The facility is less than the recommended three to five mile spacing that is in the plan, but the applicant does provide the propagation maps that do depict where there are gaps in the coverage that shows a need. The first

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propagation map provided shows the existing coverage and this is specifically for one user, T-Mobile. The tower site is in this location, the darker colors the blue and the green are where you have better coverage and as you go out to lighter yellows and whites is where your coverage drops off. So you can see the coverage drops off in this location and as you go over to the proposed map with the additional site in this location, the coverage gets filled in. Continuing with the sighting criteria...

Mr. Fields: Will this eliminate the drop out going under Harrell Road?

Mr. Zuraf: I can not speak to that. Continuing with the sighting criteria, the plan does recommend sighting facilities away from residential concentrations, there are residences nearby, but the closes plan again is four hundred and sixty feet and then the existing homes in Leeland Station are further than that away. Recreation fields and commercial development is planned and would serve as a buffer between the residential uses and the tower itself. The plan does envision that towers be located within commuter lots, this would meet that and the facility is not located in or near wetlands or known bird concentrations or other threatened or endangered species habitats. Looking at the facility design standards, it meets several of the facility design standards in that there is co-location of multiple carriers in addition to the VRE. The conditions in the Conditional Use Permit call for low impact design of the facility and the tower, specifically hiding the cables within the tower and utilizing equipment that is more low impact in design. Also the facility is sited to the interior of the property. The tower itself is one hundred and fifty feet away from the property line of the closest PD-1 Zoned property line, which meets tower setbacks that are recommended in the plan. Also the proposal does not envision any warning lights to be proposed on this tower that may cause a visual impact to nearby residences. Positive aspects of this, propagation maps support facility spacing of less than three to five miles. The co-location would reduce the need for a new tower in the area. Would improve public safety, there would be efforts made to minimize visual impacts and no impacts would be imposed on historic properties or aircraft operations. The negative aspect again is the potential visual impact from existing and planned residential uses. Staff believes the positive aspects of the request outweigh the negative aspects and recommends the Planning Commission find the request in compliance with the comp plan. The last one, item 10, Conditional Use Permit, is the shortest one. This request is to allow a one hundred fifty foot tall monopole telecommunications facility in an M-1, Light Industrial Zoning District. With this staff is recommending several conditions to help mitigate this proposal on adjacent properties. One condition is that they will be permitted only one tower on the property, the height and type of tower would be limited to what is shown on the GDP and would only be one hundred and fifty feet tall and be a monopole design. Also that they incorporate low impact design methods, also that the facility install bollards or a curb around the perimeters, as this could very well be subject to vehicle interaction, with people backing up and wanting to get home in a hurry. Also that they design the tower to accommodate four carriers, they utilize a low maintenance board on board fencing to screen the compound and require measures to insure the removal of the tower should the use be discontinued. This would be through a performance agreement and some type of letter of credit. Also insure that signals do not interfere with emergency 911 signals or the airport. And also that space be provided on the tower for the county. The applicant did request that that last condition not be included. They were concerned about that one. They did get some information from Carol Adams of the Sheriffs Office that said that the tower would not be tall enough to serve the Sheriff's Departments purposes at this time, but staff left that in here because in the future technology may change, there might be a need for it in the future, so we kept that in there. Also, staff believes that the proposed use is in accordance with the standards of issuance of the Conditional Use Permit, it does not change the character or the established pattern of development. It does not preclude the development of the parking lot or really preclude the development of the adjacent properties. It does not hinder or discourage future development on adjacent properties. Although this tower would be visible, staff is proposing conditions that we believe would help to minimize that impact. It is not detrimental to the public welfare. It does not generate noise, dust or

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smoke emissions. The sighting of the facility in a parking lot would reduce visual impacts of ground facilities and although this site is inconsistent with the land use plan, the existing and planned uses on the surrounding properties, in the planned Leeland Station area are basically non-residential in nature with the recreational fields and commercial uses. Staff recommends approval of R09-282, which would be the Conditional Use Permit subject to the approval of the Reclassification and the Comp Plan Compliance review. That is it.

Mr. Fields: Good job.

Mr. Zuraf: Short and sweet.

Mr. Di Peppe: Wow, no wonder you get the big bucks.

Mr. Fields: Mr. Di Peppe.

Mr. Di Peppe: Real quick, just for housekeeping. Shouldn't we do this 9, 8 and 10. Shouldn't we do the change of Comprehensive Plan first and then do the Rezoning and then the CUP?

Mr. Zuraf: We felt the Rezoning should go first because without the rezoning the tower would not be allowed. Currently the tower would not be allowed under the PD-1 proffer restriction.

Mr. Di Peppe: Okay. Thank you.

Mr. Fields: Mike, how many parking spaces does this take out of the parking lot?

Mr. Zuraf: That I may have to...

Mr. Howard: It actually adds two hundred and eleven.

Mr. Fields: No, it takes out of the proposed expansion area.

Mr. Howard: No, there is an expansion of the parking lot.

Mr. Zuraf: Yes.

Mr. Fields: That is what I am talking about, in the expansion area, how many parking spaces are eliminated by this tower?

Mr. Zuraf: I would have to estimate...

Mr. Howard: It says right on the plan it is two hundred and eleven additional parking spaces provided.

Mr. Fields: I understand what you are saying Mr. Howard, but I have been involved, I am not trying to pull rank, but I have been involved in the planning of this parking lot for several years when I was on the Board. I am aware that it is...The parking lot itself is being done by the County at a considerable cost to the County, so these parking spaces are really expensive and they are public, they are tax dollars.

Mr. Zuraf: It looks like a rough estimate it would be ten spaces.

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Mr. Fields: Ten spaces, which is about one hundred and fifty thousand dollars worth of parking space. I think we were looking at fourteen or fifteen thousand dollars a space for that parking lot, when all is said about two and a half or three million dollars. Jeff, do you know the current price?

Mr. Harvey: I am not sure.

Mr. Fields: You are not sure. Does that ring a bell?

Mr. Harvey: VRE representatives may be able to give a better estimate.

Mr. Fields: Not trying to be too negative, I am just saying I wonder if there is a way that...the overflow parking is still, is that still owned by Maryland Development Corporation? Is that who owns that space?

Mr. Harvey: Correct and the County has a lease agreement.

Mr. Fields: Lease agreement. I do not know if there was anyway he would sell us enough space for ten parking spaces. Would that be two acres? You only get ten parking spaces in two acres. This is the whole parcel. I just wanted to raise that point, not that it is an obstruction, I am just a little concerned because those parking spaces are coming at a great cost.

Ms. Kirkman: I have three sets of questions. The first is the property was conveyed to the County as part of the proffers for Leeland Station.

Mr. Zuraf: I do not know the history prior to it getting to PRTC. I do not know if that.

Ms. Kirkman: I just wanted to confirm that the property has been...the title to the property has been conveyed to VRE.

Mr. Zuraf: It is to PRTC.

Ms. Kirkman: PRTC Okay. That is my first question. My second question, I want to make sure that my understanding is correct that they could meet the needs for emergency communication without co-locating any commercial providers on the tower. Is that correct?

Mr. Zuraf: Correct.

Ms. Kirkman: And they would not have to be before us except for a compliance review.

Mr. Zuraf: Correct.

Ms. Kirkman: And by co-locating commercial carriers on the tower, they will be generating revenue. Is that correct?

Mr. Zuraf: That is my understanding.

Ms. Kirkman: Will this provide sufficient coverage so that there can be emergency communications for the train all the way up to Quantico, because there is a dead spot in the Brooke area?

Mr. Zuraf: I would defer that to the applicant.

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Ms. Kirkman: Okay, then if you could go back to your slides of the visual impacts of the towers in your rezoning section.

Mr. Zuraf: Computer please.

Ms. Kirkman: So here is my question. Why have you labeled these invisible towers? They are pretty visible.

Mr. Zuraf: The applicant provided this to us.

Ms. Kirkman: But this is your presentation.

Mr. Zuraf: I am displaying what was given to us. I think the applicant can clear that up, I think that is the name of the sub consultant who does the balloon test.

Ms. Kirkman: I see, that is the name of the consultant because those are not invisible towers.

Mr. Fields: Good marketing.

Ms. Kirkman: Yeah, boy. Okay thanks.

Mr. Howard: Mr. Zuraf, the on air coverage in Stafford County whether it is the Sheriff's Department or Fire and Rescue, what is the type of technology they utilize whether it is in the Deputy's car or the Fire car. Are they using cellular technology for their computers, do you know?

Mr. Zuraf: I can not speak to what certain technology the Sheriff's Department uses.

Mr. Howard: I know you talked about their radio and how it was not needed at the moment, but I was wondering how they are communicating.

Mr. Zuraf: They are in the process of developing a new 911 network.

Mr. Howard: This is separate of 911 where they would get it in the car on the laptop. There are some, there has to be some way that they are communicating whether it is over the internet or some other way they are communicating. Someone is coming to help you.

Mr. Zuraf: Carol Adams.

Carol Adams: Carol Adams, Communications Manager for the Sheriff's Department. Their mobile data computers use air cards right now.

Mr. Howard: Which is what carrier today?

Ms. Adams: Sprint.

Mr. Howard: So this could conceivably improve that in that particular area the coverage for Sprint, if Sprint were to be one of those co-tenants on the tower.

Ms. Adams: Absolutely.

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Mr. Howard: Okay, thank you.

Mr. Fields: Any other questions?

Mrs. Carlone: If there is going to be four co-located carriers, I would have thought that perhaps there could have been some of the funds coming back...there would be revenue from those four carriers that perhaps some of that money, revenue could have been put back into the county to cover some of these costs.

Mr. Zuraf: Maybe the applicant can speak to that issue.

Ms. Kirkman: I do have a follow up question that is specifically along those lines, which was did you have any discussion with the applicants since the County...both are around cost issues. The VRE applying the cost of the lost spaces to Stafford's subsidy for VRE and secondly did you have any discussions with the applicant about the revenues being generated for the commercial co-location, those revenues being used to off set the County's subsidy for VRE.

Mr. Zuraf: No we did not.

Ms. Kirkman: Okay. The applicant can think about that, because we will want to hear about that.

Mr. Fields: Any other questions for staff? Alright, this time the applicant can speak before we open the public hearing.

Heather Diez: Good evening, my name is Heather Diez. I am the project manager for Virginia Railway Express for both of these projects, the parking lot and the telecommunications facility. I wanted to say thank you for your time this evening and for the County Planners presentation and for their efforts in trying to get us through this process. We support the staff's recommendation to approve these three items and I am here to answer questions as well as our tower contractor for the site, they are also here.

Mr. Fields: Alright, questions for the applicant?

Ms. Kirkman: Yes, I do. How much revenue have you budgeted from this project?

Ms. Diez: As far as revenue, the thing that we had to do was enter into an agreement with the tower contractor. In that agreement, they agreed to pay for the tower, construct the tower on the site for us and give the tower to VRE and the revenue would be a monthly lease agreement of two thousand dollars per month.

Ms. Kirkman: You are only getting two thousand dollars per month?

Ms. Diez: Yes.

Ms. Kirkman: Have you all...you know substantially more revenue than that are generated from commercial carriers.

Ms. Diez: We did have these negotiations with the tower contractor and he could respond to the income he will be generating from his potential carriers. I know that at the time he did not have contracts agreed

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to, because it was not known if they would be able to locate on the tower. I would defer to the tower contractor about revenue.

Ms. Kirkman: Okay, and is VRE...well we can impose it as a condition but I...the County is going to lose approximately ten parking spaces. Is VRE willing to allocate the cost of those ten lost spaces as an offset to the County's subsidy to VRE?

Ms. Diez: I can not speak to that whether we could do that to the County's contribution. That would be a question for our CEO, which I will relay to him after this meeting. One point I would like to make is the planned parking expansion was for as many spaces as we could get on that parcel and also to our 2025 build out, and the need for that build out is two hundred spaces. So we are meeting that condition but I do recognize there are an additional ten spaces that will be taken for the tower. The need is projected to be met for our rider ship.

Mr. Fields: Were the projections that yield to the current parking space...was the demand exceed the need in those projections quicker than you anticipated?

Ms. Diez: I am sorry...

Mr. Fields: I guess what I am getting at, I am not trying to be difficult. What I am trying to get at is that parking lot is over whelmed and has been over whelmed for a long time. So I am saying...I know what you are saying that you projected a certain need, but obviously the demand for parking at that first lot far exceeded the building at a fairly rapid succession. So I am saying is it also possible or have we hit a level of demand where it has flattened out and we think there is a more stable increase that these spaces... Ten parking spaces does not seem like a lot, but parking at that has been a giant issue. A giant issue politically when I was on the Board of Supervisors and it is still an issue in the community. It is a very, very touchy issue because obviously people really plan on the VRE as part of their way of getting to work and like all the counties involved, we pay a lot of money as a subsidy for that privilege and for creating that other mode of transportation. But, if the parking then becomes inaccessible, it discourages the use of it. The number of parking spaces...it sounds like ten seems to be quibbling, but I mean, believe me, ten spaces...before we got the expansion lot deal with Maryland Development Corporation, if we could have added ten spaces to the existing lot people would have been thrilled with that. I know you understand being a part of VRE that the parking demand is not a tiny issue, it is a pretty big issue.

Ms. Diez: Absolutely. And we value the availability of parking because rider ship is our entire business. Currently Leeland Road is ten percent over utilized, from the capacity and that is the one hundred fifty cars that are using the overflow lot which will remain open for at least the three years as far as I understand. We are currently in the process, as a side note, of adding four ADA spaces right now because that helps a lot. That has been the number one complaint there right now is the ADA accessibility. We are kind of in advance of this parking lot, taking spaces that were not utilized now and relocated the motorcycle parking and adding that in non-used spaces right now. So that will add four spaces and I do understand that ten is an issue and if it comes down to that, that is a consideration. This became a PRTC owned property and became the place for our other project, which is the telecommunication facility, which needs a location in Stafford County.

Mr. Fields: Now this is through Homeland Security. Is this through a grant through Homeland Security?

Ms. Diez: Yes.

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Mr. Fields: Is that what is paying for the tower?

Ms. Diez: That is what is paying for an entire system which has three locations. It is Leeland Road, Fairfax Stations and Alexandria. That will enable us to talk to and hear the train traffic.

Mr. Fields: Which you do not have the capacity to do right now?

Ms. Diez: No we do not, that grant was given to us after September 11th as a response to not be able for us to directly talk to our trains or hear them. With this proposal, the tower contractor will be paying for the tower.

Mr. Fields: Okay.

Ms. Kirkman: If you have a grant, why do you need the contractor to pay for it?

Ms. Diez: The way we would build it, would be the cheaper solution, is what was budgeted in the grant, which would be the lattice tower with just our tower on it and that is what we would move forward with. This is a more expensive option of having a monopole and low profile, so it does add to the cost there. We could still build the original lattice tower with our grant funds. The thing that the revenue helps to offset is our operating cost. DHS does not pay for that and we are looking at five year leases extending for fifty years and that is what the two thousand dollars is really helping to offset. Our other two tower locations, we have lease agreements there as well.

Ms. Kirkman: Is this going to address the drop in coverage between Brooke and Quantico?

Ms. Diez: It is supposed to cover our entire system, that is why we have it south on the line to cover that whole portion of the south line, and that is our goal as well to have entire system coverage and then for not only low cell phone coverage, the emergency phones and in the future if we were to have wi-fi on the trains. Our CEO will not go forward without full system coverage and this tower is supposed to help us achieve that.

Mr. Mitchell: What would be the cost of the tower?

Ms. Diez: I will defer to our tower contractor on that.

Mr. Mitchell: Then my follow up question after what is the tower costing, is what would be gross income if the four carriers decided to go on there? Once it is approved, I realize they have not signed up because it is not approved. Once it is approved what would the four carriers bring in as additional income?

Tim Dennis: Perhaps I should read my name into the record. My name is Tim Dennis with Mid-Atlantic Tower Management. We are the contractor with VRE. Good evening and thank you for your time and your questions. Let me take them one at a time. Your first question is the cost of the site, I assume when you asked for the tower your question is not just the steel but the entire site development that is involved with bringing in utilities and creating the site. Is that correct sir?

Mr. Mitchell: Let me just start with the tower. I mean no matter what you do you are going to have to pay to bring in utilities to it.

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Mr. Dennis: There is...let me give you a budget range. We have not costed out the specific site itself because we have to see the finished approved plans before we get to that point. Typically a site of this size would run about two hundred thousand dollars.

Mr. Mitchell: Then back to my second question, with four carriers logged on with their dishes or whatever, what would be the monthly income from four carriers?

Mr. Dennis: Well the first carrier will cover the rent, so the additional three carriers, approximately six thousand dollars.

Mr. Mitchell: So about two thousand dollars per carrier per month.

Mr. Dennis: Per month, yes sir.

Mr. Mitchell: Assuming three carriers, which would be six thousand times twelve would be seventy two thousand, if I did my math right.

Mr. Dennis: Yes sir.

Mr. Mitchell: In essence in about two and a half years it would be paid for? Completely paid for?

Mr. Dennis: There are operating costs in there so it would be a little longer than that, yes sir. Right now sir, we have one carrier. One carrier only.

Mr. Mitchell: I realize you have one carrier because you do not have an approved project.

Mr. Dennis: Yes.

Mr. Mitchell: You do not want them to move into your house if there is no house.

Mr. Dennis: Granted and acknowledged. I understand that.

Mr. Mitchell: Thank you sir.

Mr. Dennis: Than you, sir.

Mr. Fields: Any other questions before we open the public hearing? Alright, at this time this is actually a public hearing. We will combine the public hearings on the Reclassification, Comprehensive Plan Compliance Review and Conditional Use Permit for the telecom tower on VRE Leeland Road Station. Is there anyone here that wishes to speak for or against the project? If so, come forward and state your name and address for the record. You have three minutes, Mr. Sitzman you have been through this before so you know the routine.

Gary Sitzman: Again, my name is Gary Sitzman. I would like to say that I am against this proposal for three particular reasons. One, it is basically in the middle of a developed subdivision area, even though there are some trees around it. The second is, there is plenty of room up the rail where the subdivisions have not happened yet. And the third thing I find hard to believe is that adding two hundred extra spaces, I would assume that was a subdivision of around fifty or seventy five houses. I can not believe that a

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developer would be able to do that without having to make some road improvements and there are no road improvements here. Thank you.

Mr. Fields: Thank you sir. Is there anybody else who wishes to speak? Alright, with that I will close the public hearing and bring this back to the Commission. This is in the Falmouth District I believe Mr. Di Peppe. Do you have...do you want to work on this some more or answer some more questions?

Mr. Di Peppe: Well let me ask my other Commissioners if there are other unanswered questions that they would like answered before we move forward.

Ms. Kirkman: Well I would want to see...we can impose conditions, so on the CUP I want to see something around recovery of the cost of those lost spaces, so that makes it way back to Stafford. And as a side, it sounds like a pretty raw deal for VRE. You know the towers going to be paid off pretty quick and there is going to be a lot of revenue generated, so I understand that is not our concern here but it does get back to Stafford County has a fairly large subsidy that grows every year for VRE and I would rather see VRE generate that revenue itself and use it to lower the cost of our fairs and County subsidy. That is an aside comment. I would like to get an explanation for why that is not happening.

Mr. Fields: I think there is probably a couple of people. Ms. Woolfenden, did you have anything that you wanted to...I noticed you moving. Did you have any comments that you wanted to add clarification to some of this? I know one of the things, we are into a capital improvements verses operation internally within VRE and that is...I am not sure that those monies are movable around although I certainly understand your concept. I do not know what the subsidy is. I know the last year that I was on the Board of Supervisors it was approaching seventeen hundred/two thousand dollars per rider per year. It was a lot of money.

Ms. Kirkman: Well the issue is it is starting to exceed what is collected in the gas tax.

Mr. Fields: In the gas tax, right.

Ms. Woolfenden: Just for additional clarification, I do not know that this is even necessary, but the parking lot is being paid for by Stafford County and it is in coordination with PRTC. We are responsible under the master agreement for the parking lot and any expansion to it. One of the issues with this tower has been the ongoing issue with the coverage. It have been regularly supported by our Board members to very much encourage to get this type of facility, just because we have had an ongoing issue with it and that have been raised several times at the VRE meetings. So I think that is part of what prompted this as well as the location. The third thing was, by policy they did ask that they come up with alternate funding for these types of improvements. I do not have any other issues, I just wanted to raise those three things that had been raised by our Board to the VRE, requesting that they do that. That was just information.

Mr. Fields: Okay, thank you. Alright, do we want to look at a couple of these or do we need to get somebody... Yes sir, Mr. Mitchell.

Mr. Mitchell: Mr. Chairman, not to interrupt. I think there are too many unanswered questions. I personally can not support it tonight without the answered questions of the fifteen spaces. Without the answered questions on where the funds would go that is paid in. This tower is going to be paid off in about two and a half years. I heard someone mention a fifty year lease, so two and a half years paid off forty seven and a half years, there will be quite a bit of profit. From my perspective it is a terrible deal for the County. I would love to see how we could mitigate this and make it more palatable, but under

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tonight's scenario...an not having answers, you said you would have to go back to the CEO and get some information, so I would love to hear that information later on.

Ms. Kirkman: Let me note for the record, once again myself and Mr. Mitchell agree.

Mr. Fields: It is a red letter day here in Stafford County.

Mr. Di Peppe: I am inclined, hearing from my fellow Commissioners that they would like to retain this in committee.

Mr. Fields: Lets defer this to...

Mr. Di Peppe: Defer this to...the only thing I have out of the three different things we are looking at tonight, two of them have had the same date, but the Comp Plan Compliance has a different time period. Is there a reason the Comp Plan Compliance is different from the other two.

Mr. Harvey: State code.

Mr. Di Peppe: State code. Then I would like to remind everyone that we have one meeting in August and the second...number 9 on our agenda comes up on the 30th, so we will have to do something by the, I imagine that is the 16th.

Mr. Fields: August 19th, yes.

Ms. Kirkman: Well the applicant can always voluntarily agree to an extension, which I am sure they would do if that was absolutely necessary.

Mr. Fields: So do we have a clear set of questions for the applicant, now that we have deferred it we assume we are deferring it to find out more information and/or refine the three items before us. What do we need for staff and/or the applicant to better process this issue on the next work session?

Ms. Kirkman: We need to know exactly how many parking spaces are being lost and how that money is going to get back to the County. And the second is, I think is more a request that VRE take another look at the contractual arrangement since this is having an impact on Stafford County, we would like to see a better revenue enhancement that can again make its way back to the county for what it invests in VRE.

Mr. Fields: Anything else? Do you want to make a motion for deferral?

Mr. Di Peppe: Yes, I would like to make a motion for...do we need separate ones for 8,9 and 10 or can we do this all...

Mr. Fields: I think we can defer 8, 9 and 10 collectively.

Mr. Di Peppe: I move to defer...

Mr. Mitchell: Second.

Mr. Fields: Second by Mr. Mitchell. Alright, any other issues that we need to have brought forward or resolve the questions?

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Mr. Di Peppe: Are we asking them to purchase enough land from the developer next door to give us ten more spaces or are we asking for a one hundred and fifty thousand dollar contribution.

Mr. Fields: My personal view on it is that I am just looking for some ideas on how to address it. I am open to all kinds of solutions.

Mr. Di Peppe: Just to give them some direction of...you know.

Ms. Kirkman: Well it is an impact of the project and they need to look at what is the best way to address that impact.

Mr. Fields: Both the Rezoning and the Conditional Use Permit.

Mr. Mitchell: I agree, however the eleven, twelve, thirteen or fifteen spaces are imperative to get them back. You could pay us one time in money and then it is gone.

Mr. Fields: Your feeling is that we have to be, as they say, space neutral on this thing.

Mr. Mitchell: Yes sir.

Mr. Fields: Alright any other questions or discussion. Alright, all those in favor of the motion to defer signify by saying aye.

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Ms. Kirkman: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye. Opposed? Motion passes seven to zero. Thank you we will see you back in August. Alright, are we doing okay? Do we need a five minute break? Okay, move forward. Number 11 is cancelled, number 12, Comp Plan Compliance Review, Public Safety Center.

11. RC2900101; Reclassification - Wyche Road Properties - A proposed reclassification from the A-1, Agricultural Zoning District, and B-3, Office Zoning District, to the B-2, Urban Commercial Zoning District, to allow for the development of flex office uses on Assessor's Parcels 38-76A, 38-76B (portion), 38-76C, 38-76E, 38-76F, 38-76G, 38-77 (portion) and 38-80 consisting of 90.31 acres, located on the west side of Wyche Road approximately 2,500 feet south of Courthouse Road within the Aquia Election District. The applicant is proposing a maximum of 1,200,000 square feet of B-2 use gross floor area for construction on the property. The applicant has submitted proffers concerning the use of the property, the exterior building materials, architectural details, cultural resources and transportation. The current Comprehensive Plan recommends the property for Urban Commercial and Light Industrial land uses and Resource Protection Areas.

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The Urban Commercial land use designation would allow the development of commercial retail and office uses. The Light Industrial land use designation would allow light industrial, light manufacturing and office uses. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the B-2 Zoning District. **(Time Limit: September 29, 2009)**

12. COM2900169; Comprehensive Plan Compliance Review - Public Safety Center - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for a public facility, specifically, to increase the height of an approved telecommunication facility from 125 feet to 145 feet at the Stafford County Public Safety Building, located on the north side of Courthouse Road approximately 250 feet east of Red Oak Drive on Assessor's Parcel 30-29G within the Aquia Election District. **(Time Limit: August 30, 2009)**

Joey Hess: Good evening ladies and gentlemen, I bring to you agenda item number 11.

Mr. Fields: 12.

Mr. Hess: Sorry 12. My mistake. This is the Public Safety Center tower extension. It is a Comp Plan Compliance request. The case number is 2900169, the applicant is Carol Adams, the Communication Manager of the Stafford County Sheriff's Office. The subject parcel is 30-29G and the parcel is approximately 11.61 acres. The request is for compliance with the Comprehensive Plan for a public facility specifically to increase the height of an approved telecommunication facility from one hundred twenty five feet to one hundred forty five feet at the Stafford County Public Safety Center. The site, here is a picture of the aerial of the Public Safety Building and I have identified on there the tower access which runs along the existing parking lot and then the approximate location of where the approved site is at. There is a picture of the existing zoning, the subject parcel is zoned B-2, Urban Commercial, the same as the abutting properties to the east, the south and the west. This is where there is a church located on this property, the properties to the south are owned by the County. This is, I believe, the County Administration property where we are at currently and then the orange color over here is the Urban Residential Zoning District, which is for high density residential development. These are townhouses, this is the Courthouse Square subdivision, located to the northwest of the subject property. The existing land use plan or the current land use plan, the dark green represents Institutional. Institutional are areas designated for development which serves a public or social function on a countywide or regional level. This of course is where the public safety center is located at today. To the north you have the land use of Urban Residential, where you have the townhouse subdivision, the Courthouse Square once again. You have office which is in the red to the west and to the southeast and you have Urban Commercial on the orange to the south. Okay, current conditions. Alright, the existing public facility, the building including the telecommunication facility all received Comp Plan Compliance approval for, well I guess the tower specifically received approval at one hundred and twenty five feet back in August of 2007. The actual building itself, is a public facility, which is a by-right use under B-2 zoning. So, to clarify the Comprehensive Plan compliance was for just the tower alone. The tower to date has not been constructed, the center of course has been constructed and has been open since June of 2008, so approximately over a year now. The telecommunication facility would be located to the north side of the property along the rear of the building, access would be by means of the parking lot. The purpose is to provide one hundred and forty five foot tower that would provide direct line of sight paths for other facilities in the public safety radio system. The onsite improvements would be of course the construction of a new one hundred and forty five foot tall monopole tower and on that monopole tower you would have two six foot in diameter microwave dishes. Here is, it is kind of a blurry picture, sorry about that. I do not know if you can see it, this is the building right here. This is the rear. The proposed, one again,

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facility is right here and shows the existing uses around it. There is a thin, very, very thin strip of open space that is owned by the Courthouse Square HOA and that is the reason it just identifies the HOA as an abutting property owner, none of the actual townhouse properties abut the public safety building property, but they are there in that area. I will talk about that a little bit later in the presentation. Here is a closer view of the development plan, as you can see here is Courthouse Square, this is the gated second entrance, goes in and goes along the outside parking area all the way back to the back where the tower would be or is approved for that location. There is a twenty foot wide easement. The tower design is one hundred forty foot tall monopole tower with one microwave dish there and the other microwave dish there. It shows you the height in proximity to the elevation of the public safety center. Here is a picture of the overall propagation map, the different colors give various different coverage. Carol Adams can probably go into more detail as far as what the red, the gold and the green all provide as far as coverage for the public safety radio system. This is their overall projected plan, it is the one telecommunication facility right there at the public safety building and thirteen additional sights they are looking at to co-locate on to. Some of the sighting criteria that staff uses to evaluate these types of facilities, one is a sighting criteria, one part of the sighting criteria is to encourage co-location on existing telecommunications facilities. This is not an existing facility nor does the County, they being the Sheriff's Office, wants co-location on this tower. They want this one to be solely just to be the one that communicates to all the other facilities they are looking to co-locate on. The other is to encourage these types of facilities on public property such are parks, fire and rescue stations. Obviously this would be included as well as it is the public safety center. Discourage impacts on historic properties and aircraft operations, there are in your package, you should have received SHPO letter of approval and a letter was sent to the Stafford Regional Airport and they had no concerns with the height extension of the tower. One final sighting criteria staff looks at is discouraging location of facilities near residential concentrations. This approved tower happens to be near Courthouse Square. One thing we do look at going on the facility design standards is the tower setbacks from residential districts should be equal to the height of the tower. It was measured using the aerial map I showed you earlier from where the proposed tower site is at to the townhouse or the property line of some of the townhouses and it is approximately two hundred and twenty feet. So the fall zone is outside of that since the tower is being proposed to extend one hundred and forty five feet. Other site designs and standards we look at is antenna design, color and scale need to be compatible with each other. Facility design is to minimize visual impacts specifically near residential developments. There are some trees that do some screening. One thing we look at is the security fencing at the base of any facility, the fencing happened to be around the entire facility not just the tower. It is around the parking lot, the building itself, so it is in a well secure area. Some of the positive aspects of the tower, it is consistent with goal thirteen of the Land Use Plan. The extension is consistent with the telecommunication plan, provides upgrades to the public safety network and services and has no adverse impacts to historical or aircraft operations, reduces the expenses of running fiber optic lines to other existing facilities. Negative aspects, it is located near an established residential community and does not provide future co-location. Once again the purpose was to have this solely as a public radio system. So with that staff believes the extension is consistent with the telecommunication plan. Any questions?

Mr. Fields: Are there any questions of staff?

Mr. Mitchell: How is the project being paid for?

Mr. Hess: I believe it is part of the bond, upgrading the system.

Mr. Fields: Actually it is not a bond, it is a lease revenue bond. It is not a general obligation bond. Any question of staff? Did you want to make a...are we good? At this point I will open the public hearing.

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Is there any member of the public that wished to speak for or against? Seeing none I will close the public hearing and bring this back to...I believe this is in the Aquia district.

Mr. Mitchell: Mr. Chairman I would like to make a motion for approval of COM2900169, Comprehensive Plan Compliance Review, telecom tower at the Stafford County Public Safety Center.

Ms. Kirkman: Second.

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

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Ms. Kirkman: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye. Opposed? Alright, number 13, Amendment to Zoning and Subdivision Ordinances.

13. Amendment to Zoning and Subdivision Ordinances - Amendment to Section 28-251, Review procedure of the Zoning Ordinance; and Section 22-60, Staff Review; Section 22-61, Technical Review Committee; and Section 22-77, Review and Approval of the Subdivision Ordinance, pursuant to Ordinance O09-34. The amendment modifies Section 22-61, Technical Review Committee, of the Subdivision Ordinance by clarifying the technical review committee process and making the committee's comments available to the Planning Commission for its review. The amendment also modifies Section 28-251, Review procedure of the Zoning Ordinance; and Section 22-60, Staff Review; and Section 22-77, Review and Approval, of the Subdivision Ordinance by setting the maximum number of reviews and establishing time limits for plan review re-submissions.

Brenda Schulte: Good evening, I am here to present item number 13, the establishment of time limits for plan review resubmission Ordinance O09-34. Computer please. O096-34 amends Sections 22-60, Staff Review, Sections 22-61, Technical Review Committee and Sections 22-77, Review and Approval of the Subdivision Ordinance and Sections 22-251, Review Procedure of the Zoning Ordinance. The Planning Commission identified the need to regulate the time interval between the completion of the County review comments and resubmission of plans. Developers would be required to address the review comments of preliminary, construction and site development plan applications to the County in a timely manner to prevent the review comments from being outdated and cause additional time and money that would be incurred by the County and the developer. There is currently no identified time limit in the County Code in which the applicant is to address the review comments, some application review comments have not been addressed and remain dormant in some cases, as you well know, as long as a year or more. At a meeting on June 2nd of this year, the Board approved Resolution R09-252 to refer the proposed Ordinance O09-34 to the Planning Commission for their recommendation and public hearing. The proposed

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amendments are summarized as follows: After an applicant is notified of the recommendations and decision of the agent or his designee the applicant has sixty day to resubmit a modified plan demonstrating compliance with all changes, corrections and modifications. The failure to do so, to comply, will result in the termination of the review process and the developers plan will receive no further considerations. Upon written request an applicant may obtain a first extension, without cause, for a period not exceeding sixty days. An applicant may seek additional extensions for a period not to exceed thirty days per extension. These additional extensions may only be granted by the agent or his designee upon verification through no fault of the applicant, the applicants agent or the applicants independent contractors, that the applicant is encountering or experiencing problems or difficulty obtaining necessary property rights or government approvals and determinations or complying applicable laws and/or regulations. All of which are more specified and outlined in the Ordinance in Sections 22-60(e), 22-77(e) and 28-251(i). The applicant is entitled to no more than four reviews. The applicants failure to obtain the approval of a site development or construction plan or determination that a preliminary plan is complete the application shall be denied and closed or shall receive no further consideration. The proposed Ordinance applies to new and pending applications. Pending applications will have no more than four more additional reviews after they are notified of the recommendations and decision of the agent or his designee. The proposed Ordinance amendments were last reviewed by the Commission on May 6th of this year, since that time staff has reviewed the proposed Ordinance amendments and recommends adoption of the Ordinance with the following grammar changes, corrections, and clarifications. Section 22-60(b), Staff Review; Section 22-77(b), Review and Approval and Section 28-251(f), Review procedure, staff recommends remove the words in red in the second sentence. Also Section 22-60(e)1, Staff Review, we recommend removing the word of. Section 22-60(e)2, Staff Review; Section 22-77(e)3, Review and Approval, and Section 28-251(i)3, Review Procedure, we also recommend removing the other than a submission review. Section 22-60(h), Staff Review, Section 22-77(h), Review and Approval, Section 28-251 (l), Review procedure, change the second sentence as part of the, to read as part of a. Also Section 22-60(i), Staff Review; Section 22-77(i), Review and Approval, Section 28-251(m), Review procedure, we recommend changing the first part, change the first part of the sentence "The provisions of the to the provisions of this. Section 28-251(b), Review procedure, we also recommend to capitalize the word Commonwealth. And I am summing up, Section 28-251(c), Review procedure, we recommend adding the complete state agency name for the health department and correcting the punctuation in that sentence. And finally as identified in the Staff report, Section 28-251(e), Review procedure to add the word requirements after the words open space. Since we have put this staff report together, mail out as well as putting this PowerPoint together, as early as that, we have identified another couple minor changes which I would like to identify now. It would be Section 28-251(c), in the last sentence, we recommend removing the first word the and instead replacing it with said Director and also capitalizing the Director. So that is it, so if you have any further questions, I would be happy to address those.

Mr. Fields: Any questions for staff on this item? Alright, hearing none we will open the public hearing. Is there anybody in the public who wishes to speak for or against this proposed amendment to the Zoning Subdivision Ordinance? Yes sir.

Rob Rochon: If you have a question, do you ask?

Mr. Fields: No sir, this is a public hearing, you can come and make a presentation at the public hearing, asking a question in general and then we will answer it when we close the public hearing. We can not have a dialogue. Make sense? You have been through this before.

Mr. Rochon: A couple of times. My name is Rob Rochon and my statement about what was simply whether this or not would create a problem in which the governing body went through the four things

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mentioned on the screen there and then were denied, not because there was any particular problem, but they just forced it past the four hearings, therefore getting rid of the demand or the question about having a rezoning or whatever might particularly be there and then that would constitute getting rid of the undesired request by having more than four questions. I think that is a problem with it.

Mr. Fields: Okay.

Mr. Rochon: I do not know whether that conveys what I am trying to say, but what I am saying is if you just simply do not respond or you come back with more things than the four meetings that you are allowed, that the four meetings would force it to be eradicated from the system. I do not think that would be fair to the people attempting to try to get something passed.

Mr. Fields: We will address questions collectively after the public hearing.

Mr. Rochon: Thank you.

Mr. Fields: Anybody else wishes to speak? Alright, hearing none we will close the public hearing. Mr. Harvey or any staff member, would you like to address the questions raised during the public hearing.

Mr. Harvey: Sure. This Ordinance amendment specifically deals with subdivision plans and site plans, it does not apply to rezoning or Conditional Use Permits or any other type of application. It does specify that there are four reviews of the plan, if the plan is not approved within the four reviews then the plan is rejected and denied and has to be re-filed.

Ms. Kirkman: Mr. Harvey, although there are four reviews, that can involve literally dozens of meetings, is that correct? With the applicant?

Mr. Harvey: Certainly, yes.

Ms. Kirkman: So every effort is made to work with the applicant so they can reach a successful completion.

Mr. Fields: This is subdivision and not a question of an Ordinance change meaning it is ministerial not political. It would be boarding on criminally unethical to manipulate the process for a specific outcome. This is simply responding to people providing technical requirements as outlined in the Code.

Mr. Harvey: Correct. Also State Code limits the localities ability to generate new comments after the first review has been completed. So if there were any new comments it has to be basically something that is generated by the applicant and some change they made to the plan that was not part of the initial submission..

Mr. Fields: Okay.

Mr. Howard: One question, if the applicant comes forward and it is the second review or third review and something new is brought up, how does that impact this? So it was not brought up in the first meeting or second meeting and all of a sudden the third meeting it is there, you have this time crunch and lets say they were awarded this thirty day or sixty day extension, now they are being put in a situation where okay this is something different, no one brought this to our attention in the beginning and I have two weeks left, what am I supposed to do?

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Mr. Harvey: Well as I mentioned, State Code says we are not supposed to be making additional comments. If there is something that comes up like that, where there is an oversight or something, usually we work with the applicant and admit that we made an error and eat that review so to speak. Maybe just for that single type of review agency or whatever, that is typically how we have done it in these situations. We try to be fair, if we made a mistake we will live up to that mistake, if the applicants has not done their part then they will have to live up to their part as well.

Mr. Howard: So some of the issues that we have had in the past, it seems like the agent or a representative of the agent said you know we have done it this way in the past so this is kind of okay and they actually moved forward and we come back and say wait a minute, that is not okay. You are saying you feel the way this is written that type of scenario will be covered.

Mr. Harvey: Well the Ordinance does not address if there was an omission on the County's part. So I was explaining the process in which we administer it right now.

Ms. Kirkman: As you said the State Code is pretty clear about your ability to make comments after the first review and then it is only if the applicant introduces changes to the plan, is that correct?

Mr. Harvey: That is supposed to be the way it works, yes.

Ms. Kirkman: So if you miss it in the first review it does not get addressed unless the Planning Commission identifies it.

Mr. Harvey: It depends on the type of application. If it is something that is a site plan, it is all administrative.

Ms. Kirkman: Right.

Mr. Howard: What if the Planning Commission identifies it, how does that impact the applicant?

Ms. Kirkman: It does not because we are past the review process at that point.

Mr. Howard: So where in here are we indicating the State Code, so that if you are an applicant and reading the Subdivision and Zoning Ordinance that you have a good feel of how this is going to happen. Is that is this?

Ms. Kirkman: We typically do not incorporate, except by reference, the State Code.

Mr. Howard: Well that is my point.

Ms. Kirkman: Well that is true for the entire Zoning and Subdivision Ordinance.

Mr. Howard: So which, where in the State Code would you go to find that statute that you just mentioned, Mr. Harvey?

Mr. Harvey: I would have to check the exact section, but it deals with site plans for the most part.

Mr. Rhodes: Mr. Chairman.

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Mr. Fields: Yes sir, Mr. Rhodes.

Mr. Rhodes: Mr. Harvey, it does not happen often, but in the instance where we did miss something that had to be addressed in the initial round of comments... I mean we have had those instances occur, I am sure.

Mr. Harvey: Human nature.

Mr. Rhodes: Yes and they are just the honest omission and it is something that has to get addressed and it was not I the first round of comments, so there are those instances that occur. Given that I would think that we might want to consider, we have plotted through this in a very deliberate fashion, and I think a positive fashion trying to address an issue and trying to address it appropriately, and make sure there are not unintended consequences and we may want to consider that.

Mr. Fields: Alright, any other comments or questions? Alright, we will need a motion for this.

Ms. Kirkman: Mr. Chair, I move to recommend approval of proposed Ordinance O09-34, with the amendments as proposed by staff.

Mr. Fields: Is there a second?

Mrs. Carlone: Second.

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

Mr. Rhodes: I still think it merits, quite frankly, addressing or adding something for the honest oversight that will happen. It will happen. So we can say that State Code requires that it not be addressed but if it something that has to be addressed, but no new technical comments. You know we have some of those circular issues that will occur and I think we do need to address that to insure not unintended consequences.

Mr. Fields: Do you have a suggestion on how to do that?

Mr. Rhodes: I think we are going to have to go and work a little more language in it. We tried to get this right to bring it to public hearing, and I think we missed something.

Ms. Kirkman: Mr. Chair, I feel that the language we have in the Ordinance adequately addresses that. Where it specifies that additional extensions can be obtained for satisfying any change, correction or modification, which is necessary prior to the presentation to the Planning Commission. So I feel like we have addressed...we have given plenty of leeway for addressing unforeseen circumstances.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Yes, Mr. Mitchell.

Mr. Mitchell: Like Mr. Rhodes, I think we are close to where we should be, but I think exactly what Mr. Rhodes stated, is that the first review something could be presented, the second review something else could be presented, then another something else could be presented. How do we keep this from just automatically ruling someone out. In its present state I will not support it. I would like to put it in

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committee and get some better language where on the forth review you could not come up with five or six more things that have never been addressed.

Mr. Nugent: Mr. Chairman.

Mr. Fields: Yes sir.

Mr. Nugent: May I address some of the questions that have been raised please.

Mr. Fields: Please do.

Mr. Nugent: First of all I would like to start with Mr. Howard's comment in case this was not clear. The obligation on the part of the government on the first review is to identify everything that needs to be corrected. That is their one shot to get it right. Now, if they don't get it right they are not permitted under State Code to bring up something new thereafter. If in fact the developer attempts to get it right after the first set of necessary changes as communicated in the notice of recommendations and comments and what the developer does generates something new, that is the package of new information from the developer to the government gives the government new ideas about other changes with regard to the newness that has to be addressed, then you go back to a second review. The sixty day clock starts ticking from that second time. If they get an additional sixty day, without cost, and they get all these other extensions for thirty days if there are matters beyond their control, beyond their agent's control, beyond their independent contractor's control. So the point is the government does not have the opportunity to raise the kinds of things that they could raise the second, third and fourth time around, they had to an should have raised the first time around. They can only raise additional issues that are prompted by the changes or corrections made by the developer after being first requested to do so. So you can see that space of problems gets smaller and smaller and smaller each step of the way that you go. Chances are in most of these cases you are not going to get past the third review. The thing is going to be done and complete and approvable by the third review. Unless it is something that is beyond the developers control and we have the safety valve for the developer and consideration for the developer with regard to that safety valve for all of those thirty day extensions for matters beyond the developer, agent and or contractors control.

Mr. Howard: Thank you that is a great explanation. Where in the Ordinance does it indicate that it is documented what the government has identified that as not being up to code or in compliance with these Ordinances.

Mr. Nugent: That is what Mr. Harvey referred to; the State statute obligates the government to get it right the first time.

Mr. Howard: I understand that.

Mr. Nugent: Okay. I am sorry, maybe I misunderstood your question.

Mr. Howard: My point is, I understand the obligation we are under, but I think Mr. Harvey said it great, there is always going to be human error. How do you reconcile that? So as part of this Ordinance is there somewhere where it is documented I came before the government, these are the things they told me to fix, I fixed them. Now you are telling me there are these two other things we never talked about, oh yes we did. No, we never did. How do we reconcile that?

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Mr. Nugent: I think the real consideration is not the fact that something comes up that needs to be fixed. Because there really needs to be fixed in order to get it right and to make it legal it is going to have to be done regardless of whether it came out the second time or third time or the forth review. The point is that the safety valve is with what Ms. Kirkman referred to as item 6, satisfying any change, correction or modification which is necessary for agent or designee approval of the construction plan, but the critical aspect is to give the developer the time to do it. And there is enough extension opportunities in this Ordinance to give the developer time to do that should that isolated circumstance arise where something comes up that nobody contemplated.

Mr. Howard: No and again I understand that and I appreciate the response. Where is the government's accountability on making sure during the first review or the first time they had the chance to review this that there is some accountability on our part, here are the things we told you. I agree there are going to be things that slip through where we say wait a minute this can not get approved this way legally anyway we have to get this fixed. So naturally we would grant the extension, I would presume, because we want to do it right. So that should not be on the applicant. My point is when we get into this place, which I have seen and observed happen here, but we did talk about that, not we never talked about that, well I have a recollection that we did and we actually never did talk about that. That is where I am going with this. I do not think people do it intentionally, I just think it happens.

Ms. Kirkman: Mr. Chair.

Mr. Fields: Yes, Ms. Kirkman.

Ms. Kirkman: It might be helpful if Mr. Harvey described the...I do not know why it is called HELLO, but the HELLO system where all the review comments are recorded and date stamped and how that process works. That may answer what you are looking for, where there is a record.

Mr. Howard: Sure, absolutely.

Mr. Harvey: All the county review comments are available on line through the integrated web response system, so people can either access them from the county web site or they can dial in on the HELLO system that Ms. Kirkman is referring to. So they can get either the comments from the web and print it off or they can call in and have it faxed to them. So they get to know exactly what the review comments were, they also get to see whether the review was approved or it failed and what is outstanding. So they can monitor that on line as the application goes through the process. All of our comments are in writing. If there is something that comes up that is not in writing then that person should not be making that comment.

Mr. Howard: How do you deliver the comments to the applicant? I did not know that system existed, that was a good explanation. How does the applicant...how can we make sure this transparency so no one thinks we are manipulating the comments in the HELLO system? How does that occur? The applicant gets a copy of all the comments?

Mr. Nugent: Mr. Chairman, I can address this. For example Section 22-60 paragraph (b) Staff Review. The applicant shall be notified of the recommendations and decision of the agent or his designee. Such notification shall be provided by any of the following means, formal letter, electronic mail or legible markings in notes in red and the suggestion is to delete in red because if it is done in blue, we do not want a problem, on the developers preliminary plan showing the agents or designee recommendations and decisions. So it is all in writing, there is not any mystery.

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Mr. Howard: Okay, that helps. Thank you.

Mr. Fields: Alright, well we have a motion on the floor. Any further discussion? All those in favor of the motion signify by saying aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Ms. Kirkman: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Fields: Motion passes 5 to 2. Alright, number 14, Amendment to Zoning Ordinance, Signs. So soon, are you sure we are ready for this. I was reading the Ordinance and I don't know, I have got some problems.

14. Amendment to Zoning Ordinance - Amendment to Section 28-25, Definitions of Specific Terms; Section 28-121, Purpose and Intent; Section 28-122, Certain Types Prohibited in all Districts; Section 28-123, Types Permitted in A-1 Districts; Section 28-124, Types Permitted in A-2 and R-1 Districts; Section 28-125, Types Permitted in R-2, R-3 and R-4 Districts; Section 28-126, Types Permitted in B-1, B-2, M-1 and M-2 Districts; Section 28-127, Types Permitted in RC, SC and B-3 Districts; and Section 28-129, Types Permitted in PD-2 Districts; and to enact, adopt and ordain Section 28-138, Types Permitted in the RBC District, of the Zoning Ordinance, pursuant to Ordinance O09-18.

Jamie Stepowany: Thank you Mr. Chairman. Item number 14 is a proposed Ordinance O09-18. Computer please. Proposed Ordinance O09-18 amends the sections that are shown on this slide within the Zoning Ordinance and also establishes a new Section 28138, Types permitted in the RBC Zoning District also of the Zoning Ordinance. There is a time limit for this Ordinance and it is actually tonight per Resolution R09-146, which was approved March 3, 2009. So for some background, I am going to say three years ago, the Planning Commission asked staff to determine how this type of billboard is possible, plasma TV's with multiple copies. The question was raised to staff, "Aren't billboards non-conforming?" The response is yes. Doesn't VDOT limit the reconstruction or changes to a non-conforming billboard to only fifty percent of the price of the structure? This type exceeds fifty percent. And the answer is yes. The PC then asked staff, "How is this new sign still permitted?" After numerous researches with the Zoning Administrator and officials at VDOT, staff and the Planning Commission discovered that most billboards are not non-conforming with VDOT, they meet their requirement for area, space and lighting and are not limited to the amounts of reconstruction or modifications made by the billboard companies. So how do they become non-conforming with VDOT? Again that was asked by the Planning Commission. It was discovered through VDOT that you have to certify the Stafford County Zoning Ordinance with relation to area, spacing and lighting. If Stafford's regulations are more restrictive than VDOT standards, then the sign becomes non-conforming and is limited to the fifty percent of the

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cost to reconstruct or modify. The Zoning Ordinance was submitted to VDOT for review by the Zoning Administrator. VDOT requested additional amendments to the Zoning Ordinance in order to be certified. They want the Zoning Ordinance to prohibit general advertising signs in the A-1, A-2 and R-1 Zoning Districts, they want to define model home signs and to identify where model home signs to be located. This amendment will certify the Zoning Ordinance and resolve an issue about VDOT. Then the Planning Commission asked, what about business signs. And here are a couple of examples of business signs we have seen before that are very similar to the billboards. Through the process of this Ordinance we have come up with some solutions. And that is to regulate the amount of illumination and number of colors on such signs. To regulate the illumination the first thing this Ordinance does is define electronic message center, it was originally known as electronic bulletin board and has been change to electronic message center to be more consistent with a lot of legal findings and other documents. This Ordinance will regulate illumination. Regulates and prohibits signs that have an illumination greater than .8 foot candles for signs located in commercial, office, business, industrial and planned development zoning districts and no greater than .3 foot candles for signs located in residential or agricultural zoning districts. The illuminations will be measured no sooner than two hours after sunset and no later than two hours before sunrise. They are to be measured from a height no less than four feet and no higher than five feet above ground level. The measurement is to be taken at a forty-five degree angle to each sign when the sign is perpendicular to the nearest roadway edge facing oncoming traffic and to be measured at a ninety degree angle to each sign when the sign is parallel to the nearest roadway edge. This Ordinance also regulates how to change the copy, location and colors. It prohibits EMC signs that continually, intermittently or regularly changes, flash, blink, flicker, flutter or rotates clockwise and/or other counter-clockwise on any cycle lasting fewer than five seconds, Prohibits EMC signs within five-hundred feet of any property having an historic designation, and prohibits EMC signs which contain four or more visible colors, including the background, within each image or message displayed. In addition this Ordinance amends Article 8, with some clerical administrative amendments. Basically to make it consistent throughout each various section. It changes maximum size to maximum area, changes lineal to linear, changes premise to parcel of land, change office professional centers to office park and defines and office park. Change free standing building to pad site and defines pad site, change store or industry to building, change right-of-way to street, highway or public road. Change each building frontage to front and side exterior wall and list the regulations in order of area of the sign, height of the sign and location. It adds above ground level to all references for the height of the sign. Model home signs are permitted in the RBC Zoning District and Section 28-127 which includes RC, SC and B-3 Zoning District also talks about RBC. Model home signs are not permitted nor needed for the RC, SC and B-3 and this section appears that model home signs are permitted in all those zoning listed. So there fore this amendment deletes RBC from 28-127 and establishes new Section 28-128 for RBC and includes the model home sign provisions. Section 28-129 was modified because it referenced other sections for PD-2 zoning such as the residential signs have to meet Section 28 this and commercial signs have to meet 28 that, so instead of references, the amendments are is that is provided those regulation instead of sending you back to another section. Staff recommends approval O09-18, it describes what extent electronic sign may be permitted and clarifies when the sign may be prohibited. The proposed amendment will provide consistency within Article 8 of the Zoning Ordinance. The proposed amendment also modifies the sections in order for VDOT to certify the Zoning Ordinance in relations to the area, spacing and lighting for the signs. And before I ask for questions, I do want to bring out to your attention that this sign that is on this would be legal, because it only three colors. I will be more than happy...would conform to the regulations because it is only three colors. And I would be more than happy to answer any questions.

Mr. Howard: When you took that photo you were right up on that sign too. That is right up on Route 610.

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Mr. Stepowany: Correct.

Mr. Howard: I know exactly, that is a real estate office and you were right on top of that as well. That was not taken from the street.

Mr. Stepowany: I was on the other side of the parking lot. I cropped it.

Mr. Howard: Okay.

Mr. Di Peppe: Originally when this Ordinance began...

Mr. Fields: Is this a question?

Mr. Di Peppe: Yes it is a question. The first intention was...there was some great concern in that Planning Commission about the proliferation of those large TV screen type signs. Are you saying as long as they have three colors we will still have those?

Mr. Stepowany: No more than three colors and the foot candles would make a lot of those almost difficult, because the Ordinance has to be based on safety first. To regulate the safety aspect of it is to regulate the illumination of it. You have said many times, we just can't have something...you can't cause glare or brightness. We have to measure glare and brightness.

Mr. Di Peppe: But also, what I think the problem was, from a safety issue of something...obviously the reason they are putting the sign up is to catch your attention. To have TV screen along the road changing the advertisement might tend to take peoples concentration off the road. And I am a little worried that if they only have three colors or if the change every six seconds that they would be permissible. I don't think that was the original intention when we started down this long road a long time ago.

Mr. Stepowany: I can defer to the County Attorney, but I think just to sit there and say this type of sign is prohibited would be very problematic Constitutional wise and that is why we have gone...

Mr. Di Peppe: We are not talking about the message.

Mr. Stepowany: So I will refer that to the County Attorney.

Mr. Di Peppe: Originally, the reason we started writing this Ordinance is we thought that from a safety issue, having TV screens along the road was not a good idea. Large TV screens that would distract drivers, was a bad idea, okay. Now three years later I am just worried that as long as it is only three colors and they do not change the message more than once every five or six seconds we still have a bad idea.

Mr. Nugent: And it can not be greater than six feet in area.

Mr. Di Peppe: What?

Mr. Nugent: It can not be bigger than six feet in area.

Mr. Di Peppe: Alright, so that is going to...six square feet in area.

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Mr. Nugent: Yes.

Mr. Di Peppe: I just want to make sure there is something in here that stops the big TV screens, because that...

Mr. Stepowany: Correct.

Mr. Di Peppe: As long as I have some... and we have gone back and forth

Mr. Stepowany: That is when we measured the monitors that were in front and we came up with that regulation.

Mr. Di Peppe: Yes, okay. Fine then, as long as we have something that doesn't do that. Because I am just afraid that by the time it gets to the Board level, some part of this will go away and we will still have them. Thank you.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Yes sir.

Mr. Mitchell: A quick question. Of the existing signs in Stafford County now, can you give me an approximate percentage that are now non-conforming, approved through VDOT as being non-conforming?

Mr. Stepowany: There...you mean how many billboards or signs?

Mr. Mitchell: What ever is easiest to present.

Mr. Stepowany: I can tell you that with the passage of this Ordinance, all billboards that are less than forty square feet will be non-conforming. First of all billboards is not a type of sign listed, it is a general advertisement sign. So any general advertisement sign that is less then either, depending on the Zoning District, sixty-five square feet or forty square feet would be non-conforming by VDOT standards. And there are already non-conforming in Stafford County. As for electronic signs, these types of EMC type signs, I only know of two in Stafford County right now that may be not in compliance with this. One may not be for color, but for illumination and the other might be because of both color and illumination. There is the technology to where they can add dimmers and stuff to reduce the illumination and still keep the three colors.

Mr. Mitchell: Thank you sir.

Mr. Fields: Yes, Mr. Howard.

Mr. Howard: I have two questions. Mr. Stepowany in the amendment you are changing the definition of free-standing building to pad site.

Mr. Stepowany: Correct.

Mr. Howard: So, let's say there is a free-standing building that is not part of a shopping center that is actually on a corner, and it is its own entity, own ingress and egress. What is that classification?

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Mr. Stepowany: Are we talking about for a free-standing sign because there...

Mr. Howard: Well, I am talking about a business.

Mr. Stepowany: There are sites that are within a shopping center or professional center...

Mr. Howard: I am not talking about a shopping center, I am talking about a corner.

Mr. Stepowany: I understand. There are provisions in here for properties within a shopping center, industrial center, professional center and pad sites of those centers. There is another provision for properties that are not in shopping centers, industrial centers, professional centers.

Mr. Howard: Where is that and what is that called?

Mr. Stepowany: That is usually the second...the easiest section to go to is 28-126 (4) which is on page seven (a) is located within existing and proposed shopping centers, industrial parks and office parks the following shall provide that. Then if you go to (b) on page 8, not located within existing and proposed shopping centers, industrial parks, those provisions apply to like a building on a property by itself. There has always been a provision for stand alone free buildings that is not part of a center.

Mr. Fields: Alright, any other questions?

Mr. Howard: I do have one more I am just trying to... I do not understand, when you say the building linear frontage, that would be the frontage facing what? So if you go to (B) 1 (i).

Mr. Stepowany: Each building foot of linear frontage, that is determined to be the front wall that has the main entrance into the building. That wall is the building frontage. So whatever the linear footage of that is determines the sign is one square foot for...if it is one hundred linear feet, then you are allowed one hundred square feet of signage.

Mr. Howard: And then on the amount of times that the message can change, that is not clear to me what this Ordinance does with that.

Mr. Stepowany: The amount of times it can change?

Mr. Howard: Yes.

Mr. Stepowany: It can have numerous copies, it just can not change any faster than five seconds.

Mr. Howard: Five seconds, okay.

Mr. Stepowany: We went to the one site and I think we counted twenty some copies, but they cannot change any faster than five seconds.

Mr. Howard: Okay, that was it. Thank you.

Mr. Fields: Any other questions? Alright, we will open the public hearing. Is there anybody present that wishes to speak for or against this proposed change? Yes sir.

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Rob Rochon: My name is Rob Rochon and my statement would be I would support that provided that it did not take the existing signs that they would still be allowed to be up and that new signs would fall under this Ordinance and not the signs that are already existing. Thank you.

Mr. Fields: Okay, thank you. Alright any other...

Mr. Rochon: Could I add something to that?

Mr. Fields: Certainly.

Mr. Rochon: For instance the real estate signs, when a particular property is advertised for sale and then a sign is put on the property, those would be temporary signs and should be segregated from these particular signs because some of them may not meet the square footage or the requirements, but they would be a temporary sign and not follow under this Ordinance. Or I do not believe they should. Thank you.

Mr. Fields: Okay, thank you sir. Anybody else that wishes to speak? Alright, if not I will close the public hearing and bring this back to the Commission. What is the wishes of the Commission?

Mr. Di Peppe: I would like to make a motion.

Mr. Fields: Arch I think you are entitled on this one.

Mr. Di Peppe: I just want to make sure I am in the right. Yes sir Mr. Chairman, I would like to move for approval of Ordinance O09-18.

Mrs. Carlone: Second.

Mr. Fields: Alright, second by Mrs. Carlone. Any further discussion on the issue?

Ms. Kirkman: That was a motion to recommend approval?

Mr. Di Peppe: Yes.

Mr. Fields: Alright any further discussion.

Mr. Rhodes: Mr. Chairman.

Mr. Fields: Yes sir, Mr. Rhodes.

Mr. Rhodes: I was just going to qualify, would we want to take the availability of discussion here to have staff maybe respond to the comments during the public hearing?

Mr. Fields: Absolutely.

Mr. Rhodes: Thank you Mr. Chairman.

M. Fields: Sure.

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Mr. Stepowany: Thank you Mr. Chairman. In response about the existing signs, they would be non-conforming and they can continue to exist unless the business goes out of business, then any non-conforming sign has to be removed within two years. Other than that there is no, what is the word I am trying to think of Mr. Harvey for...

Mr. Harvey: The signs are not removed and amortized.

Mr. Stepowany: Amortized, that is the word I was trying to think of.

Mr. Harvey: They stay in place.

Mr. Stepowany: Yes.

Mr. Fields: Any other questions for clarification? Matters of discussion?

Mr. Nugent: Excuse me Mr. Chairman.

Mr. Fields: Yes sir.

Mr. Nugent: If I can go back to something Mr. Di Peppe raised. Just for clarification, I want to make sure there is no misunderstanding. I think you and I were talking about two different things when we were talking about the six square feet.

Mr. Di Peppe: Alright.

Mr. Nugent: This Ordinance essentially regulates the size of signs by the district in which the sign is located. So you go to each district, see what signs are allowed and you see what sizes are allowed. So that six square foot might not necessarily apply in each of the districts. The six square feet that I was referring to means you cannot have an EMC that has four or more visible colors if it is six square feet or larger, it can only be three colors as Mr. Stepowany said when he showed you the American Flag in that one sign that Mr. Howard referred to seeing. So essentially it talks about prohibiting certain kinds of electronic message centers and defines those as a blanket prohibition. There possibly could be an EMC larger or six feet or greater depending on the district in which the sign is located. I just wanted to make sure we had that clarification.

Mr. Di Peppe: Well, I have a problem then.

Mr. Nugent: That is why I brought it up.

Mr. Di Peppe: The original intent of this entire Ordinance, the whole discussion began, the outrage was that all of a sudden, Mrs. Carlone was here, Mike was here too. All of a sudden three very large electronic televisions size type billboards showed up in Stafford County. We said how did this happen? And as part of that they said well you know these all became non-conforming in 1994, I believe we were told, but nobody sent the word over to VDOT. I thought, how do you not send a notification, but that was the story we were told at the time, that they essentially became non-conforming in 1994 but VDOT never got the word. So we all took a long deep breath and said what are we going to do now? Because we can't, they are there, you are not going to go take those three signs out but we did not want to see a proliferation of those. I am just worried at this late date, that if it is only three colors that we could

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have...as long as we are on the same page that was the whole point. Maybe I misunderstood what you said.

Mr. Nugent: We are on the same page, it is just that this Ordinance approaches it differently. It regulates the size by the type of the sign and the district that it is in.

Mr. Di Peppe: Okay.

Mr. Nugent: But the EMC have some special rules and that is what I was referring to as to those that are prohibited and those that are not and you talked about four colors verses three colors. The four color restriction only applies if the sign is six square feet in area or larger. I just wanted to make sure that you knew that that was what I was talking about, because I had the impression after I thought about it that you were talking about something different, and I think you were. But your concern that you are going to see some giant size electronic sign somewhere in the county...

Mr. Di Peppe: Just like the three we already have, we are trying to stop more of those.

Mr. Nugent: No you won't see that because the regulation is there by district and type of sign.

Mr. Di Peppe: Well alright.

Mr. Fields: You don't take back your motion?

Mr. Di Peppe: No. And I do appreciate the clarification because I was a little worried that either three colors or the message would last more than five seconds and we would have more.

Mr. Howard: Just for clarification on that Mr. Nugent, I think I got what you were saying also, but let's say a business wanted to compromise, they are allowed a certain amount of square footage for signs depending on how big the building is and those other criteria. So they say, I am going to compromise my forty-eight inch letters and I am going to go with this bigger electronic message board but I am going to keep it to two colors. You still can not get bigger than what Mr. Di Peppe is concerned about.

Mr. Nugent: You can not get bigger, and Mr. Stepowany can verify this. You can not get bigger than what the size authorization is in this Ordinance for the types of sign, and the signs are defined, and the district in which it is placed.

Mr. Howard: When you say the district, you are referring to our districts.

Mr. Nugent: Yes.

Mr. Howard: Because there are different sign regulation per district and that is the issue on 610. Across the street you are in a different district.

Mr. Nugent: Right.

Mr. Howard: You have Garrisonville, you have Rock Hill at one point...

Mr. Stepowany: Zoning districts.

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Mr. Fields: We are talking about zoning districts.

Mr. Di Peppe: Zoning districts, A-1, A-2

Mr. Howard: Oh by classification of the zoning. Okay. So is there an issue with what I just said because on Route 610 that does seem to be an issue. One side of the street you have got a different size sign then you have on the other side of the street and it has nothing to do with the...

Mr. Nugent: Zoning district?

Mr. Howard: Well no, these are the same.

Mr. Nugent: If the rules are uniform within each individual zoning district.

Mr. Stepowany: It is based on the property and the linear footage of the frontage of the building.

Mr. Howard: Yes, the way the property is zoned.

Mr. Stepowany: The way the parcel is zoned. And I will also point out something else when you talk about proliferation of signs and I did not get into the details, but in the definition of general advertising sign, which is what billboards are commonly known as, one of the first things we did in this Ordinance was we deleted the word necessarily available on the premise on which the sign is located. What we have seen are sites come in for general business signs, a free standing business sign for a center and then come in and put up a second free standing sign on the exact same property and call it a general advertising sign. So one of the other things that this Ordinance does talk about, when you talk about proliferation of signs along the road, it will reduce that not widely practice of putting up multiple free standing signs, but it would reduce the practice of that too. I understand what you are talking about proliferation of signs and I realize it is in your discussion.

Mr. Fields: Alright, any further question, discussions, comments? All those in favor of the motion signify by saying aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Ms. Kirkman: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Fields: Motion passes 6 to 1 finally. That is it for public hearings. We have disposed of the unfinished business, no new business, Planning Directors report.

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NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Fields: Planning Directors Report.

Mr. Harvey: Thank you Mr. Chairman. Some of you may recall that we had a few issues that came up in the spring dealing with the VDOT regulations for Traffic Impact Assessments and our local ordinance does not address them and County Attorney said that we needed to put that in our local ordinance in order to be able to enforce that. The Transportation staff has been working on an ordinance amendment and they have put together a draft and would like to request that we put that on the Work Session Agenda on the August meeting.

Mr. Fields: Sounds good to me. Any objections? Okay.

Mr. Harvey: Also, with regard to the Comprehensive Plan, the joint public hearing was as you may know, was cancelled. Therefore, the Boards referral is now moot, part of the reason the Board was looking at a joint public hearing was because of the advertising requirements that we feel we have to meet in order to be able to pass any challenges. So in drafting the ad, staff worked with council and we came up with a pretty extensive ad, which was going to end up being close to six (6) pages in the paper. The cost is around seventeen thousand dollars and that was one of the main reasons that Board was looking for a joint hearing. Should we get to that point again, that is some consideration that may be discussed. That concludes my report.

Mr. Fields: Okay. But we are still on track, we were going to return our comments in sixty (60) days as per the code.

Mr. Nugent: Mr. Chairman?

Mr. Fields: Yes, sir.

Mr. Nugent: Unfortunately, there really is nothing left for the Planning Commission to do in that regard because the directive that came down with the Resolution on May 19th contemplated the initiation of a joint public hearing on July 7th. That was part of the Resolution and my understanding is the Board cancelled that joint meeting or joint hearing for July 7th and the code provision under which that sixty (60) day obligation would apply, essentially does not apply in this circumstance. I think it was 2227 if I am not mistaken. 2227 actually doesn't apply in this circumstance because that statute and, excuse me just a minute, let me find it. 15.2-2225 through 15.2-2228, which includes 15.2-2227, that series of statutes applies only the first time around. When the Local Government is attempting to adopt a Comprehensive Plan, it first time initially. Once the plan is adopted and there is an intention to amend the plan, it is only 15.2-2229 that would apply with regard to those amendments. Essentially, there really is nothing left pursuant to this Board Resolution for this Planning Commission to follow through on.

Mr. Fields: No comments, no other public hearing? So we're done?

Mr. Di Peppe: Wait a minute, we have never had a Comprehensive Plan in Stafford County. This is the very first plan that we have ever had. We have had land use plans.

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Mr. Fields: No, we have had one.

Ms. Kirkman: No, yes we have.

Mr. Di Peppe: I would disagree.

Mr. Fields: We have had one since the seventies.

Ms. Kirkman: Although, Mr. Chair, so it is the position of the County Attorney's office that... I don't know what you are saying, quite honestly.

Mr. Nugent: Let me read it to you. We have a series of statutes and there are a great many other statutes that apply to Comp Plans but the ones that relate to the issue on which the May 19th Resolution was intended to focus, deals with this page that I am referring to. We have the statutes from 15.2-2225 through 15.2-2228, that series of one, two, three, four statutes applies to Comp Plans when they are attempted to be adopted the first time around. Thereafter, and I will read you 15.2-2229, which applies to amendments: "after the adoption of a Comprehensive Plan all amendments to it shall be recommended and approved and adopted respectively as required by 15.2-2204" that is all the notice requirements, "if the governing body desires an amendment, it may direct the local Planning Commission to prepare an amendment and submit it to public hearing within sixty (60) days after formal written request by the governing body. In acting on any amendments to the plan, the governing body shall act within ninety (90) days of the local Planning Commissions recommending resolution". That is the section that applies.

Ms. Kirkman: I got it, in other words, we basically have to start the whole process over in the sense that none of that was advertised as amendment to the Comprehensive Plan. Everything that we dealt with was advertised as a Comprehensive Plan and was not advertised as an amendment and so now any changes to the... Now what you are saying is we have a Comprehensive Plan, the development of the Comprehensive Plan has taken place and any changes to the existing Comprehensive Plan have to happen through the amendment process, which is governed by section 15.2-2229 and it's subsequent.

Mr. Nugent: Of those five (5) statutes that we are referring to, yes.

Ms. Kirkman: Okay, thank you. I understand now.

Mr. Nugent: So, essentially at this point, to get back to my original point, there is nothing left for this Commission to do with regard to the May 19th resolution.

Mr. Fields: Alright. So the Board can now adopt the Comprehensive Plan if it chooses to?

Ms. Kirkman: No, they can't.

Mr. Nugent: Well, I don't know what the Board is going to do but this authorizes that Board, that if they desire an amendment to the plan to direct the Planning Commission to prepare the amendment.

Ms. Kirkman: There is nothing else for us to do at this point.

Mr. Nugent: With regard to that May 19th resolution.

Ms. Kirkman: With regard to anything?

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Mr. Nugent: That is correct.

Mr. Fields: Because they haven't a resolution, okay.

Mr. Di Peppe: If they make the resolution, will it come back to us? Is that what you are saying?

Mr. Nugent: I believe that the Board if it desires can adopt a new resolution directing the Planning Commission to amend the Comprehensive Plan and to prepare the amendment and submit it public hearing with sixty (60) day after the Boards formal written request, which would be the resolution.

Mrs. Carlone: (Inaudible)

Mr. Di Peppe: Can they pass it without it coming back to us?

Mr. Nugent: I don't believe so according to my read of this particular statute.

Ms. Kirkman: They cannot because the statute requires all amendments be reviewed by the Planning Commission. If the Board desires an amendment to the Comprehensive Plan, they need to initiate that amendment.

Mr. Di Peppe: And they can't say the last three years was that?

Ms. Kirkman: No, they cannot.

Mr. Di Peppe: Okay.

Mr. Nugent: And Mr. Di Peppe at the tail end of the last meeting you asked me if I wanted to weigh in on this and I had to defer because I had to address it because I hadn't looked at this. After looking at it, these are the conclusions that I have come to.

Mr. Fields: Alright.

Ms. Kirkman: And that also is consistent with 2230, which says the five (5) year review out of that should come any recommendations to amend the plan. It specifically uses the word "amend".

Mr. Nugent: Yes, "at least once every five (5) years the Comprehensive Plan shall be reviewed by the local Planning Commission to determine whether it is advisable to amend". That is how it reads.

Mr. Fields: Alright, anything else Mr. Harvey?

Mr. Harvey: No, sir.

COUNTY ATTORNEY'S REPORT

Mr. Fields: Mr. County Attorney?

Mr. Nugent: Nothing beyond what we have already discussed. I am out of gas, thank you.

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SECRETARY'S REPORT

No Report

COMMITTEE REPORTS

Mr. Fields: Any committee reports that we need to hear. Transportation Committee will meet at the end of this month. Any other business we need to bring forward?

Mrs. Carlone: Minutes.

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

Mr. Fields: We have minutes, I know that. I am getting there, we have work session minutes and regular minutes.

Mr. Di Peppe: We also have the April 1st, which I finally looked at and said okay.

Mr. Fields: Let's do the work session minutes first. We have April 15th and May 6th Work Session minutes.

April 15, 2009 Work Session

May 6, 2009 Work Session

Mr. Mitchell: Motion for approval.

Mr. Fields: Motion by Mr. Mitchell.

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Any discussion?

Ms. Kirkman: I am going to abstain.

Mrs. Carlone: I will have to abstain because I was not here for the May 6th meeting. I did have some changes.

Mr. Fields: Changes to what, the April 15th.

Mrs. Carlone: I was missing some pages but there were some minor changes. On 9 of 21 paragraph 405, change in to is, 406...

Mr. Fields: I'm sorry, where are we?

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Mrs. Carlone: This is May 6th, line 405.

Mr. Fields: I thought you were abstaining from May 6th?

Mrs. Carlone: Yes, but I saw some errors.

Mr. Fields: I don't think you can offer corrections for minutes that you are going to abstain from voting on. I may not be a parliamentary expert but that don't sound right to me.

Mrs. Carlone: I don't really care.

Mr. Fields: You don't really care? Well neither do we. In that case we have a motion to approve April 15th and May 6th, all in favor signify by saying aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mr. Mitchell: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye. Opposed? Two abstentions.

The motion passed 5-0-2 (Mrs. Carlone and Ms. Kirkman abstained).

April 1, 2009 Regular Meeting

Mr. Di Peppe: I would like to move for approval of the regular meeting minutes for April 1, 2009.

Mr. Fields: Did you have the corrections that you offered?

Mr. Di Peppe: Yes, they were corrected.

Mr. Fields: So what we have presented to us is corrected?

Mr. Di Peppe: They are correct.

Mr. Fields: Alright. So this is a motion just for April 1.

Mr. Rhodes: Second.

Mr. Di Peppe: I had held them up.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

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Mr. Howard: Present.

Mr. Mitchell: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye.

Ms. Kirkman: I am abstaining.

Mr. Fields: You are abstaining. Alright

The motion passed 6-0-1 (Ms. Kirkman abstained).

April 15, 2009 Regular Meeting

May 6, 2009 Regular Meeting

Mr. Fields: April 15th and May 6th, do I hear a motion?

Mr. Di Peppe: So moved.

Mr. Rhodes: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mr. Mitchell: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye.

Mr. Kirkman: I am abstaining.

Mr. Fields: Opposed? One abstention.

The motion passed 6-0-1 (Ms. Kirkman abstained).

Mr. Fields: That should take us through anything. Is there anything that needs to be addressed? In that case I wish everybody a very happy and safe Independence Day and a good summer vacation. When we come back on August 19th, everybody does have to have a fifty word essay on what I did on my summer vacation. Thank you.

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ADJOURNMENT

With no further business, the meeting was adjourned 10:25 p.m.

Peter Fields, Chairman
Planning Commission