STAFFORD COUNTY PLANNING COMMISSION
August 19, 2009

The work session of the Stafford County Planning Commission of Wednesday, August 19, 2009, was called to order at 5:39 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT: Howard

STAFF PRESENT: Harvey, Nugent, Stinnette, Zuraf, Stepowany, deLamorton and Woolfenden

DECLARATIONS OF DISQUALIFICATION

None

REVIEW OF PROPOSED ORDINANCES

1. Elimination of the Preliminary Subdivision Plan Process **(Deferred to August 19, 2009 Work Session)**

Mr. Harvey: Mr. Chairman, to summarize we have a copy of the latest draft in your packet. Upon review, it has been determined that this draft is not acceptable and will not meet the requirements regarding State Code for preliminary subdivision plans. It is my understanding that the issue is that any time you are going to have a plan that is going to follow the process outlined in the State Code where the Planning Commission is approving the plan, it essentially is considered approving the preliminary subdivision plan and still would have the same requirements for vesting. So, the options are to have a preliminary plan or, if you want to eliminate it just go straight to record plat rather than having an interim process.

Mr. Fields: Meaning that any type of, as opposed to the current preliminary subdivision plan process, if we eliminated that plan but still had these stormwater concept plans and water and sewer plans and transportation concept plans, those become preliminary subdivision plans? Is that what you are telling me?

Mr. Harvey: Or say, for instance, you just had a construction plan for one part of the neighborhood. If the Planning Commission was to be the approving body and follow the administrative process, it would essentially be the same as you approving a preliminary subdivision plan. It may be smaller in scale, it is for that more finite scale of a piece of property but it still would accrue the same rights for vesting as a preliminary would.

Mr. Fields: But a construction plan does occur much farther down the line than a preliminary subdivision plan, right? A construction plan really is, correct me if I am wrong, a fairly realistic prelude to actual construction?

Mr. Harvey: Yes it is. It is the required engineering that must be done prior to actually doing the land disturbance and/or building public facilities.

Mr. Fields: So, even if that were vested, we would be vesting something much closer to the actual execution of the project. Right now the preliminary subdivision plan, as long as it complies with the Code, can be a concept for a piece of property that vests the development rights for decades, right, with no action on the property whatsoever.

Mr. Harvey: Right.

Mr. Fields: Though vesting, like a preliminary subdivision plan, would still not have that same kind of infinite timeframe to vest. Am I getting that right?

Mr. Harvey: Under the site plan requirements in the Code, that vesting is for five years. And it is a flat five years, whereas…

Mr. Fields: The construction plan?

Mr. Harvey: Yes.

Mr. Fields: And that is vested for five years according to State Code, right?

Mr. Harvey: Yes.

Mr. Fields: That is something we cannot change, right?

Mr. Harvey: Correct.

Mr. Fields: So, five years would be the maximum you could have, which is I think in most arguments about stale zoning and vesting and stuff like that that I have heard that the dialogue across the Commonwealth over the last decade or so, I mean I think most people have said that… I do not think anybody is denying that a reasonable vesting is certainly a right that any individual that owns property and who wants to develop it should enjoy. I think we are just debating whether it is reasonable to be vested for five or ten years out from when you actually execute versus thirty or forty or fifty years out from when you actually execute. I mean, which in my mind is a significant difference. If you are saying that you recommend that we do not change now because we would still have vested plans but the difference in vesting is construction plan versus a preliminary subdivision plan, I am still inclined to say that is still in my mind advantageous to the County. But this ordinance is presented irrespective of my opinion which you are saying this ordinance is still not going to fly, right?

Mr. Harvey: That is what I have been told.

Mr. Fields: By Mr. Nugent?

Mr. Harvey: Mr. Smith in the County Attorney's office.

Ms. Kirkman: But, excuse me Mr. Chair, but actually what it says in the staff memorandum is that this vests the construction plan. It does not say that it will not fly. It does not say that we cannot eliminate the preliminary subdivision plan. It just says that you will be vested in the construction plan, is that correct?

Mr. Harvey: Correct. The State Code says that preliminary plans are permissive, it is not a requirement. So it is something that the County may do. I guess the issue is if we eliminate it and try to have some other process where there is a Planning Commission approval, then we are kind of back in the same situation that we are calling out a preliminary plan.

Ms. Kirkman: Well, no we are not because now we are dealing with construction plans which are much more concrete than preliminaries. And also it does shorten the timeframe because preliminaries, once those are approved, there is additional time before they have to submit a construction plan. And once they submit a construction plan that can go on for quite a while. So, I do not see where we are, in fact, in the same spot.

Mr. Fields: That is kind of the point I was making. Vesting for five years or even ten years is very different than an infinitely open vesting which the current process allows.

Ms. Kirkman: Do we have a written opinion from Mr. Smith on this?

Mr. Harvey: No, we do not.

Mr. Di Peppe: Just a quick question and you might not be able to have a quick answer. As we follow through on this to investigate this topic, is it possible that if we put together something like this, could any one part of that being completed of that construction plan be viewed as a significant government action and then vest them before the entire plan was done? I know this is a hypothetical but I think it is a question worth asking.

Mr. Harvey: It gets into if the County, whether it is the County's subdivision agent or the Planning Commission or the Board of Supervisors, grants an approval that is classified as a significant governmental act, or can be depending upon what is being reviewed. So, as you said, that could be the thing that triggers the vesting and then the question is, is it approval of a whole or a part of something.

Ms. Kirkman: And right now our requirements… I am looking at the current requirements and you only have to submit the construction plan within a year, you do not have to it approved within a year. And then you have up to five years to record the lot. So, I still think we should continue to pursue this, both in terms of streamlining the process so there is only one review but also so that when something does vest it is based on something real rather than some of the preliminaries we have seen that have changed significantly between the preliminary and the construction plan.

Mr. Fields: I cannot really find any reason to disagree with that. That is essentially what we have been saying all along. So, is there a way to proceed if that is how we want to proceed?

Mr. Harvey: I assume, based on Mr. Smith's comments, that what we do is just strictly on its face strike all the provisions related to preliminary plans and let it go. And then you would have a two-step process, a construction plan and a final plat. That would take the Planning Commission out of that process though.

Mr. Fields: The construction plan then would be purely staff review?

Mr. Harvey: Yes.

Ms. Kirkman: But is there anything that mandates that the construction plan… is there State statute that mandates that the construction plan can only be reviewed administratively?

Mr. Harvey: I will have to verify that but it is my recollection it refers to the agent doing the approval of that as well as the record plat.

Ms. Kirkman: But the Board can designate through legislation the Planning Commission is the agent for that purpose.

Mr. Harvey: That is something that we would have to verify; whether it can be a body or an individual as the agent.

Mr. Fields: Well, I guess if we wanted to move with this then the recommendation would be to proceed with this what is before us which is simply striking the preliminary subdivision plan language out of the Code, right?

Mr. Nugent: Mr. Chairman, if you are talking about what is in this package, this will not fly. And I reviewed this with Mr. Smith and I also reviewed this with Mr. Harvey. Essentially this eliminates the preliminary plan process but it resurrects it in another form. And that is not what would be permissible; you are simply out of the pan and into the fire with that approach. Your instincts are correct; you would have to simply eliminate all the provisions relating to preliminary plans and you would be left with construction plans and final plat issues and that would be the basis. Again, there are other consequences that go along with that. As it is currently written, it would probably take the Planning Commission out of the equation and there may be some other issues involved with regard to vesting and matters that do not ordinarily relate to the same kinds of things that would relate to preliminary subdivision plans. So, it can be done, it can theoretically be done. The question is whether or not the consequences attached to what can be done are worthwhile enough to overcome or to balance out the gain that you get from eliminating the preliminary subdivision plan.

Mr. Fields: Okay. Well, can we hear from the rest of the Commission? We need to sort of decide that is what we are going to do, to move on. And we have been talking about this for a long time. I am not forcing the issue but I think we need to move this one way or the other.

Mrs. Carlone: Mr. Chair? Based on both of our counsels I would certainly go along with to reconsider this amendment. This is myself speaking. Legally if there is a problem we need to look at it and then defer it. If not, I would prefer right now to go ahead and recommend denial but like I said, based on counsels' opinions that it would not be legal then I would like to see it…

Mr. Fields: Well, *this* ordinance would not be legal.

Ms. Kirkman: I just want to clarify, there are other alternatives. There is a way to eliminate the preliminary subdivision process which would be perfectly legal.

Mr. Nugent: Yes.

Mr. Di Peppe: And I have agreed all along to have this discussion because I understand the genesis of all of this. I am concerned that if, in the process, we inadvertently eliminate the Planning Commission from consideration that that is not something we were attempting to do. I think what they are telling us is you can change it but it is still going to be viewed as no matter what you call it the law may view it

still as a preliminary plan or, if you completely eliminate it, they will say fine, you are in a construction plan and the way the law is written, that is done by the agent. And no bad reflection on our agent but you do not know in the future who that agent might be.

Mr. Fields: But you also know that that agent… if as in cooperation with the Board of Supervisors and the citizens of the County the Planning Commission and the Board of Supervisors and collectively expressing the will of the citizens create a code that we feel creates a just and sustainable version of land use in the County, then the agent is essentially inflexibly bound to simply apply that code, correct? When you review a construction plan virtually you are looking to see that the Code of Stafford and the Code of Virginia and the applicable Federal regulations are all complied with. And other than stated in the Code where there is leeway, there is not broad discretion in how construction plans are reviewed, right? That is just where we get into the nitty gritty of how things are going to go.

Mr. Harvey: Correct.

Mr. Fields: Let me play devil's advocate on this for just a second in suggesting what may seem to be counter-intuitive as Chairman of the Planning Commission that there may be a level at which we could do better by taking ourselves out of the process, as odd as that may sound. I guess what I am saying is that with all due respect to all of us and all of the good work we do here and it is valuable, the preliminary subdivision plan process I found, interestingly enough coming from the Board of Supervisors and then coming here to the Planning Commission and looking at these preliminary subdivision plans, I found the preliminary subdivision plan process as it exists in Stafford County to be the most frustrating thing on the face of the earth. Here you have a person who owns a piece of property who wishes to realize some return on his ownership or investment in the property. That is a perfectly legitimate and admirable thing; that is what we do. And we are entrusted somehow of seeing that that is in the best interest of the citizens. That is what we are appointed to do by the Board of Supervisors. So that is our charge and we try to do that with as much integrity and thought as we can. But here is what I have seen happen over and over and over again in land use. Since it is a preliminary plan, a great amount of the detail about how this thing is really going to go down cannot be done because nobody on a preliminary plan has the ability to invest the kind of time and energy and engineering and study of the site to answer in detail some of the questions that are routinely raised by the Planning Commission. The Planning Commission, even though we all go through the certification process and look at these things for years and years and years, the Planning Commission by, I think we would all fairly admit though I feel our opinion is valid, we are neither hydrologists nor civil engineers nor urban planners nor attorneys. We are citizens who do our best to be informed about all those sort of things. So I think in some ways this preliminary subdivision plan at a Planning Commission, while well-intentioned and in theory is a chance to see where the interest of the private property owner and the interest of the citizens that may be affected by those actions are resolved, the process by definition, not only has its vesting issue but in some ways is by definition kind of doomed to a nebulous world where I do not know that anybody is particularly happy with the outcome. In the two years I have been doing this, I do not know that other than Mr. Schercliff, I will again publicly praise for coming in with a well thought out plan that was relatively effortless to approve because he had a good concept, I do not know that most of the people that have presented these plans have necessarily gone away all that happy and I know most of the votes that I have made because of the way the Code requires me to make those votes on most of those plans I was just saddened to have to say that that was an acceptable land use decision. So, I do not know that we are exercising that much public interest responsibility because we are bound by the Code so tightly anyway and I do not know that the landowner, he is getting his vesting out of it which is of great economic value, but the landowner is not really able to come to the table fully prepared and at the construction plan process I am assuming this is where you have to have the engineering done. This is

where the hard engineering of the soils and the hydrology and all of this stuff… now we have to do this stuff for real. Your perk sites have to be approved, your wells have to produce, the grading and the topology and your resource protection, all of those things have to be done in earnest to get your construction plan approved, I am assuming, correct?

Mr. Harvey: Correct.

Mr. Fields: So, if our Codes and the State Codes are done well and right, which is something that a Planning Commission can do which is to sit around and conceptualize about what kind of future we want for Stafford County and then, in conjunction with the experts, craft a code that is fair and just and is administered in a fair and just way, then that may be our best work on the process of approving how land use is done in terms of the actual execution of development versus endless, very frustrating dialogues about the preliminary subdivision plan. So, I am just going to put that out there to say that in addition to the vesting, giving a landowner an infinite vesting, which I think is unfair, I do not think it is unfair to vest a landowner; I respect their rights a great deal. But I think it is unfair to the citizens of the community to let someone vest a plan for thirty or forty years because things change radically. However, vesting for five years or ten years according to State Code for a plan that really gets down to the specifics and has the engineering and the detail analysis done to it that really gets you to where you go and if we get the codes right then that should in many ways be a better exercise of our oversight than reviewing preliminary subdivision plans.

Ms. Kirkman: Mr. Chair? Getting down to earth here and a little more concrete, I have actually pulled the State Code sections regarding subdivisions and it appears, unless there is something that has happened to case law or it is squirreled away in some other obscure section of the State Code, that we actually have pretty broad latitude when it comes to the subdivision process. The authority is to adopt an ordinance to assure the orderly subdivision of land and its development and there are required provisions of a subdivision ordinance and optional provisions of a subdivision ordinance and I did not see anywhere in here references to the agent or construction plans. So, I think we probably have a very broad latitude in how we craft the system and we can debate whether or not the Planning Commission should be involved but I do not see anything in here that specifically states it is the agent that does the approval of construction plans.

Mr. Fields: Okay.

Ms. Kirkman: But maybe our attorney could verify that.

Mr. Nugent: I will check it out.

Mr. Fields: Do we want to bring this back one more time?

Ms. Kirkman: One more time.

Mr. Fields: Specific language from the County Attorney's office I guess striking the preliminary subdivision plan, just striking the plan, how that is to be done… give us the details on how we are going to have to proceed to do that if we choose to do so, and then your interpretation of the agent and how that is executed.

Ms. Kirkman: Mr. Chair, I also want to see something in writing from Mr. Smith about what the reasoning is about why what was presented to us will not fly because I just do not see anything right off the top of my head that prohibits this kind of process.

Mr. Nugent: Mr. Chairman, Ms. Kirkman, to avoid any misunderstanding, understand that is it acceptable to get rid of the plan and let me digress for a moment to what Mr. Fields said. Mr. Chairman, I am not sure that I understood what you said about the plan. Are you asking for someone to come back in two weeks with a version of legislation that would eliminate the preliminary subdivision plan?

Mr. Fields: Well, if it is simply striking the existing preliminary subdivision plan and letting the other things stand, I guess I did not assume that that would be that difficult.

Mr. Nugent: Okay. Well, I am not sure exactly difficult it may be and I do not want to guarantee that something like that can be done within two weeks. I just wanted to bring that up.

Mr. Fields: Well, if you cannot then let us know. If it is simple and we can do it in two weeks, let's move forward with it. If it is not then let's talk about it.

Mr. Nugent: And then Ms. Kirkman's comment, it is okay to get rid of the preliminary plan process but you cannot simply take it away and then resurrect it in some other form within the Code which is what this package does. That is why this package will not fly. It is not okay to resurrect the preliminary subdivision plan process in simply another form. You are not getting rid of it. It is still there. The vesting will still apply. There will be some kind of process which will guarantee vesting beyond the limitations that you considered appropriate earlier. There probably is no alternative plan that will not result in vesting. But it is believed that if you get rid of the preliminary plan process entirely and focus or leave yourself only with construction plans or final record plats, you are still going to have vesting issues, but you have gotten rid of the plan. That is what is believed to be an acceptable process based on my communication with Mr. Smith. And the advice and recommendation that was given with regard to this is that this simply is not acceptable, this simply will not work. So…

Ms. Kirkman: And that is because it is still a two plan process, a residential site plan and a construction plan.

Mr. Nugent: A two stage process, yes. So, what I am suggesting is what is here is not going to fly, it is not going to work. You can address it and deal with it and turn it down, but if you want somebody to start over, staff or in conjunction with the County Attorney's office, to try to do it differently so it accomplishes what I just discussed, that can be done. I just do not want to be optimistic or give you any sort of guarantee or commitment that something like that can be done within two weeks, that is all.

Mr. Fields: As early as possible without hurting yourself.

Mr. Nugent: Okay.

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 4, 2009) (Deferred to August 19, 2009 Work Session)**

Mr. Fields: Alright, very good. Moving on. Number 3, Clustering in Agricultural Zoning Districts.

Jamie Stepowany: Thank you Mr. Chairman, members of the Planning Commission. For a last minute update, the agenda has a time limit of I believe it was August 3. The Planning Commission presented a request to the Board of Supervisors to extend the limit. At the time we were informed it was going to be discussed at last night's meeting and then when we went to see what the result was from last night's meeting we found out that it actually was discussed on July 7th. It was an item we added and gave to you with number 3 on the on the top. It is a Resolution, R09-276, which authorized the Planning Commission to extend the deadline for recommendation for proposed Ordinance to September 16th. So that is the latest that the Board of Supervisors has authorized the Planning Commission to make a recommendation on the proposed cluster in the agricultural zoning district. To give a brief summary of what has transpired in this since the July meeting, there were questions and concerns raised by the Planning Commission over the use of the open space and conservation easements and the County being a partner in the conservation easements, along with a bona fide either Homeowners Association or an organization that would also be the overseer of the conservation easement. We did meet with the County Attorney's office and again we met with Mr. Smith who is also working with the Purchase of Development Rights proposals and the County's role in that program in which the County would be partner or easement holder for conservation easements. And there is also what has been brought to our attention called open space easements that the County may also be holder of. So it also may either be a conservation easement or open space easement. One of the amendments that was made to this was that in the case of preservation areas and preservation lots it will be an easement either as the County or a bona fide holder of the easement as allowed by State law. It is no longer both. I think that was one of the things requested by the subcommittee, that even if you had an organization or a Homeowners Association that was the holder of the easement, the County would be part owner of it also. Now it is one or the other. And it was discussed that it would be if the County was the holder of the easement, whether it is a conservation easement or an open space easement, they would have to follow the rules of being the owner of that easement just like they have to do right now under the PDR program. The County Attorney's office also found some other modifications that they recommend to the proposed ordinance. Those are bold italic print whereas the regular bold print was what was provided by staff at the July meeting. And that was one of the other requests from staff at the July meeting, the ownership of those conservation easements. I will be more than happy to answer any questions the Planning Commission may have.

Mr. Fields: Are there any questions? Mr. Di Peppe.

Mr. Di Peppe: I believe when we last addressed this, one of the issues that came up was providing septic systems for clusters and the difficulty… I believe we had the discussion, Mr. Chair, between two of us I think in front of people saying that our great concern was that in principle we felt clustering was a great idea with an actual practice, how are we going to overcome the physical limitations of providing the types of drainfields necessary on such small lots, unless the cluster had its own, I do not want to say universal but, septic system for the cluster itself.

Mrs. Carlone: Community.

Mr. Di Peppe: Thank you, community system. And I do not see any… was there any looking into that? Was there a problem? Because I do not want to say yeah and actually have a system that we cannot build.

Mr. Stepowany: Through the subcommittee process, staff recommended what is called a decentralized drainfield system. It is not a community drainfield. The rules and regulations are completely different. That was recommended by the Virginia Department of Health. Decentralized drainfields have rules and regulations and requires an agreement very similar to what we have with the stormwater management agreement that they have a third party as part of the Homeowners Association that maintains and monitors the drainfields. The way it would work is, it is not just one large drainfield but it is an accumulation of the drainfields all within one area because you have these multiple drainfields in one area, that affects the total area to where it almost becomes a community drainfield. But the rules and regulations through the Virginia Department of Health would apply as a decentralized drainfield. That was presented to the subcommittee; I believe Mr. Fields was at that meeting when we discussed would they be in favor of it. We have had lots of brochures that staff provided and the subcommittee at that one subcommittee meeting has ruled that they are not in favor of going that route, at least not at this time.

Mr. Di Peppe: Don't you have to own the land that your drainfield is on currently?

Mr. Stepowany: This would have allowed it to be within the Homeowner's Association with easements from the property to the common open space.

Mr. Di Peppe: So these drainfields would then be in the open space?

Mr. Stepowany: That is correct.

Ms. Kirkman: So, you are saying that under this ordinance these decentralized drainfields would be allowed?

Mr. Stepowany: No, that was taken out of the ordinance. The original…

Ms. Kirkman: Well, thank goodness. I mean, we have seen how well the stormwater facilities have been maintained by Homeowner's Associations.

Mr. Di Peppe: But the next question is then how do you accomplish this? Where are these drainfields going to be if they are not going to be…

Mr. Fields: What you have is a cluster ordinance with still where every drainfield has to be built under the current system.

Mr. Stepowany: That is correct.

Mr. Fields: Every lot has to have a drainfield and a 100 percent reserve.

Mr. Di Peppe: But can you do that in a size lot… I am just physically…

Mr. Fields: Well, it depends on your soils.

Mr. Stepowany: There was a couple subdivisions we presented where we had a majority of the lots one acre or slightly larger than one acre that had drainfields, and we have looked at some others where the drainfields were like right in the middle of the lot so you could get 1½, easily 2 acre lots with drainfields. And the minimum lot size in the A-1 is 2 acres. So you can do that.

Mr. Di Peppe: But it is tough. It can be tough.

Mr. Stepowany: The option is there. We realize it is a challenge but that is always a challenge when you deal with drainfields.

Mr. Di Peppe: Because what sometimes tends to happen with setup situations where drainfields don't work. We end up, as I have seen in the past in the Comprehensive Plan, deciding we need to run sewer to them because they do not work. That is my concern looking down the road. I will save that for later. Thank you.

Mr. Fields: Any other questions?

Ms. Kirkman: Yes, could you explain again what are the requirements for preservation lots in preservation areas?

Mr. Stepowany: A preservation lot is an option that they could have of their areas, whether it is for historic, cultural, environmental, agricultural, to be a lot. Other counties have it as an agricultural type of means and counts as a lot. But because there is environmental, cultural or historic significance on it, it becomes more of a preservation area for like agricultural where you want to have as a conservation area.

Ms. Kirkman: So there are no requirements for preservation areas?

Mr. Stepowany: There is no requirement; it is an option that you can have one.

Ms. Kirkman: And why would a developer do that? Why is this even in this legislation other than window dressing?

Mr. Stepowany: This is modeled after Hanover County which is what they have also in Hanover County as an option. And there have been discussion of a couple properties, especially with historic areas that would like to be preserved and put in a conservation area and then put the regular subdivision around it.

Ms. Kirkman: And how would that be different from an open space area which is what we do know?

Mr. Stepowany: That is where that lot counts as open space. Where a lot right now cannot count as open space but a preservation lot would count as open space. And that is the difference.

Ms. Kirkman: Oh, so this is a way to give them another… additional lots.

Mr. Stepowany: It does not give them additional; they still have the number of lots they are allowed to have; all but one acre of that lot becomes an open space.

Mr. Harvey: So, a typical example would be a large tract of land where they want to retain a certain area for farming. They may have an existing farmhouse and they will keep that farmhouse and save fifty acres as a preservation lot and then they will have the smaller lots platted around that area. That is typically the example you would see. In the case of open space, that would have to be common open space, not owned by anyone individually but owned by all of the owners collectively. And there would not be a residence on it. So with a preservation lot, the difference is that you have somebody who owns the underlying ground but there is a conservation easement that runs in favor of the homeowners within

that neighborhood versus a common open space situation where the property is owned collectively by the whole neighborhood.

Mr. Fields: That is a good example. That makes that much clearer why that would be something you would utilize.

Ms. Kirkman: So, the preservation lot has public access or it's privately owned and there is no public access?

Mr. Harvey: It is privately owned and the open space designation would run in favor of the rest of the homeowners in the neighborhood, it would not be public. So if the conservation easement allowed the other homeowners to use the property for something other than their scenic view, allow them to go hiking or whatever, that would be something that would be stipulated in the covenants.

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

Mrs. Carlone: Very quickly, on that preservation lot, the maintenance, you said there would be an easement on it but the maintenance would still be an HOA responsibility?

Mr. Stepowany: It would either be HOA or an organization that is sanctioned by the State under the guidelines for conservation easement or the County.

Mrs. Carlone: So, if VOF came in that could be for them to maintain under a VOF easement?

Mr. Stepowany: If they are one of those organizations that can be the holder of a conservation easement, yes.

Mr. Harvey: They would be the enforcing body. In the preservation lot you would still have the underlying landowner who, again, may be farming the property but you would have this other entity that would be part of the easement that would be able to enforce the restrictions and the covenants to say you cannot park tractor-trailers on this because it is supposed to be scenic agricultural land and those types of things.

Mrs. Carlone: You mentioned though that the public could still use it for events. So, if it was under private ownership with an easement then where would the restrictions be? If the individual was still sitting there, VOF had the easement and yet you mentioned… did I understand you correctly that the public could still use it?

Mr. Harvey: No. If it is a preservation lot it would be the opposite. It would be the underlying landowner could have the rights to use the property but collectively the homeowners within the neighborhood could have an interest in how that property is being used. And they could be a party to enforce the covenants or, if there is a Virginia Outdoor Foundation or Stafford County Government or some other open space organization or sierra club, they could be a party of that easement to enforce it to make sure that it is being used for its intended purpose.

Mr. Fields: Okay. Any other questions? Mr. Rhodes? Any thoughts?

Mr. Rhodes: My concerns on the development of this were, a couple months ago, on the basis of actually some of the genesis in the lot yields as we are building and developing through. But I am generally comfortable with this now.

Mr. Fields: Mr. Mitchell? Any thoughts? Comments? I am not putting everybody on the spot; I am just trying to get a sense of where we are.

Mr. Mitchell: I will not be supporting it; I am not comfortable with it. I am concerned; I have always said a lot of changes are not necessarily good and to me it is a part of a lot of changes.

Mr. Fields: Alright. Well, we have at least one more session on this.

Ms. Kirkman: No we don't.

Mr. Stepowany: No we don't.

Mr. Fields: I thought we said the extension to September.

Ms. Kirkman: We have not had a public hearing and for it to be advertised.

Mr. Harvey: We are at the timeline where we pretty much have to…

Mr. Fields: We need to advertise it for public hearing tonight?

Ms. Kirkman: So, I am looking at table 5.1. So, for A-1 the minimum tract size is 25 acres.

Mr. Stepowany: Correct.

Ms. Kirkman: What percentage of that 25 acres has to be in contiguous open space?

Mr. Stepowany: The open space factor is .33.

Ms. Kirkman: I don't know what that means, the open space factor. What I am asking you is of the 25 acres, how many acres would have to be in continuous open space?

Mr. Stepowany: A third of the 25 acres, so a little more than 8 acres has to be open space.

Ms. Kirkman: And that is contiguous? It's not like a piece here in one lot and a piece…

Mr. Stepowany: It does not say contiguous.

Ms. Kirkman: So, they could do half an acre there and a ten foot strip here, like we have seen on some of these preliminary plans?

Mr. Stepowany: There are provisions in the open space that it has to be a reasonable shape. I have to find it; it has always been in the Subdivision Ordinance.

Ms. Kirkman: Yes, well, we saw how that worked when preliminary subdivision plans with open spaces came in where they were narrower than Arch was tall as we discovered.

Mr. Di Peppe: Well, I remember they were like the border all the way… the open space was a short piece of land that essentially followed the border and in a sense was not any usable open space. It was in theory open space but not what I think what all of us think about when we go oh, clustering… great idea… we will be able to maintain the rural look of the County. This is a way to effect so the people can develop and have their density but yet still maintain that rural look and view shed that we would all like to keep. But then we see in practice they come in and they get it by this narrow strip that is essentially a border all the way around the property that is not usable by anybody for any reason. And we find, if we are not careful, we leave these kinds of loopholes in and completely destroy the spirit of what the original intention was. So I agree exactly with Ms. Kirkman on this. You have got to be very careful and you have to have some pretty strict language about what you will accept as open space.

Ms. Kirkman: Mr. Harvey, how was this sent to us by the Board? Can we change the language in it?

Mr. Harvey: I believe they gave you latitude to make adjustments as necessary.

Ms. Kirkman: Okay. Mr. Chair, even if it means that we have to call a special meeting to do it, I think we definitely have to change some of the language before this go to advertisement.

Mr. Fields: I would tend to agree if we do not have that tightened up on open space. Mr. Harvey, what do you think we could do to effect that change?

Ms. Kirkman: Well, Mr. Chair, I would suggest the first thing we say is that the open space needs to be in one contiguous area.

Mr. Harvey: That would be one thing to do and then if you want to put a minimum dimension on it that would be another option too. I know that has been done in other cases where you specify that no area shall the minimum width of the open space tract be less than X feet, say 200 feet, 500 feet.

Mr. Fields: I hate to have all this suddenly at the last minute. We should have had all of this figured out beforehand. My concern I guess is that, and this is why it is hard to think this through, you do not want a 5 foot wide strip of land around the border of a property to count as open space. I can see a reason… but I guess that would be a reasonably wide piece. I can see where you would have a fairly long narrow piece where you are preserving a stream valley let's say as open space. Where that would be a perfectly valid conservation environmental practice and that would be your open space. So it would be certainly not necessarily a clump of space, it could be preserving a corridor of, like we have attempted to do with the wildlife habitat protection plan, to preserve a corridor through the property for preservation of a stream valley and/or a contiguous habitat, etcetera, etcetera. So, I can certainly see a spot where a valid use of open space is not necessarily a square or a circle, but certainly not just borders and buffer-type areas. How are we going to do that? How are we going to get that language in here?

Mr. Di Peppe: Because the problem I think arises where you might have someone who takes every bit of land that could never be used for anything else, calls it open space, adds it all together and says look what I did… I met the requirement. Also though, if it was a perennial stream, I do not think we would have too much to worry about because you would have a 100 foot buffer on either side. But I understand maybe it is not perennial.

Mr. Fields: Or maybe it is simply even an area, like I said, that you might want to preserve as contiguous habitat corridor through your property whereas preserving an open space inside your property which was developed all around would be less effective than preserving let's say even a 50 foot

wide strip from one border of your property to another if it meant from one forested area to another forested area where the deer and the antelope play.

Mr. Di Peppe: Have there been any other localities that addressed this particular concern successfully? Because we do not want to completely reinvent the wheel.

Mr. Stepowany: Mr. Chairman, I found the one little provision in the existing language under 22-267 and we have added "required" after open space. In the middle of the provision it says open space shall not include…

Mr. Di Peppe: Could you tell me exactly where you are so I can follow along?

Mr. Stepowany: On page 3, I will go to the Ordinance, Open Space Required. Halfway through the paragraph, open space shall not include, and we struck out roads, driveways, parking lots or other vehicle surfaces, streets, any areas occupied by a dwelling, nor areas so located or so small as to have no substantial value for the purpose stated in this definition. If you would like, we could clarify that more with specific guidelines. I believe that is what you are asking for in that little sentence where it says so small that it does not have value. I am just asking if that is the direction you want us to go with this, to provide better direction.

Mr. Di Peppe: I think it would be good to not leave it quite so subjective.

Mr. Stepowany: Right. That is what I am asking, is that the provision that you would like us to expand on?

Ms. Kirkman: Mr. Chair? I would really like to see that we require all of the acreage be contiguous, particularly when you are looking for things like wildlife corridors and habitat. That is important because if it is fragmented you really lose the value of it. So that is the first thing. And then yes, I think we do need some minimum width requirements.

Mr. Fields: I am really looking for the easiest way to do this. With all due respect I think we all share your concerns about the use of open space. Areas so located or so small… if you inserted the word contiguous into one of the requirements… I am a little concerned about minimum width requirements because I am not really sure how we get to what is a viable minimum width. I do not want to just pick a number out of the air; I need something for minimum width requirement. I think if we put continuous and have the language of so small as to have no substantial value for the purposes stated in the definition and made sure that the word contiguous was in there, I am thinking we are getting pretty close to the solution, aren't we? The contiguous seems to be the key and to have no substantial value, and it says in here that open space has a whole set of purposes that, I think, by definition would exclude simply putting a border around the property.

Ms. Kirkman: Mr. Chair, my concern about the no substantial value language is "no" is a pretty high threshold to reach. So if you had a five foot walking path, someone might say that has substantial value. So, my concern is the no substantial value is a really high threshold. Jeff, I was wondering, didn't we… remember the agricultural performance standards and I think we had some minimum widths for wildlife corridors in there. Could we maybe try and pull those during the break?

Mr. Harvey: My recollection was it was 200 feet.

Ms. Kirkman: Two hundred feet?

Mr. Harvey: Yes.

Mr. Stepowany: Also, Mr. Chairman, just to point out, the landscape buffering requirements in this ordinance has been added to where any existing street is required to have a street buffer and that street buffer has to be in an open space area. And that could be as small as 5 feet depending on the street category. So, to have one where the open space requirement is so narrow and then have another regulation where the buffer can be as low as 5 feet is a contradiction.

Ms. Kirkman: Well, why are we putting the required buffer in the open space?

Mr. Stepowany: The residential, the R-1, R-2, R-3 and R-4 zones, all require buffers in open space and that was the request of the subcommittee that in any cluster, the existing street has a street buffer; it has no bearings on the classification of the street. If it is an arterial or collective road it requires a street buffer.

Ms. Kirkman: And that required street buffer counts towards the open space?

Mr. Stepowany: On the landscape open space, yes.

Ms. Kirkman: But it counts towards the acreage?

Mr. Stepowany: Yes, the total acreage.

Mr. Harvey: Mr. Chairman, I guess we could try to remedy that in our description of open space factor to exclude any required buffers.

Mr. Fields: Yes, I can go with that.

Ms. Kirkman: Yes, that is good.

Mrs. Carlone: Excuse me. I agree with Ms. Kirkman on this using the word contiguous in here. We have seen the wiggle room that people have used that we discussed earlier. Now, to make these changes, would this require… can we just make these changes and recommend these words at this time to be added? Jeff, can we make the request right now to have it put in?

Mr. Harvey: Yes, if the Commission so directs us we will modify the ordinance for the advertisement.

Mr. Fields: Yes, Mr. Di Peppe?

Mr. Di Peppe: Just a real quick suggestion. Maybe we could add the word contiguous but also and must meet what is in our actual definition of open space because that where it is laid out that the area within the boundaries of residential subdivision is intended to provide light and air and is designated for either scenic or recreational purposed. So I think that since it must meet the definition of open space and be contiguous it might solve our problems, as long as you go back to that original definition in Section 22-267 which is the third page. If you read where it says open space required it actually gives the intent behind what is the purpose of this open space. So, if you can meet the general spirit of that definition

and be contiguous we might be able to… I don't know, I look to other Commission members if they think that might be helpful.

Ms. Kirkman: Mr. Chair, as we have talked about it and I think we can leave it up to our attorney and staff to get the exact wording, but the three things that I would want to see in here is that all of the acreage must be contiguous, that the minimum width is 200 feet, and we are drawing upon the work that was already done around the ag performance standards there, and the language that Jeff suggested about required buffers do not count towards the factor.

Mr. Stepowany: Right, and the required buffer is known as a landscape open space that does not count towards that.

Ms. Kirkman: Yeah, I just didn't know if there are other required… aren't there other required buffers depending on the land use district?

Mr. Harvey: The required buffers we might have are street buffers as well as RPA buffers.

Mr. Stepowany: The RPA buffer has to be within the preservation area so the RPA buffer has to be within the open space with this ordinance.

Mr. Harvey: But is does not necessarily have to meet your requirement for your open space factor.

Ms. Kirkman: That's right. I think we should just… I mean, that is a buffer they were going to have to put on there anyway, so I think we should just say no required buffer shall be counted towards meeting the factor ratio, however you all are calling that. So those are the three conditions I think would really help tighten up the open space requirements.

Mr. Fields: You are saying excluding RPAs from the open space?

Ms. Kirkman: That is something they have to do now.

Mr. Fields: It depends on the property though. That could be a giant chunk of land at that point. I am concerned that, though I understand the intent, I am concerned about how much whether that could lead to some very strange and unintended consequences trying to get this open space… you have got a piece of property, it has got RPA through it, we are taking out all the buffers and then we still, on top of that, have to create the open space contiguous with 200 foot width. You know, it does not take long sometimes with some properties, chewing it up like this, to end up with nothing. And while I am passionate about trying to get this right and preserve open space, I am not trying to create an ordinance that simply just takes 100 acres, a piece of property, and renders it useless through all of these regulations.

Ms. Kirkman: Well, it would not make it useless and the reason why I suggest that is the RPA is required anyway and what they do get out of moving, even if they had to pull the RPA out of the open space, what they do get out of moving to a cluster are the smaller frontage requirements, the minimum yard like instead of 50 foot or 100 foot it is down to 35 foot, the smaller lot sizes so that they are able… with this cluster ordinance as it is currently structured, they will be able to get more lots on land than they can do now. And if you want to know what a cluster would look like in A-1, go to the old Crow's Nest subdivision plan that had 688 lots. And the only reason it was able to do that was because it was zoned A-2 and had the smaller lot frontage requirements and the smaller acreage for the lots. And if it

weren't for that they would have never gotten those lots in A-1. And that is what I mean by, they still get something in return even by the lots going into open space and RPA, they get the ability to put much smaller lots and much smaller lot frontages. So, I do not agree that it necessarily would make things unbuildable.

Mr. Fields: Well, it would not necessarily make it; that is the problem is you do not really know. I guess my concern is that in the final analysis, every piece of land is very, very unique and has unique properties. And I have always argued that really what we are trying to do here, what you should be trying to do with a cluster ordinance, is actually allow for the utilization, the most organic natural utilization of the property so that you can compact the development, minimize land disturbance, minimize disturbance to habitat, minimize disturbance to the watershed, and you know, but sometimes if you get multiple overlapping requirements, and we have seen this with several proposals. I guess that is why I am concerned; we have worked through different slope versions, through different cluster ideas, over the last decade I have seen how certain ideas that have seemed perfectly well-intentioned can, on a certain piece of property, you just do not know. Some properties are flat, some are sloped, they are all very, very different and I am concerned that maybe a piece of property that has a great deal of RPA could have a very nice cluster subdivision by being able to maintain what is essentially a natural ravine or wetland throughout a good chunk of the property and very judiciously cluster development so as not to disturb that. And I would not want to say that that is a legitimate use of open space for that property. Then on top of that very large natural feature that functions as open space they have to come up with arbitrarily all this other open space. That does not seem fair at that point.

Mrs. Carlone: Excuse me. It is a builder's or developer's option to go to a certain type of utilization of that property and if they want a cluster then they would abide by certain regulations. The RPA should be, and it has its 100 setback. If I were a developer and said maybe I could do better with individual homes or do I want to go to clustering and meet the certain requirements. And our purpose here is to see the best that is done with those pieces of property and to maintain the quality of water which is that setback that should not be considered as open space. The original concept of cluster plan was to have hopefully like 60/40 or an open space quadrangle for multiple uses, but we seem to be someplace along the line have gotten away from this.

Ms. Kirkman: Mr. Chair, what I would suggest is this, because I think if we could see some examples at our next meeting it would illustrate the point I am trying to make, is that we send it to advertisement with that piece in about all buffers because that is the most restrictive. And then if we, after further debate, decide to remove that we can. But we cannot add it at the hearing because it would be more restrictive. What we are really up against here is the time limit. If we had gotten a couple more weeks we would not have to make a decision tonight about this.

Mr. Fields: I agree that we can advertise the most restrictive form knowing that we can modify it at the public hearing process. That seems like a reasonable compromise.

Mr. Rhodes: Mr. Chairman, first off is there a configuration here, Jamie, where there is more than one open space?

Mr. Stepowany: I have seen subdivisions that have had different segments of open space. I would have to go and research.

Mr. Rhodes: So, do we preclude that with this by saying they all have to be contiguous so they cannot have a design where…

Mr. Stepowany: And what we also have to keep in mind is when we deal with the open space and the open space requirements, we are talking about all clusters, not just A-1 and A-2.

Mr. Rhodes: I do not know what…we have suddenly…we talked about this, everything was about the same back in June when we had this, or first of July and now here in twenty minutes we have significantly changed the potential impact and dynamic of this whole draft proposed ordinance. That is just not the way to do it. I do not know what the implications…you have the greatest vistas but as a couple of different open space areas. But now we have said they have to be contiguous so you have eliminated that whole structure and concept and I do not even know what the implications are to that. We have just suddenly suggested throwing in three different dynamics, minimum width 200 feet all of a sudden, all contiguous and take out all other elements to be a very restrictive county of what is open space. And that is just… I do not even know what that does.

Mr. Fields: I hate to admit it; I know where you are going. I mean… the problem with contiguous, I get the spirit of that and I ardently support the spirit of where we are trying to go with that is that we do not want unusable open space or open space that is just a throw away. I do not disagree with that concept. But once again, now that I am thinking it through, what if you have a piece of property that has a ridge line that runs right through the middle of it, which has the appropriate… not a steep ridge but a rise and it has some of the better soils and the better buildable areas and you carve some houses there and you have two very beautiful pieces of wooded open space on either side of this ridge line on the property? And they are not contiguous but is that a negative outcome? Whereas, forcing the contiguousness of the thing would force you to do the less desirable design environmentally and aesthetically.

Mrs. Carlone: Mr. Chair, I think when we started this conversation on contiguous it was because, and it was already mentioned that we did have a project that was like you said a border around the property, to me the contiguous would mean there would be enough contiguous property to make it as usable open space. We had not discussed before, and this is something that was just brought up, could it mean more than two areas that are contiguous? Yes, there is nothing to conclude that but the idea is to have enough space there to make it usable open space.

Mr. Fields: I understand.

Mrs. Carlone: But certainly we could have, if you wanted, if there was sufficient property available then to go ahead and you could have separate areas as long as it was of very significant size to be called open space.

Mr. Mitchell: Mr. Chairman? We have been beating this horse but my issue I think, I am like Mr. Rhodes, I think it is so restrictive without having the full parameters of what it will affect. I could not support something that is restrictive. Because, like you said, each piece of land is different. There is no piece of land that would fit this description throughout Stafford County. But I think making the three different changes is too restrictive.

Mr. Fields: Well, okay folks, we have got to do something here. Do we want to allow staff to tweak this through the course of the rest of the meeting, come back at the end of the meeting with something that we either can agree to, at least a majority agree to send to public hearing or not? Do we want to give them… I hate to make you work through dinner but maybe while we are doing our public hearings, is that a feasibility to kind of tweak that a little bit? Or is it, it is what it is and we need to vote it to public hearing now or not?

Ms. Kirkman: Mr. Chair, I am very concerned about this ordinance moving forward the way it is structured now given the abuses we have already seen on numerous plans regarding open space. We are already being quite generous by allowing things like pools and impervious surface areas to be included in the open space. So, if the issue is people do not want to rush through this, my preference if we cannot make some changes to this tonight then my preference is to come back for a special session next week.

Mr. Di Peppe: Is it impossible to ask for more time?

Ms. Kirkman: Yes.

Mr. Fields: We have to vote on this after a public hearing by September 16th, is that correct?

Mr. Stepowany: That is correct.

Mr. Fields: So, to advertise the public hearing for the first meeting in September we have to vote on it tonight, correct?

Mr. Stepowany: That is correct.

Mr. Rhodes: If the public hearing is on the 2nd of September, can you accomplish that on the 26th of August? I do not think you can advertise and execute it even with a special meeting next Wednesday.

Ms. Kirkman: So, we could actually hold the public hearing on the 16th? We do not have to do it for the 2nd.

Mr. Stepowany: The public hearing would be on the 16th. A decision tonight would give us enough time to advertise for the public hearing on the 16th.

Mr. Rhodes: For the public hearing and then you would have to act on it that night?

Mr. Stepowany: You would have to act on it that night.

Mr. Harvey: As far as an advertising time, your ads would run the week of the 31st of August and on the 7th of September, so we would have to have it essentially to the paper by next Thursday. So, if we had a special meeting, we could fit that timeline next week.

Ms. Kirkman: The other alternative is for staff to work on this and bring it back to us at the end of the evening or again, to advertise something more restrictive knowing that we can cut it down at the public hearing, but we cannot make something more restrictive at the public hearing.

Mr. Fields: That is good. Can you guys knock it around a little this evening? Is that possible? Is that asking too much? That is a tough question; I do not mean to put you on the spot.

Mr. Stepowany: We can work on it.

Mr. Harvey: We can but you will not have the benefit of good sound legal analysis behind it. So there may need to be some adjustments afterwards, but we would have your basic concepts in there.

Mr. Fields: Well, if that is okay with everybody, let's at least give it till later on this evening. See if we can't tweak that a little bit. I understand everybody's concerns. I am certainly willing to, if we have a logical possibly too restrictive ordinance, that is better to advertise that than to work it backward. I will at least concede that. I would rather see it go to public hearing there that way than get trapped into something that is not workable.

Ms. Kirkman: Mr. Chair, I had a second question for staff before be got diverted on the open space. On the last page, page 17, Jamie, it refers to non-residential development adjacent. What kind of non-residential development is there in a residential cluster?

Mr. Stepowany: What this does is this amends that section of the landscape manual where it has buffers for residential developments and buffers for non-residential developments. That section is being revised because we have to add major residential non-cluster subdivisions adjacent to arterial and major collector roads, and then residential cluster subdivisions adjacent to an existing street. That is what I was talking about earlier. The buffer width is 25 feet along any street if it is in a cluster subdivision and regardless of the classification of that. And then the third category then becomes the non-residential development.

Ms. Kirkman: I see.

Mr. Stepowany: So that is just amending that street buffer yard section of the landscape manual.

Ms. Kirkman: But, is the non-residential development in there already? If that is not new language, then why is it all underlined?

Mr. Stepowany: It probably should just be underline 3.

Ms. Kirkman: Okay, that is what I was trying to figure out. Thank you.

Mr. Fields: Alright, thank you. Sorry we are throwing this at you at the last minute.

4. Traffic Impact Analysis Requirements

Mr. Fields: We have ten minutes. Is this traffic impact… how important are traffic impact analyses anyway? Can we get a brief start on that or… we will have to break at 7:00 because we have to…

Ms. Woolfenden: I can certainly give a presentation on that.

Mr. Fields: Alright. Get us started on it; we may have to carry it over.

Ms. Woolfenden: Computer please. Sara Woolfenden with the Department of Public Works. I am going to be presenting on Traffic Impact Analysis Code update and this is in response to the VDOT TIA guidelines for implementation. And a quick reminder; I presented on this before and we implemented these guidelines in January of 2008. As a response to the TIA guidelines, we changed our policies to comply and required these under our policy for rezonings, CUPs, preliminary plans and major site plans. There was a request to ad the TIA requirement to the County Code so it is more easily enforceable. And so that is what you see tonight. We are including with this change the County Code again four plan sections in the County Code to align with VDOT policy. So we would require TIAs for site plans and preliminary plans, major site plans and preliminary plans, and also set up included with this a stricter

vehicle per day count for rezonings and CUPs and we would standardize the TIAs, or Traffic Impact Analysis. VDOT currently requires 100 vehicles per hour for residential or 250 per hour or 2,500 vehicles per day for non-residential. This is their standard under rezonings. What we are proposing is a 1,000 vehicles per day threshold, which is stricter than either code, which also requires a VDOT traffic study as it is more stringent then our current code. The proposed code requires the stricter of the two standards; either the VDOT code or the 1,000 vehicles per day. That is because certain thresholds, vehicles per hour, certain things come in that meet that threshold so we are requiring the stricter of the two standards. There is also a VDOT requirement for rural roads, a rural road requirement, which we are simply leaving as the VDOT requirement so it is whichever of the two is stricter. For Conditional Use Permits, CUPs for VDOT are the same requirement as rezonings unless they are already rezoned. And so, what this does, if a property is already rezoned when it comes in for a CUP, it would not necessarily change anything under the VDOT standards. And so what we are requiring is that a TIA would be required if it increased above the existing usage by 150 vehicles per day and the 1,000 per day. And this is so that if there is an existing use such as a fast food restaurant or something and they come in to add a drive-in facility, that it may still meet this requirement. This is much stricter than the VDOT requirement for CUPs. If they came in for a CUP and a rezoning, it is very likely they would easily meet the threshold. For major site plans and preliminary plans, the proposed County Code matches the VDOT requirements for preliminary plans and major site plans. The current County Code has no requirements for preliminary plans or major site plans and Traffic Impact Analysis. What we currently have is a Traffic Impact Statement. Now, in our Transportation Plan we outline what a Traffic Impact Statement is, however, in the County Code there is no uniformity, there is nothing that says it is other than a Traffic Impact Statement. And so what we are looking to do is go to the VDOT Code which has very strict, very specific guidelines. Ours also has specific guidelines but it would be easier because the County and VDOT would have a uniform standard for traffic studies. It would make it easier to scope which we do before these traffic studies to review by both VDOT and staff here at the County and it would also be easier for applicants because then they would not have two standards to be meeting; they would only have one standard. Traffic Impact Studies. The purpose of a Traffic Impact Study is that we have information when there is a significant impact. Now, we get a Traffic Impact Statement which outlines things like we always know how many vehicles per day that we expect to get from a development. And so if it is a low threshold, we do not require this impact analysis because there is not anything significant that we can require of the applicant and so it makes very little sense, from a transportation standpoint, to require a TIA if it is a very low threshold of impact. Now, obviously, there are cumulative effects of traffic. So, for example, as one develops and then their neighbor develops, obviously you are starting to get cumulative effects, however, it is very difficult for the County to require each individual applicant these impacts unless it is significant enough that we can request very significant things of the applicant. And that is why these thresholds are recommended. And, again, the VDOT policy has a higher threshold than what we are proposing and that was in response to when I presented earlier and received some feedback from the Planning Commission regarding thresholds you would like to see. And, so, that is what is proposed and that is my presentation.

Mr. Fields: You did a good job, Sara. Do you have a couple minutes for questions?

Ms. Woolfenden: Absolutely. I am more than willing to answer any questions.

Mr. Fields: Any questions at this time? Perfect. In that case, all in favor of making these the laws of Stafford County, raise your hand. Alright, done. That was easy. Our next step on these is to look at… these all have to go to public hearing I assume?

Mr. Harvey: Yes sir.

Mr. Fields: Okay. Alright, let's ruminate that over dinner and we will come back at 7:30.

REVIEW OF PENDING REZONING/CONDITIONAL USE PERMITS

5. 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) (History - Deferred at July 1, 2009 Regular Meeting to August 19, 2009 Work Session)**

Discussed in regular meeting.

6. 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) (History - Deferred at July 1, 2009 Regular Meeting to August 19, 2009 Work Session)**

Discussed in regular meeting.

7. CUP2900104; Conditional Use Permit - 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) (History - Deferred at July 1, 2009 Regular Meeting to August 19, 2009 Work Session)**

Discussed in regular meeting.

REVIEW OF PENDING SUBDIVISION PLANS

None

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

None

OTHER UNFINISHED BUSINESS

None

APPROVAL OF MINUTES

May 20, 2009 Work Session

Discussed in regular meeting.

ADJOURNMENT

The meeting was adjourned at 6:57 p.m.

End of Work Session Agenda

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7:30 P.M. REGULAR MEETING

The regular meeting of the Stafford County Planning Commission of Wednesday, August 19, 2009, was called to order at 7:31 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, Baker, Zuraf, Stepowany, Schultis, Hess, Ansong and Woolfenden

Mr. Fields: Are there any declarations of disqualification?

DECLARATIONS OF DISQUALIFICATION

None

PUBLIC PRESENTATIONS

Mr. Fields: Alright, at this time we have the public presentation part o f the Planning Commission meeting. This is were any member of the public may speak to the Planning Commission for three minutes on any topic that is not listed for public hearing. If it is on this agenda, items 8 through 12, which are public hearings, then you will have an opportunity to speak at that time. So is any one here from the public who wishes to speak on another item? If so please come forward. Seeing none we will move on the very first public hearing, which is reclassification, North Stafford Center for Business and Technology, The Shoppes of North Stafford.

PUBLIC HEARINGS:

8. RC2900128; Reclassification - North Stafford Center for Business and Technology, The Shoppes of North Stafford - A proposed reclassification from B-3, Office Zoning District to the B-2,

Urban Commercial Zoning District, to allow a shopping center at 25 Tech Parkway on Assessor's Parcel 19U-1 consisting of 3.88 acres, located on the northwest corner of the intersection of Garrisonville Road and Tech Parkway within the Rock Hill Election District. The Comprehensive Plan recommends the property for Suburban Commercial and Office uses and Resource Protection. The Suburban Commercial designation would allow the development of commercial retail and office uses. The Office designation would allow development of professional offices and office parks. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the B-2 Zoning District. **(Time Limit: November 17, 2009)**

Mr. Harvey: Please recognize Kathy Baker.

Kathy Baker: Good evening Mr. Chairman and members of the Commission. I am here to present item number eight, which is a reclassification RC 2900128. This is the North Stafford Center for Business and Technology, also called the Shops at North Stafford. The applicant is H. Clark Leming for Lee Stafford Technology. Located on Assessor's Parcel 19U-1 and the parcel is 3.8 acres in size. This request is to rezone the parcel from B-3, Office to B-2, Urban Commercial. Existing uses are office with a mix of retail. The location is the northwest corner of Garrisionville Road and Tech Parkway in the North Stafford Center for Business and Technology. The zoning of the property is currently B-3, these are the properties to the north. To the east you have B-2 zoning. To the south is A-1 and to the west is A-1. This is the subject parcel on the front, just the 19U-1. The Land Use Plan designation is Suburban Commercial, to the north is office and then surrounding in yellow is Suburban Residential. This is an aerial photograph of the site, it is a little bit dated because you do not see the construction that has occurred here. This is Garrisonville Road and Tech Parkway, which has been constructed. We are across from Furnace Road. Parcel 1 was rezoned from A-1 to B-3 in 2002, it was part of an overall zoning for a forth-three acre office park. To date four of the buildings on site have been constructed and two of these buildings are on the subject property, which is parcel 1. Again the requested rezoning is for parcel 1 only. This change in zoning from B-3 to B-2 would allow greater flexibility of uses on the frontage property. There is to be no changes to the existing layout except for some potential parking reconfiguration. There is sufficient parking for the B-2 uses currently, but the applicant has planned just in case they need additional parking in the future. The existing buildings do meet the B-2 zoning regulations for set backs, for height, for floor area ratio and open space ratio. And the property would maintain access on both Tech Parkway and Garrisionville Road. This is a layout of the overall office park. This is Garrisonville Road to your left and then Tech Parkway which was constructed for the purpose of the office park. Parcel 1 is located along Garrisionville Road and Tech Parkway. These two buildings are both constructed, the larger building is constructed and one additional building. To the south there are two parcels that were added to the original office park in 2007, I believe, and the one building has been constructed here. Looking at the generalized development plan, which matches what is built today, again Garrisonville Road here at the bottom and Tech Parkway to the right side of the screen. 15 Tech Parkway is currently constructed but has no occupied units. 25 Tech Parkway is constructed as well and has one occupied unit. You have the access off of Tech Parkway and you also have access on to Garrisionville Road. This portion of Garrisonville is a four lane divided, so there is only a right in/right out access on to Garrisonville. And then the parking, of course, located to the front. You also have a stormwater management facility that is constructed for the overall park. And this just shows the potential parking redesign, basically if you look in the middle of the parking area, this travel way would be closed off and the islands would become parking places and it would be re-striped to add additional parking. And this is just the existing buildings as they appear on the site, 25 Tech Parkway and 15 Tech Parkway. With regard to transportation there was an original transportation impact analysis, actually there was one submitted in 2002, I failed to include that in the report but the 2004 that I included in your packet is actually comprehensive and includes everything that was done in the 2002

study. And that was done for the overall forty-three acres. There was an addendum to the study in 2007, when they included the additional rezoning of the parcels to the east, and they have revised the study with an addendum in 2009 for this application. Basically it gave the vehicle trips per day as almost five thousand just for the front parcel, but that is a negligible increase from the original proposal. The land used that they included in the original proposal are similar to what they are proposing here. So there are no further mitigation measures warranted. And just to note the property is served by public water and sewer, there were no cultural resources on the property and there are no additional environmental impacts because they have previously graded and constructed the entire site. The original proffers from 2002 will still apply to the remainder of the park, the new proffers will only be specific to parcel 1, and that would include restriction on the development for lower intensity uses, and also specifies maximum building height and floor area ratio to be consistent with the B-3 zoning. Also specify minimum open space ratio which is greater than the B-2 minimum required. They are also addressing any increase to stormwater management and proffer that there will be no disturbance to the existing bio-retention facility. As I mentioned the land use designation is Suburban Commercial. Staff believes that the proffers would limit the development to be consistent with the Suburban Commercial designation. Just to note that the draft Land Use Plan has recommended in the draft scenario would recommend this area as office. Staff is recommending approval with proffers as submitted. I will be happy to answer any questions.

Mr. Fields: Are there any questions for staff?

Mrs. Carlone: Kathy, looking at 25 Tech Parkway, can you go back to the schematic showing both 15 and 25 Tech Parkway? It shows the parking lots, down on your left hand side…we had a problem over at Perry Farms, see the space between the end parking unit, the little passage way? Yes, right there, what is the width right there for that ingress/outgress.

Mrs. Baker: I can not read it on there. It has been constructed and of course VDOT approved the width of the entrance.

Mrs. Carlone: Oh, okay.

Mrs. Baker: Let me see if I can see it on my plan.

Mrs. Carlone: No, I know it is but…

Mrs. Baker: It is thirty feet.

Mrs. Carlone: Okay, that was my questions because we had problems, like I said, over at Perry Farms, the same situation. Okay, that was it.

Mr. Fields: Alright, any other questions. Ms. Kirkman.

Ms. Kirkman: Yes, with this change in the zoning and the uses that have been proffered out, what exactly will they be able to do with the new zoning that they can not do now under the existing zoning?

Mrs. Baker: Basically it gives them the flexibility to do a little more retail as opposed to just strictly office. Right now the use that is there is a nail salon, but they would plan to do some additional retail instead of just office. They have not specified exactly what is going in there. I think they want to

change the zoning to attract a wider variety, but you would have to check with the applicant and see if they had additional uses.

Ms. Kirkman: So do you…do you have or can you get for us a list of the exact uses that they would be able to do that they can not do now?

Mrs. Baker: Sure, I have that, I just have to find it.

Mr. Fields: Any other questions for staff?

Mr. Di Peppe: Were there any proffers removed that were originally there that are not is this new rezoning?

Mrs. Baker: I believe the only one was something that had already been satisfied. It dealt with, give me just a moment to find it. There was a dwelling on site, so there was a thirty day notification required, but that dwelling was previously removed. They actually changed the square footage in the gross floor area of the buildings, they reduced that based on the size of the parcel, relative to the size of the parcel.

Mr. Di Peppe: Thank you.

Ms. Kirkman: Can you please explain if what this does is allow them to do more retail and less office, how is it that that doesn't lead to any significant traffic impact, because retail generates a lot more traffic than office use.

Mrs. Baker: When they initially prepared the traffic study, they actually prepared it with the plan of having some type of retail in the buildings, in the entire office park actually. Although it was designated for office, they were still preparing the plan in preparation of any retail down the line.

Ms. Kirkman: Thank you.

Mr. Fields: Any other questions of staff? Alright, is the applicant here? I assume since is see Debrarae walking to the microphone. I am assuming that she is taking the place of Clark.

Debrarae Karnes: I am.

Mr. Fields: We don't ever see Clark anymore.

Ms. Karnes: Although, no one can take the place of Clark.

Mr. Fields: Does Clark not like us anymore or is he just too busy to be at planning commission meetings?

Ms. Karnes: Clark believes that he learns from you guys and likes to watch.

Mr. Di Peppe: Is Debrarae required to write a paper like the rest of us on her summer vacation?

Mr. Fields: Yes, Debrarae might actually be required to write…we all had to write a composition on what we did on our summer vacation. I hope you had a good vacation as well.

Ms. Karnes: I did. Just for the record my name is Debrarae Karnes. I work for Leming and Healey and I am here representing the North Stafford Office Park tonight. I think three of you had questions and I am going to answer them right up front. First of all this was and approximately forty-three acre mixed use development approved several years ago with proffers. The proffers specifically stated that the portion that we are talking about tonight would be developed as the retail component. So retail uses were already proposed and allowed at the site. It is just that the retail uses under the B-3 category were somewhat more limited than under B-2. But it has always been intended for some sort of retail and that is why the proposed impact from the traffic to be generated by the B-2 uses is considered minimal. This has been reviewed by VDOT and they have agreed with that conclusion. I have a copy of their findings if for whatever reason you guys did not get. The bottom line, I am here, because as staff very accurately reported to you here we have two buildings constructed along a very populated area of Garrisonville Road and there is only one occupant right now. The owner is fighting to recruit more occupants, more users under the retail category and she is trying real hard. It is a hard market out there. That is why they have come in for this proposal. Staff's slide, the one error I saw in it, it characterized the use as office and I would submit to you that is wrong. The development, the forty-three acre development, I think is property characterized as office, but this is characterized as retail permitted under b-3. There was a question, what type of uses might be expected. I can not tell you who they are going to successfully recruit. I can tell you in the past week they were talking to a two doctor medical office, which is a use allowable in B-2, so that might be one example. Lets see, there were a few other questions that were asked. Mrs. Carlone asked about the width of the one western most entrance. Of course that is already built and approved by VDOT, but just for your information it is thirty feet wide. A couple of other points, by the way I had Chinese food today, the fortune cookie said this would be the easiest meeting I have ever been to. So I am hoping it is correct.

Mrs. Carlone: A challenge.

Ms. Karnes: We are proposing twenty-nine thousand and sixty-six square feet and we changed the proffers because originally it was a little higher. That is what is built, that is what is going to go there. We also changed the proffers to reduce the FAR to make it more compatible with the underlying comp plan designation…existing comp plan designation of suburban commercial. And finally, it is interesting, this plan proposes two alternative parking schemes and I just wanted to discuss that...just to get into that a little bit. The alternative parking scheme was first conceived of, not because they thought they would need the additional parking, but because when they initially met with staff, staff expressed that concern and we did not want to have any question out there. We submitted the alternative scheme that would only happen if the additional…if the mix of tenants warranted it and it would be implemented prior to issuance of the occupancy permits for the various tenants that triggered the need for the parking. What is interesting and what one issue came up, there are bio-retention areas in the parking lot and Rishi Baral, who specializes in stormwater with the county asked would this additional parking interfere with that runoff? We had the engineer run calculations, apparently the original areas were oversized and so they do not interfere at all with the operation of the bio-retention areas. I sent him the proffers, I sent him the engineer calculations and he was quite satisfied with it so I think we took care of that issue. If you have any other questions, I will be happy to address them. I also have the engineer here if you have more specific questions. I am at your service.

Mr. Fields: Are there any questions for the applicant? Ms. Kirkman.

Ms. Kirkman: Do you have a list of the uses that they can not do now that they will be able to do?

Ms. Karnes: I can get you that.

Mr. Fields: Are there any other questions? Mr. Howard, welcome.

Mr. Howard: Thank you Mr. Fields. That is the question I was going to ask of staff actually, what are the differences...the two differences between the B-2 and the B-3 in terms of the types of businesses?

Mr. Fields: That seems to be what is driving the whole thing.

Mr. Howard: Yes, do we have that? I would not want the applicant to provide it. I hope staff could do it.

Ms. Karnes: I will stand back and let staff do it.

Mr. Fields: Any other questions for the applicant? We can open the public hearing I think and we will be getting that. Alright, thank you. Is there anyone here that wishes to speak for or against this application? Alright, I will take that to mean it is rather not…or at least at this point is not controversial. So we will close the public hearing and bring this back to the Planning Commission. Are we getting that list passed around? You have it, oh you have it.

Mrs. Baker: I do not have a list, I left mine upstairs but I have the actual Zoning Ordinance which tells you what is allowed.

Ms. Kirkman: I think what would be helpful is not what is allowed, because I have up here what is allowed in the Zoning Ordinance. But what is different than the B-3. What are the additional uses they will gain, for instance one of the things that concerns me, that I was able to see right off the bat is that in B-2 unlike B-3, you can get a conditional use permit for adult business. That seems to be…and that was not proffered out, so I am wondering what else like that is in there.

Ms. Baker: Well typically they would not proffer out something that you would need a conditional use permit for, just because that would have to go through a process anyway. So typically and we recommend that they proffer out by-right uses since they would not be subject to any further scrutiny by the Planning Commission or the Board.

Ms. Kirkman: Sure, but the experience of the County seems to be it is pretty difficult to deny a CUP application.

Mrs. Baker: I can go through the list or if you would prefer I create one and hand it out to you, it is up to you. I was just going to read the differences and what is left between the B-3 and B-2.

Mr. Fields: Let me just suggest, in the interest of time, this is our first crack at it, we do not have to approve this tonight. I assume we are gonna move this to a work session. That is our standard procedure. So we could, for our next work session, if we could have analysis of what are the differences between the existing uses including how they are proffered and what is being proffered and by-right on the proposed rezoning.

Mrs. Baker: Unless you would like to bring it back up, give me time to run back to my office and get my list I have already prepared.

Mr. Fields: No, we can…I mean are we gonna move…did you guys want to approve this tonight or move this to work session? It is up to…if you want…

Mr. Howard: I think it is in the Rock Hill District, so I would have no opposition to moving it to the next work session. I would like those answers and we still have to have the public hearing.

Mr. Fields: No, we just had it.

Mr. Howard: We just had it. That is it.

Mr. Fields: That is it.

Mr. Howard: No one showed up. I was not sure if we actually allowed someone to stand up.

Mr. Fields: No, nobody had anything to say.

Mr. Howard: Okay.

Mr. Fields: So yeah, if we want to move it to the work session to get the set of answers that you need. So we all have that before us, so we can make that decision collectively, if that is what you want to do that is fine.

Mr. Howard: Yes, I think that is appropriate.

Mr. Fields: So a motion to move to the next work session?

Mr. Howard: I will make a motion to move RC2900128 reclassification of the Shoppes at North Stafford to the next available work session.

Mr. Mitchell: Second.

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? That is our first vote today. And it was unanimous. I think we are off to a good start for the second half of 2009.

Mr. Howard: Debrarae's fortune cookie.

Mr. Di Peppe: Debrarae's fortune cookie.

Mr. Fields: Debrarae's fortune cookie appeared to be going well. Item number 9, reclassification Taylor Industrial Parcel 45-51A and 45-51B, RV Parkway.

9. RC2900044; Reclassification - Taylor Industrial Parcel 45-51A and 45-51B, RV Parkway - A proposed amendment to proffered conditions to provide more flexibility in the permitted uses on the property, zoned M-2, Heavy Industrial Zoning District, on Assessor's Parcels 45-51A and 51B consisting of 1.99 acres, located on the west side of RV Parkway approximately 1,500 feet north of Warrenton Road within the Falmouth Election District. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the M-2 Zoning District. **(Time Limit: November 17, 2009)**

Mr. Harvey: Please recognize Amy Ansong.

Amy Ansong: Computer please. Good evening Mr. Chairman and members of the Planning Commission. I stand before you tonight to present item number 9 which is RC2900044 for Taylor Industrial Parcel 45-51A and 45-51B, RV Parkway. This is a proffer amendment. The applicant is Loyd Taylor. The parcels are 45-51A and 45-51B. The location is the west side of RV Parkway approximately fifteen hundred feet north of Warrenton Road. The request is to amend the proffers in order to allow for more flexibility in the permitted uses on the property, zoned M-2, Heavy Industrial Zoning District. Here is a map of the existing zoning. It is zoned M-2, the two parcels 45-51A and 45-51B. Here is the Land Use Plan Map, Urban Commercial. Here is an aerial photograph of this site. As you can see, it is just wooded. There are not any buildings or anything on it.

Mr. Fields: What is all that to the… are we looking, is this north to south here?

Ms. Ansong: To the southwest it is bus parking, parking for buses. So this site that we are referring to right now is used for overflow parking for those buses.

Mr. Fields: The site that is under consideration?

Ms. Ansong: Exactly. That is what it is currently used for now, parking.

Mr. Fields: There is not a lot of it now, right, because most of it is wooded.

Ms. Ansong: Mm-hmm.

Mr. Fields: Okay.

Ms. Ansong: Background information concerning parcels 45-51A and 45-51B. The site area is 1.99 acres. In November 1997 it was rezoned, the land was rezoned from R-1 to M-2 with proffers restricting the use to solely parking. The current use is parking; it is used as a parking lot. The applicant is proposing to develop the area as flex office and the area would be connected to public water and sewer, it is available. Here is the GDP for the sites. Up here is Warrenton Road; you drive down RV Parkway and here are the sites. Here are the proposed proffers for Taylor Industrial, Parcel 45-51A and 45-51B. In terms of the changes, the applicant is proposing to delete the use restriction that permits only parking. The applicant is also proposing to prohibit certain uses that are allowed in M-2 zoning such as commercial kennel, contractors' equipment yard or rental of equipment, fleet parking, railroad sidings, truck/freight terminals, truck wash, and welding or machine shops. Also, permanent parking and storage of tractor-trailers will not be allowed. The maximum square footage will be 25,650 square feet. Other

changes; the applicant is proposing to mitigate disturbance of the wetland through the use of wetlands mitigation bank. And, in terms of landscaping, there will be a minimum of fifty percent of landscaping units provided within the buffer shall be evergreens and they will also provide a six foot privacy fence. This is a proffer amendment so, in terms of the proffers that are remaining the same, such proffers include the proffers that deal with limitation on signs. There shall be no more than one freestanding monument sign. The lighting proffer shall remain the same. The proffer concerning the twenty-five foot right-of-way for the future widening of RV Parkway and the connection to future water and sewer, the availability of it. In terms of this proffer amendment, it is zoned M-2 but the Land Use Plan calls for it to be Urban Commercial. And when you look at the uses that are allowed in M-2 zoning, many of those uses are not allowed in Urban Commercial so that is why staff has recommended denial of the application, because some of the uses in M-2 are not compatible with the uses that are allowed in Urban Commercial. Any questions?

Mr. Fields: Are there questions for staff?

Mrs. Carlone: Yes, Mr. Chair. It looks like there are quite a bit of wetlands going through the property. How much of that piece of property is wetlands? Do you know off-hand?

Ms. Ansong: No, I do not know off the top of my head unfortunately.

Mrs. Carlone: Anyway, it goes through… that is kind of disturbing. It looks like quite a bit.

Ms. Ansong: Computer please. The wetlands are right here in the middle, the middle of the property. In terms of percentage-wise, that I do not know, in terms of the percentage of property.

Mrs. Carlone: About a third of it would you say is wetlands?

Ms. Ansong: Maybe a little less; maybe like a quarter.

Mrs. Carlone: Have they looked at an area… I don't personally believe in mitigating outside of the County. In fact, I don't believe in mitigation to a degree. Do they have a location? That would be more for the applicant. But that is a problem for me to see that much wetlands through there, and that is it. I would say it was about a third, maybe a little less than a third of the property.

Mr. Fields: Any further questions? Mrs. Carlone, is that all?

Mrs. Carlone: Oh, yes, I am sorry.

Mr. Fields: Okay. Ms. Kirkman?

Ms. Kirkman: What exact uses does staff think are incompatible with the current Comprehensive Plan?

Ms. Ansong: Let me get my list out. Well, right now M-2 is heavy industrial and then Urban Commercial is a little lighter in terms of the use so, do you want to just list all the uses that are allowed in M-2 that are not allowed in Urban Commercial?

Ms. Kirkman: It is helpful to know what it is that they can do that they can't do now.

Ms. Ansong: Okay, in terms of what is allowed in M-1/M-2 right now, one use is automobile assembling/disassembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or battery manufacture. That is one. The second one, in terms of what's still left, another one is aqua-culture, another one is laboratory and research and testing, another one is light industrial uses, light manufacturing uses, motor vehicle rental, recycling facilities, selected indoor recreational enterprises within industrial parks, and storage warehouses.

Ms. Kirkman: Then, regarding the wetlands, what is the water source that is feeding those wetlands? Is there an off-site perennial stream?

Ms. Ansong: There might be, I just cannot recall off the top of my head. Okay, no.

Ms. Kirkman: Where is the water coming from for the wetlands?

Ms. Ansong: I am not sure where it is coming from. It just feeds down to Falls Run is what I have been told.

Mr. Fields: It doesn't feed up from Falls Run.

Mr. Zuraf: It feeds down to Falls Run.

Ms. Kirkman: Right, but where is the water coming from?

Mr. Fields: Rainwater?

Ms. Kirkman: Something makes it wet. I am trying to find out what makes it wet.

Ms. Ansong: Exactly. I am not sure. It could be the topography perhaps. It slopes down but I am not really quite sure.

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

Mr. Di Peppe: I am also concerned about the mitigation of the wetlands because, in the report, it states the site shall be permitted as necessary through the Corps of Engineers, the Virginia Department of Environmental Quality to process any wetlands impacts which are located within the project. The applicant has proffered to mitigate this disturbance by the purchase of wetlands credit from an applicable wetland mitigation bank if such application is necessary. Here again, I have the same concerns as Mrs. Carlone has about that because it appears… do we know the acreage of that? We asked that before.

Ms. Ansong: Of the whole site?

Mr. Di Peppe: Of the wetlands.

Ms. Ansong: No, I do not know that.

Mr. Di Peppe: Because that would be a question and then exactly what kind of mitigation are we talking about, those kinds of questions I would certainly want. I am not looking to necessarily vote to deny it tonight because I would like to give the applicant the chance to answer these questions, but if I were

forced to vote on it tonight, I would certainly follow staff's recommendation. But perhaps we can find some common ground.

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

Ms. Kirkman: I have one other. Does staff agree with the assessment conducted by the applicant that this will bring in roughly an additional $28,000 a year in taxes that it doesn't generate now?

Ms. Ansong: We just go based off of the calculations.

Ms. Kirkman: So you agree with that assessment?

Ms. Ansong: Yes, based off those calculations.

Ms. Kirkman: Okay, thank you.

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

Mr. Howard: Just did the applicant state the intended use for those buildings?

Ms. Ansong: All we know is that they are proposing to do flex office in terms of …

Mr. Howard: Two-story flex office buildings? These are two-story buildings?

Ms. Ansong: I believe so, either one or two; yes. In terms of the actual use going in, either one or two. We do not know about that.

Mr. Howard: Okay, thank you.

Mr. Fields: Alright. Any questions… let's have the applicant. Okay, round two.

Debrarae Karnes: For the record, once again my name is Debrarae Karnes. I am an attorney and land use planner with Leming and Healy and I am here to represent Loyd Taylor, the owner and developer of the Taylor Industrial Parcel. Now, Commissioners Carlone and Kirkman asked some very pointed questions as did the two gentlemen. Let me set the stage before I answer them. So, what I want to focus on is the ultimate issue I think is whether Stafford County is better off with the property as currently zoned or as it is proposed. What's currently now, there now, is zoned M-2, Heavy Industrial, and is proposed for school bus parking. School bus parking is not the most attractive sight, although it is pretty set back from view of Warrenton Road or any public area. And it is next to existing school parking and across the road, the little entry road, from a truck repair shop. And just staying with this school bus parking for a minute, those same wetlands that you are concerned about will still be disturbed and will still be mitigated the same way, but without any other landscaping or environmental protection. So that's what's there now, if this proposal does not go forward. What's proposed is flex building and we propose two alternatives. The standard flex building that is two-story with a garage or out and out office buildings. If you have not seen this site, you do need to see it. It's definitely an industrial area. Now, that's what's there now. Let's talk about what's proposed. First of all, I sat down with Mr. Taylor and we went through every use to decide what to proffer out because the area is, as staff reported, designated Urban Commercial. And in my mind at least, as a land use planner, that means really to be consistent there should be no heavy intensity use that is incompatible with B-2. Now, what I call heavy industrial

use, it's incompatible with B-2, does not necessarily mean the same as the uses only allowed by-right in the B-2 zoning district. And when I hear staff talking to you about how it is incompatible with the Urban Commercial uses, I think they are mixing and matching and really looking at the B-2 uses. Let me tell you how we negotiated this because I want to show you how it went through staff review. The original comments we received from staff asked us to proffer out heavy impact uses. I then got a call back from staff thirty minutes before their report was due and she asked me to proffer out, on behalf of the applicant, five more uses. The uses that she asked for included commercial kennels which staff believed was inconsistent with the Urban Commercial designation. We didn't agree with that really but my client has no desire to build commercial kennels so those were proffered out. They also requested proffering out research laboratories which, to me, is consistent with an Urban Commercial designation which, by the way, permits… Urban Commercial designation basically permits both wholesale and retail commercial uses. Also, staff requested that a storage or warehouse would be proffered out, as well as auto assembly. My client, thirty minutes before the staff report was due, declined to proffer out auto assembly, lab research or storage/warehouse. And, to me, at least two of those three aren't even properly characterized as heavy industrial. And the third one, auto assembly, lumps in so many uses that we thought it was overkill. And so we were afraid that, number one, he couldn't do truck repair which was happening on the other parcel, and two, we were afraid that storage/warehouse… oh, I'm sorry, I lost my train of thought. Must have been that Chinese food. We were afraid that a simpler use such as installing or doing and installing upholstery on auto seats would be prohibited. So that's kind of where we stand now. Staff has sent me an email today at my request. I asked them what it would take, what we would need to proffer out to get their approval and they told me we needed to proffer out recycling, the auto assembly, and also all uses that were characterized either as light industrial or light manufacturing. And that really seemed an overkill; it really seems to be asking for us to proffer out uses without really a reasonable nexus to the goals of the Urban Commercial land use designation. So, you know, I think my applicant is willing to work with you but the requests that we are getting really came too late in the process and he really needs to be able to maximize within the goals of the County the use of the property. So, I will leave the uses there but I bet you have got more questions. I want to go to the wetlands. The engineer sitting behind me tells me we are disturbing a little less than two acres per land and that the water is not coming from a perennial stream, it is coming from overflow from the adjacent County site. And I will be glad to bring him up here and answer more questions. I am here to tell you I think I am pretty comfortable in saying we think that staff's recommendation is too harsh. We think this use, as proposed, is desirable and we are willing to work with you if you see an opportunity there to reach consensus. Or, I think this is a case I am still going to tell you is a good use and deserves approval. Let me answer any questions I can.

Mr. Fields: Any questions for Ms. Karnes?

Mrs. Carlone: Mr. Chair?

Mr. Fields: We will start with Mr. Di Peppe.

Mr. Di Peppe: My district. You might have gotten the wrong fortune cookie.

Ms. Karnes: Oh dear.

Mr. Di Peppe: I'm sorry, but you kind of got off on the wrong foot with me by telling me that you are going to…

Mr. Fields: These are questions Mr. Di Peppe.

Mr. Di Peppe: Well, I'm leading up to a question. It's a preamble to the question.

Mr. Fields: Well, let's keep in focus please.

Mr. Di Peppe: Okay. Well, you need my recommendation so you might want to listen.

Ms. Karnes: I'm listening.

Mr. Di Peppe: When you say to me that you are going to do this regardless and destroy the wetlands regardless…

Ms. Karnes: Did I say destroy?

Mr. Di Peppe: Well, that's the impression I got. Let me ask you this, did you not say, here's a question, did you not say to us that we ought to do this because we were going to get the disturbance of the wetlands and wouldn't we rather have the… the inference was wouldn't you rather have the income producing activities as opposed to bus parking. I believe that was the way it was… that we could have the wetlands disturbance anyway just for bus parking. And I would wonder if that is really economically feasible to go to that great expense to mitigate two acres of wetlands so you can get more bus parking. I would question whether that would really… and so when it is put forth like you better do this or you might get that, do you think that might offend me? I have to be honest with you. That being said, okay, we rely on the staff and when they do denial it makes it very difficult for me to overcome that. But I just wanted to make that point because when you come up and make that point to me the back of my hair stands up and it's a bad sign.

Ms. Karnes: Okay. Do you want me to respond to that?

Mr. Di Peppe: Yeah.

Mr. Fields: Well, in a limited fashion. I mean, I really don't want to debate the issue between the Planning Commission and the applicant. Per se, I want to get questions to clarify all of our information on the table before we open the public hearing.

Ms. Karnes: Let me just say that I am not bragging about… I hope I didn't use the word disturb wetlands. We will be mitigating it when it is developed by-right. So, we are not proposing any reduction of the wetland area from what is scheduled to be developed. Do you think that is a fair statement?

Mrs. Carlone: No.

Ms. Karnes: And in any planning issue, I really believe that the apt comparison is between what can be developed by-right, or under these existing proffers, and what is proposed. And finally, thirdly, I cannot sit up here and talk to you about economic viability; my job is planning. I do not necessarily see the economics of it.

Mr. Fields: Other questions for the applicant?

Mrs. Carlone: Yes.

Mr. Fields: Mrs. Carlone I think has a question first and then Ms. Kirkman.

Mrs. Carlone: Debrarae, you mentioned that your client did not want to, I believe I heard this correctly, to take out I believe it was truck repair?

Ms. Karnes: That's what he advised me Friday before when we were talking to staff.

Mrs. Carlone: Okay. Well, that is destructive to the wetlands also. Now, has he mentioned where he is going to mitigate this? We had an incident for Woodrow Wilson Bridge some mitigation for destroyed wetlands brought down to Stafford. Now, do you have any idea where this mitigation is supposed to be? Where those acreages are going to be? Are they going to be in Stafford to offset the loss here?

Ms. Karnes: First of all, the exact location of the mitigation area has not been determined because it will be done at site plan. My understanding, and let me verify this with the engineer… you told me it has to be within the same watershed so that means Stafford County?

Mr. Fields: Rappahannock River.

Ms. Karnes: And for the purpose of the record, just so that was heard, it is within the Rappahannock area watershed.

Ms. Kirkman: Which may or may not be in Stafford.

Mr. Fields: It could be anywhere from the Blue Ridge to the Chesapeake Bay.

Mrs. Carlone: Just to sum my question up, to say it is going to be disturbed anyway, there is wetlands delineation. It encompasses almost, as mentioned earlier, almost a third of the property and then it goes beyond off-site. But I just think there might be some other way of handling this than to use this whole area of the wetlands. You do have some areas that are outside of the wetlands that isn't a problem to build on and would not disturb wetlands. That's all.

Ms. Karnes: Okay.

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

Ms. Kirkman: If you are proposing flex office space which would be consistent with the Urban Commercial designation, why don't you simply proffer out every other use if, in fact, the intent is to use it for flex office?

Ms. Karnes: The intent is to use it for either flex office or non-intensive uses allowed under M-2.

Ms. Kirkman: There seems to be some sort of confusion because as I am looking at the staff report it says "proposed use, flex office".

Ms. Karnes: If you look at the proffers, you will see that certain uses are proffered out. Flex office would be one potential use of the property.

Ms. Kirkman: But the applicant is not willing to say that is not the only use of the property.

Ms. Karnes: That's correct. I can ask him again. I am not adverse to asking him to proffer out specific things but, by the same token, if there is no reason a specific use is incompatible per se with the urban district, comp plan district, Urban Commercial, then I am not sure I would be doing my client a service by having him proffer it out.

Ms. Kirkman: And you are correct that you will disturb the wetlands under the by-right use now, however, you will only be limited to bus parking under your current proffers. So, I would really encourage the applicant to look at how they can be more flexible in their design to preserve those wetlands in order to be able to use the land for something other than bus parking.

Ms. Karnes: Okay.

Mr. Fields: Any other questions for the applicant? Alright, if you want to have a seat we will open the public hearing and see where we want to go after that. At this point we will open the public hearing. Is there anyone that wishes to speak for or against this application? Seeing or hearing none, then I will close the public hearing and bring this back to the Commission. It is in the Falmouth District. Mr. Di Peppe?

Mr. Di Peppe: I would like to move that we bring this back to the next work session and have discussion in the meantime. If the applicant would like to contact me I would be happy to sit down and talk with him. Maybe work through some of the details. I particularly appreciate Ms. Kirkman's and of course Mrs. Carlone's comments on that and if you want to put one more person who wants to be there or anybody who wants to be there, but I would be happy to sit down and talk. But, as it sits now, I think it has got some serious problems. But I don't think it's fatal, I just think we need to sit and talk.

Mr. Fields: If available, I would be happy to help with that. That is a district that we sort of share; that is right across the street from the George Washington District, in that corridor. So there is a motion to defer; is there a second?

Ms. Karnes: Mr. Chairman?

Mr. Fields: Yes Ma'am.

Ms. Karnes: If I could just correct the record for one point. I misspoke at one point. When I answered the question how many acres, I said two acres. It is two-tenths of an acre so it is a lot less.

Mr. Fields: Okay.

Ms. Karnes: So, I don't think that is going to affect your decision but I felt the need to correct that.

Mr. Fields: Point two acres versus two acres.

Ms. Karnes: Two-tenths.

Mr. Fields: Right.

Mr. Di Peppe: Big difference.

Ms. Karnes: Yeah.

Mr. Fields: Alright, is there a second for the motion to defer?

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Any discussion on the motion to defer? Alright, all those in favor…

Mr. Howard: Discussion real quick. For the work session, could we also get a list, and I think this was mentioned earlier, what is the difference between the current zoning in terms of land use and then what would be allowed? I know we are asking them to proffer out a lot but I would also like to understand better just a quick list of the M-2 Heavy Industrial because I think that is what it is zoned today.

Mr. Fields: Could I also request that, perhaps for the work session, that we have somebody from Economic Development here or someone that could help us think through some of the economic values of what this is. My concern… I understand everybody's concern from a physical standpoint… one of my continual concerns is that we don't miss any opportunity to create at-place employment for people of Stafford County. Nobody yammers more about sustainability than I do and certainly that implies to environmental issues and I am always solidly behind that. But in the big picture, one of the most sustainable things for Stafford County is for people to work and live here and not other places. So, I would like to see somebody from Economic Development who could help us sort through these types of uses, typically how they work out in Stafford County, what the patterns of employment could be, wage scales, numbers of people, skill types and things like that, so we can get a handle around when we are looking at the big picture what if something does go there as requested, what is that to the workforce fabric. I would appreciate that.

Mr. Harvey: Will do.

Mr. Fields: Okay, the motion is on the table. 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, our second unanimous motion. Good, we are on a roll. Okay, number 10, reclassification, Wyche Road Properties.

10. <u>RC2900101; Reclassification - Wyche Road Properties</u> - 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 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 Comprehensive Plan recommends the property for Urban Commercial, Light Industrial, and Resource Protection Area land uses. 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 used in the B-2 Zoning District. **(Time Limit: November 17, 2009)**

Joey Hess: May I have the floor computer please. Good evening Mr. Chairman, Commissioners. I bring forth to you item number 10 which is Reclassification, Wyche Road Properties. The case number is 2900101. The applicant is Mr. Ed Wilbourn. He is the managing member of R Income Properties LLC. R Income Properties is comprised of the following LLCs: Airport Business Group LLC, Grappler Investments Group and Stafford Enterprise. The subject parcels to this reclassification are as follows: 38-76A, 76B (a portion of that), 76C, 76E, 76F, 76G, 77 and parcel 80. Those are all 38, of course, Tax Map 38. The total amount of acreage is 90.31 acres. The request is to take A-1, Agricultural, and B-3, Office, parcels and rezone to B-2, Urban Commercial. The existing use is undeveloped. The location is west of Wyche Road approximately twenty-five hundred feet south of Courthouse Road. Just to give you a little background information on this site which we are speaking to tonight, there have been several plans that have been submitted to the County; two grading plans, which both have been approved. There are two infrastructure plans; one was approved for a twelve inch sanitary sewer line that goes from Wyche Road up to the proposed internal road which I will get to later on and there is one that is still currently under review. There is also a major site plan submitted for the construction of two buildings approximately 92,000 square feet on the B-3 zoned properties. Those two properties are Assessor's Parcel 38-77 and 80. Just to also give you a little history on the subject properties, in June of 2007 the applicant proposed to reclassify approximately six A-1 properties to M-1, Light Industrial. They currently own two properties that were already zoned industrial… I will get to that in a second, sorry. And then in December of 2007 the proposal was denied by the Board of Supervisors. Then in March of 2008 the Board initiated a reclassification that rezoned several industrial properties to B-3, Office, two of which the applicant owned. That was 38-77 and 38-80. Here is a picture of the zoning map; I have done like a purple outline here to see the entire project kind of weaves in and out, has fingers in a sense. And then you will see the two properties, 38-77 and 38-80, that are in a dark pink color. Those are the rezoned to B-3 properties and then the rest are agricultural properties which are all connected together, all contiguous. Here is a picture of the current land use map. As you can tell, the majority of the property is slated for urban commercial uses or is desired to go to urban commercial uses. There is a little resource protection area in the southeast corner. Here is an aerial of the subject property. As you can tell, it is pretty much undeveloped. There is already clearing and grading at the north end of the property and since has moved down along the property to the southern end of the property. I am going to zoom out here for a quick second just to give a better geographic perspective of what's around. To the southwest you have the Rappahannock Regional Jail, you have industrial uses all wrapped around Venture Drive, to the north you can see the Courthouse/I-95 interchange, there is a commuter lot over on the western side, just to give a general perspective. And then, of course, in the lower right-hand corner is Route 1, down there. The proposal, as mentioned, the subject area is eight parcels of land, two of which are B-3 and six of which are A-1. On the GDP, as you might have noticed, it does say that it is the I-95 Industrial Park, however, I do believe the applicant intends to say that the project is proposed as a Business Commerce Park which is on their proposed draft statement. Of course, keep in mind there was a 2007 proposal so it kind of carried over because I think at the time they were proposing an industrial park in 2007. Anyways, moving along, there are thirteen buildings that are

proposed. They are ranging from 25,000 square feet to approximately 150,000 square feet. The total GDP shows just a little over 900,000 square feet, however, the applicant is proposing a cap of 1.2 million square feet. Also on the GDP there is an access point from Wyche Road. They are proposing a future street within the project called Blackburn Place and so, of course, the connection is going to be to Wyche Road. The applicant is not proffering the GDP so with that the ultimate building layout may vary from what is shown on the GDP. Here is a picture of the northern half of the GDP. As you can see, there is Venture Drive at the bottom coming into… pretty much aligning with Blackburn Place. Where Blackburn Place is proposed it shows just a couple of the buildings there. Then moving down to the southern end of the property you can tell all the buildings wrap around Blackburn Place as it extends to the southern portion of the property. At the very end of the property there is a portion that is not subject to the rezoning and that is where Accokeek Creek is so they have pretty much kept the RPA resource out of the proposed reclassification. And then there is one building to the bottom that actually will come onto Wyche Road directly and not have access from Blackburn Place. The applicant did resubmit their 2007 Traffic Impact Analysis or impact study. The study evaluated the site entrance of Blackburn Place onto Wyche Road. It evaluated Wyche Road/Courthouse intersection and both the ramps to Interstate 95. The study found that with our without this rezoning, all evaluated intersections along Courthouse Road will have a future Level of Service of F in the a.m. and p.m. at peak hours. It said that the site entrance to Wyche Road where Blackburn Place is proposed would function as a Level of Service B in the a.m. peak hour and a Level of Service D in the p.m. peak hour. Therefore, the study found that no mitigation measures were warranted. However, in staff's evaluation of the TIS they said the proposal would strain an already burdened roadway network and gave a little comparison. The applicant was proffering not to exceed approximately 62,500 vehicle trips per day which would cause the current system to be increased four times on Courthouse and three times on Route 1. I gave some comparisons in the staff report as currently right now, Warrenton Road, the highest vehicle trip generations per day is 43,000 and 50,000 on Garrisonville Road, just to give some perspective. So, therefore, the proffers would have to significantly widen or construct new roads within this area in order to improve the roadway network. The study demonstrated a need for a traffic signal at Wyche Road and Courthouse Road intersection, however, in talking with VDOT it seems as though the signal would not be warranted simply for the fact that there is a new standard now, or at least the new guideline which VDOT goes by, and it is called their Primary Access Management Standards. What you have in the system right now is you have the proposed signal being too close to the access ramps off of the interchange and also you have the new signal that was recently put up approximately in the last two or three years there at Courthouse Road and Jason Mooney Drive or Red Oak Drive, depending on which side you are coming into Courthouse Road. Staff did recommend to the applicant some proffers. One was to provide monetary contributions to offset improvements other than monetary contributions towards a signal that looks as though is not going to be requested or accepted by VDOT. Another one was to develop the property in phases by providing additional access points to help reduce the impact on the existing network. Another one was to possibly widen Wyche Road to add additional lanes or construct another outlet to serve the project. And then, finally, the last one was to provide a share for the cost of connecting Jason Mooney Drive and US Route 1. I would just like to point out that in the earlier aerial there were some areas of designated right-of-way dedication so, really what staff was talking about was connecting to those already dedicated right-of-ways to potentially connect either Jason Mooney Drive or potentially out to Route 1. The transportation plan, as it stands right now, the current one, recommends no improvements to Wyche Road. It does speak to a realignment of Courthouse Road. Of course, this would occur with the reconstruction of Interstate 95 interchange and to date the exact location or alignment of that interchange is still unknown. From the utilities side, the applicant proposed to construct and connect a ten inch water line to serve the site. He also proposed a twelve inch sewer line from the Rowser pump station to the proposed cul-de-sac on Blackburn Place. The Utilities Department suggested that the proffers conflict with what the applicant is proposing as far as the pro rata

share that was in their proffer statement. The Utilities Department suggested that the applicant upgrade the pump station to accommodate the site's sewage flow as well as provide additional capacity for future flows in the area. And then at such point in time in the future, the County would reimburse the applicant for providing that additional capacity. Natural Resources; the northern half, the way this layout goes, it is bisected by streams with critical resource protection area and wetlands. That is basically at entry right there at Blackburn Place and Wyche Road. Then there are some street terrains that exist along the site. There is a gradual terrain in the uplands of the property. I showed you earlier, there is a lot of recent clearing and grading taking place on the property so it has changed the layout of the property somewhat. And the GDP indicates that Blackburn Place would have some impact on wetlands and intermittent streams but it does avoid some stream crossings. And then the southern half is, once again, adjacent to Accokeek Creek and, as mentioned earlier, the rezoning was reduced and left out the area where the resource protection area is at in order to protect environmental resources. Archaeological resources; there was a Phase 1 study that was conducted. It found five isolated finds, none of which were eligible for the National Registration of Historical Places. There was one abandoned house on the property that had no unique features and was in disrepair. There is a cemetery that has its own parcel. It is actually parcel 38-76J which is not owned by the applicant but his property does surround this property. That is where the Greenhowe family cemetery is located at and it was identified that there are two marked graves there and one ground depression. The study recommended that a cemetery delineation be completed prior to any site plan approval on, of course, the delineation on the 38-76J. Also the proffer was crafted to provide an access easement from right-of-way to actually get to the cemetery. Also to construct a fence around the limits of the cemetery and maintain area and assign maintenance to the property homeowner's association, which would be the property owner themselves, there would be no homeowner's association. Here is a picture of the building that is in disrepair; there are no significant unique characteristics to it. Staff's evaluation of the study; staff believes that proffer 4 may not be enforceable since we do not know if the applicant has obtained permission from the Greenhowe family to do a delineation on their cemetery. The Phase 1 study which again was submitted with the 2007 reclassification proposal did not cover the two now B-3 properties which are 38-77 and 38-80. However, during a site plan review there was another cemetery called the second cemetery that identified nine grave markers and those were all on parcel 38-77 which is the applicant's property. So, there is a requirement in the ordinance, Section 28-39(o), which makes a requirement to delineate the cemetery and the applicant has already submitted an application in order to obtain permission from the Virginia Department of Historical Resources to excavate the markers and relocate them within or adjacent to the Greenhowe cemetery. The applicant may be able to speak more to that as far as their plans. There was an electronic copy received from VDHR that gave them a temporary approval of their permit with conditions listed which is in your packet. The applicant laid out several proffers, one which was already mentioned. It limited the gross floor area to 1.2 million square feet. The applicant does specify building materials within the building material criteria. He references building illustrations that reflect the general character and design of what he is proposing to build on that site. He also, as mentioned, conducted a cemetery delineation on parcel 38-76J, provide a pro rata share for the traffic signal, limit the vehicle trips to 62,500 vehicles per day, a new one was to reserve right-of-way dedication along Wyche Road, and finally provide a pro-rata share contribution for the Rowser pump station upgrade. Here are a couple pictures of what the applicant is proposing to build. As you can see, some of their products they have already built in Prince William County. Under land use, as shown earlier, the land use designation is a majority of Urban Commercial with a little bit of resource protection on the property. Staff found that the request was consistent with the land use plan which was Urban Commercial, however, the uses are not located where there is access to major collectors, arterial roads and highways so it was a little bit of a location criteria when you talk commercial uses and Wyche Road is not considered any of these roadway facilities. Staff felt that the proposal is consistent with the established zoning and land use pattern, and inconsistent with the established development pattern.

Existing industrial uses did become non-conforming due to the Board initiated 2008 reclassification and we found that the proposed proffers would not mitigate the impacts on the existing roadway network. Another plan that is involved of the Comprehensive Plan, the proposed Comprehensive Plan, the draft one, is the Courthouse Redevelopment Plan and it is set to be incorporated into the draft Comprehensive Plan. It would make the existing industrial uses inconsistent. It also recommends retail, office, hotel and entertainment uses in this area. Therefore, staff found the B-2 zoning proposal to be consistent with the Courthouse Redevelopment Plan. Here is a picture of the boundaries of the Courthouse Redevelopment area. As I mentioned, all properties subject to this reclassification are located within this redevelopment area. There is also the Economic Development Strategic Plan which is part of the Comprehensive Plan. Recommendation 49 speaks to establishing a grid street system within the redevelopment area. It suggests that a connection of Wyche Road to Jefferson Davis Highway would greatly improve the southwestern quadrant of the redevelopment area from a transportation perspective. Currently the proposal has the one access point from Blackburn Place onto Wyche Road. So, staff said that the proffers do not adequately handle the anticipated traffic to reach this goal. And then the draft land use plan… I apologize, it did not call for the redevelopment area. It is in the redevelopment area but the draft shows that the recommendation is for the areas for business and office uses. I will show you a map in a second. So, right now, until the redevelopment plan is officially incorporated in the Comprehensive Plan, the land use proposal shall be consistent, or is consistent, with Planning and Zoning and would stay consistent. And then here is the map, of course, outlined in dark pink is the land use designation for office and then the striped area which is adjacent to it is for business uses. And finally, despite the proposal being consistent with the land use map, as far as the commercial uses go, and despite the fact that the proposal would advance the redevelopment efforts envisioned in the Courthouse Redevelopment area, staff cannot fully support this application because the proposed proffers do not adequately off-set impacts to public facilities. And with that, any questions?

Mr. Fields: Any questions for staff?

Mrs. Carlone: Yes, I do. This has to do with the Greenhowe cemetery and then I think you mentioned, and it's in here showing two graves, and then there is a second cemetery that has nine. Did I understand you to say that they are going to remove the remains and take it to the Greenhowe?

Mr. Hess: Once again, I believe the applicant could probably best answer the status of that but from what information I was getting, that seemed to be the direction which the nine grave markers were going to be moved to somewhere adjacent to the Greenhowe cemetery.

Mrs. Carlone: There is usually remains under those markers, that why I mentioned if you are going to move. Could you just tell me then how close is this property around the Greenhowe cemetery? What is the setback?

Mr. Hess: I believe one of the properties actually surrounds the entire Greenhowe property, 38-76J. Actually, if I could get the floor computer please, I will try to go back to it. Floor computer please. The aerial will show the tax map line. If I can get it to move and I can't. Anyways, it is completely surrounded. If you look at your GDP, there is like a little square I want to say towards the southern end; I am not sure what the property is off the top of my head. If I could get the floor computer back now.

Mrs. Carlone: That's okay Joey.

Mr. Hess: It's there; it's surrounded.

Mrs. Carlone: What I was leading up to, was it more than fifty feet around the cemetery and I am just concerned about the moving of the other remains, the nine.

Mr. Hess: Right, I believe what is proposed is for the applicant to plat and survey the Greenhowe cemetery, the property line of it, and then do a delineation of it. I believe it is thirty-five feet around. I believe the Ordinance requires the same thing on the second cemetery, the one that is currently on 38-77, that is going to be moved adjacent to the Greenhowe cemetery. So each cemetery will have a marked boundary and it will be thirty-five feet from that marked boundary. That is the delineation.

Mrs. Carlone: Okay. But the second one, the nine, they would be moving those.

Mr. Hess: Correct.

Mrs. Carlone: Okay. So you would need additional space in addition to the current thirty-five circling the two, is that correct?

Mr. Hess: Right.

Mrs. Carlone: And another thirty-five…

Mr. Hess: Like I said, I think there is a more up-to-date status that I am aware of but I would rather the applicant answer that one.

Mrs. Carlone: Okay, thanks.

Mr. Hess: Sure.

Mr. Fields: Mr. Di Peppe?

Mr. Di Peppe: Did you say that he had not yet gotten permission from the family to delineate the first cemetery?

Mr. Hess: I am unaware right now if he has gotten permission to delineate the first cemetery.

Mr. Di Peppe: Okay. And also you said a six foot fence but there was nothing about what kind of fence, what it is made of, what it might look like, anything like that.

Mr. Hess: Right.

Mr. Di Peppe: No information on that yet? Do I need to ask the applicant about that?

Mr. Hess: And this is for… for that proffer?

Mr. Di Peppe: Yes, there is a proffer for, I believe, to put a fence around I thought it was the first cemetery.

Mr. Hess: Right, which is the one on… it is an Ordinance requirement.

Mr. Di Peppe: Right. Okay, but we don't know anything about the type of fence or the material or anything like that. But I am concerned that there is not yet any…

Mr. Hess: Well, it says in the Ordinance that the type of fence to be used shall be determined on a case by case basis and should include a gate for public access.

Mr. Di Peppe: Okay. And so, I understand that they are not going to actually take the other graves and put them on that first cemetery site; they are going to delineate a second site that is on their property, the site property, as opposed to the graveyard's property, and move the graves there or are they going to ask the family to put them… I am not exactly sure what you are proposing as far as what to do if you do move those graves.

Mr. Hess: Right. I definitely would want the applicant to answer.

Mr. Di Peppe: Okay, thank you.

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

Ms. Kirkman: The reason why we had to cancel the public hearing last time around was because there was inadequate information for the ownership affidavit. I was hoping we would see a complete affidavit tonight but I notice that as far as I can tell the members of the Ed and Patty W. LLC are not listed. Do you have that information?

Mr. Hess: I do not.

Ms. Kirkman: But you are aware that we need to have all the individual members of LLCs.

Mr. Wilbourn: (inaudible)

Ms. Kirkman: Alright, thank you for that clarification. It is just helpful when staff gets that information. Then you showed the boundaries of the economic area for Courthouse. The Economic Development Plan that was approved by the Board did not have specific boundaries in it. Can you tell me where those boundaries come from or when or how or if they have been approved?

Mr. Hess: I believe that has always been the concept plan as far as those being the boundaries. I am not aware that they have changed. So, I am going off of what we have.

Ms. Kirkman: But what plan had those boundaries… I mean, you presented it as a fact that these are the boundaries of the Redevelopment Area…

Mr. Hess: Right, it's a conceptual plan.

Ms. Kirkman: And the Economic Development Plan did not have any boundaries and did not have… that delineates specific parcels and what has been approved to date does not delineate any specific parcels. Where is that information coming from?

Mr. Harvey: Ms. Kirkman, that is information that was used in the public meetings and discussion with the public. As you said, the plan is presently not approved so it is not an official document of the County. That is the area that has been discussed out in the public and I believe is going to be presented

to the Board of Supervisors at their next meeting in the work session with regard to the plan and eventually the plan will come to the Commission for your review and ultimately a public hearing.

Ms. Kirkman: Thank you for that clarification Mr. Harvey. Then, you state there is a problem with the installation of a traffic signal light because of the proximity of Wyche Road to the 95 interchange. But isn't that going to be moot with the new interchange?

Mr. Hess: There are a lot of uncertainties as far as the transportation network is going to be concerned. We are working kind of blind here; we don't know where the interchange could go. That will ultimately affect the area altogether. That could go away, I am not quite certain. There are still several proposals out there where this interchange could go and there are no set footprints. So, we do not know what the impacts are going to be on the existing network right now.

Ms. Kirkman: And could you explain more… the staff reports says that it's a negative that the requested zoning is not consistent with the established industrial development pattern. What is it that you exactly mean by that?

Mr. Hess: Well, currently right now you have I believe Virginia Paving site back there, you have a couple concrete plants, you have Estes Trucking Corporation back there, and since we are going to Urban Commercial uses, that is what we are saying that the Urban Commercial use would be inconsistent with the existing industrial, light industrial, heavy industrial, uses back there.

Ms. Kirkman: But, why is that a problem? The County imposed a rezoning in that area to get rid of those industrial uses and now you are saying that this application is a negative because it is not consistent with the industrial uses that the County imposed a rezoning to get rid of?

Mr. Hess: It is more of a matter of fact right now, that's all, because eventually that will change obviously. That is the intent, is that for those uses to go away and get more like Urban Commercial uses in that area.

Ms. Kirkman: And can you please explain how it is that staff can come before us and recommend, well not denial… not fully support this application. I am not quite sure what that is. But, how you can recommend that based on the seemingly inadequate transportation proffers yet the staff recommended approval of a rezoning when there was absolutely no traffic impact analysis at all done in this area.

Mr. Hess: I'm sorry. Staff recommended…

Ms. Kirkman: Staff recommended approval of the rezonings in the Courthouse area with absolutely no traffic impact analysis.

Mr. Hess: Okay.

Mr. Rhodes: Is that this package?

Ms. Kirkman: And now you are recommending that you don't support this application because there are inadequate transportation proffers.

Mr. Rhodes: Is he supposed to make a recommendation…

Ms. Kirkman: Excuse me, Mr. Chair, I have the floor at the moment. Could you please explain how it is that staff felt like… I am just trying to understand what seems to be an inconsistent position on the part of staff on land use in this Courthouse Redevelopment Area.

Mr. Fields: With all due respect Ms. Kirkman, that is a valid question that may be better directed to Mr. Harvey, he is the Department Director.

Ms. Kirkman: Whoever from staff.

Mr. Fields: I understand your question and I understand the point of your question. Mr. Hess…with all due respect, that may be above his pay grade to answer. You are asking a comparative analysis of how staff prepares reports over a big picture period of time. Mr. Hess is prepared to discuss this and I respect your question so would you mind directing it to Mr. Harvey?

Ms. Kirkman: Whichever staff person is most appropriate to address it. But I do want to understand how it is that staff, on one hand, thought the traffic impact analysis was not needed for the Courthouse Redevelopment Area and yet now we have a specific project and a seemingly contradictory position is being taken.

Mr. Harvey: Certainly. As you recall, the Courthouse Redevelopment rezoning that took place in 2008, that was initiated on the Board of Supervisors behalf. We used the tools that we had available to do a broad brush, a very rudimentary discussion about what the traffic is today and what it might be in the future based on the change in zoning. When you have Board initiated zonings, that is often the case. In this particular case it is an individual property owner and individual applicant coming in so, at that point in time we would require them to have a traffic impact analysis.

Mr. Fields: Great. Any other questions? Mr. Howard.

Mr. Howard: Mr. Hess, do you know the vehicles per day on Wyche Road today? Even an estimation is fine. I believe it is in there; I could not find it.

Mr. Hess: Right. It says right now Wyche Road currently carries approximately 2,000 vehicle trips per day.

Mr. Howard: Two thousand? And in the proffer they were going to cap it at 65,000 I thought?

Mr. Hess: Sixty-two thousand.

Mr. Howard: Sixty-two thousand. Thank you.

Ms. Kirkman: Mr. Chair, I have one other question.

Mr. Fields: Yes Ma'am.

Ms. Kirkman: Could you also explain this comment on the part of staff that the location criteria for Urban Commercial land uses are not consistent with the current land use plan. What exactly does that mean?

Mr. Hess: Well, when you read the statement in the current land use plan, it speaks to Urban Commercial being areas designated for intensive commercial development being located within the Urban Service Area on major arterial roads. So, that is more or less the focus and the first statement just talks about having the centralizing locations within the urban core and then having major access to major collectors, arterial roads and highways to support these types of development. That is where we are getting at as far as the location criteria for Urban Commercial uses.

Ms. Kirkman: And what is the Comprehensive Plan designation for this area?

Mr. Hess: I believe it is Urban Commercial right now.

Ms. Kirkman: So it is consistent with the Comprehensive Plan.

Mr. Hess: From a land use perspective, yes.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Any other questions for staff? Is the applicant present?

Ed Wilbourn: Mr. Chairman, fellow Commissioners, my name is Ed Wilbourn. I am the managing partner of this application. To start off with, to clarify a lot of the questions, I did have some handouts here that I would like to distribute, a lot of them pertaining to the cemetery and the transportation issues. I think I had seven; I thought I had enough for the Commissioners. This would be one of the site plans of the current and this would a second one showing a circle where the cemetery, about nine gravesites are. And this is the nine gravesites and this is the cemetery. I will start off with by thanking the Commissioner who raised a lot of the questions that we raised when the Board rezoned the property. The 56 acres was currently zoned M-1 and our first application was to take the A-1 property into the M-1 to be consistent with the Wyche Road area. So, we raised a lot of the questions that staff raised now to make things inconsistent, because what we wanted would have made things inconsistent with the area. The total transportation impact with the M-1 would have been approximately 4,500 vehicle trips per day. We also requested staff, or staff and the Board, to not rezone to the B-3 or the B-2 because the traffic impact would be approximately ten times what it was under M-1. However, in addressing that, the transportation issue, the chart there, was done off of the VDOT trip generation text and what it shows is the by-right B-3 that is the 56 acres that was shaded in the pink generates by-right approximately 70,000 vehicle trips per day. The A-1 under the existing FAR and uses that are available today by-right such as recreational, some veterinary and so on would generate another 12,000 trips per day. So, as it is right now, we would be generating, if we just stayed with the current zoning, 82,000 trips per day. What we also would be able to do is with the B-3 and the A-1 build out a FAR that would be in excess of 1,590,000 square foot. So what we have proffered is to reduce that to 1,200,000 which mitigates the transportation and the 1,200,000 trips would still equal 92,000. So we further mitigated the transportation by proffering 62,000. So, overall, we have mitigated the transportation as it is currently right now A-1/B-3 by thirty percent. And we felt like that has not been brought out in the presentation. We are cognizant; we do want good transportation; we want good access for our property. And that was another thing that we stressed in the rezoning process that the transportation arterial system that is there now is not adequate but we can't afford in actuality the A-1 property is the only thing that really we are rezoning and it is about 35 acres. We can't afford to put millions of dollars to bring Stafford's transportation up to par to where it really should have been before a B-3 or a B-2 from an M-1. However, the project we anticipate will take twelve to fifteen years to build out and so we have been working with VDOT and the County since 2006 in looking at the proposed new interchange. And we

have worked very diligently with VDOT in looking at what's going to happen with Wyche Road, what will be the access of Wyche Road. Wyche Road will have an off-ramp access hopefully if things go the way we have been discussing it and that situation will be resolved. But we all know that the State isn't flush with money, so none of us know when that is going to happen. But what we hope to do is phase this development. People aren't going to buy land and build buildings without proper access, we all know that. So we are not going to be able to sell this out. So we hope in the next few years we have quality businesses that come in that can adequately use this. We hope that the first users would be flex office/warehouse which is compatible with both B-3 and B-2 and M-1, all three of them. So, that is our target right now, is in order to mitigate transportation to phase in a logical development plan. I think that if you also look at this in a mitigation aspect from the 90 plus acres of B-2, the by-right uses that would normally be in there, we have reduced the trip generations by 56,000 in our proffer. If you go to the B-3 we have reduced it 32,000. So, we have addressed the mitigation of transportation to the best we could. We are not building out the maximum that we could and we are proffering less transportation on what we are building that what we could. As far as the Utility Department, the upgrade of the pump station, we have a letter from the Utility Department, we approached them, we sat down and talked with them… we sit down and talk with every department of the County for months and they issued us a letter stating that our project would not impact the pump station. But we still put in our proffers that if it did, we would pay our pro rate share of any impacts that we cause on that pump station in order to be fair. The cemetery, that is a ongoing issue with the County and it has evolved into something that has turned out to be quite unpleasant to the family not because of us but because of what has turned out to be discovered there. We have met with the family on many occasions. I personally have walked with the family on the property. We have looked their cemetery; we have looked at the nine gravesites. What I proposed to that family was to double the size of that family cemetery with a nice iron fence around it, landscape it, we will provide parking spaces for them, we will make it part of the HOA so to speak of the park so that they won't ever have to worry about maintaining it, it will be a landscaped maintained cemetery, very nice and by doubling it they will be able to have further internments there if people so choose. The nine gravesites, you will see on one of the photographs, it is the green area circled on the larger site plan. And then we did get our permit from the Virginia Department of Historical Recreation I believe. So then the site was hand-cleared and you will see that with the smaller picture with the tint, that is the archaeologists and they were doing their hand-digging with their little brushes and, unfortunately, when they unearthed about four inches of soil that looked like it was depressed, they found virgin soil. So we called the State in and it is apparent that there were never any bodies interned in those sites. So we are meeting again tomorrow with the State and the County because someplace somebody has committed some fraud here, and so we are addressing that with all agencies as we have tried to do throughout this project. And, again, the family will be there, the State will be there. That was the bad news for the family and I was wanting to hold that back until at least tonight, that information, until we meet with the family tomorrow and everybody present to decide what we are going to do. We have still volunteered to increase the Greenhowe cemetery. I volunteered to put a nice marble monument there with the names of those who were supposed to be interned but there will be no remains to be buried.

Mrs. Carlone: Can I ask you a question? Now, when you say there were no remains, are we talking Greenhowe or are we talking the nine…

Mr. Wilbourn: The nine and I think there was that…

Mrs. Carlone: There was nothing there at all?

Mr. Wilbourn: Nothing. There wasn't a button, there wasn't a piece of wood; it looked like that someone… they were actually able to scrape away the top soil with their little brushes and they found spade indentations that went about four inches deep. It looked like somebody simply went out, turned over some of the top soil, put the state markers in and I guess they were probably paid for the re-internment or whatever but there is something that needs to be looked into.

Mrs. Carlone: Okay, there is going to be a little research there.

Mr. Wilbourn: Well, the State is involved in it now.

Mrs. Carlone: Who locally, may I ask you…

Mr. Wilbourn: The mortuary that was on the markers was I think Bailey Mortuary. And we have asked them for records and they said that they do not have any records. They were going to the State to find records but since it was for 95 there should be VDOT, Federal, all kinds of records on the mitigation of the condemnation of the property and mitigation of costs and things like that.

Mrs. Carlone: Okay, just one more question. Were there any names available?

Mr. Wilbourn: There were some names on those markers that we do have and in visiting with a couple of the family members, I think they have been able to put together eight of the nine names that were there.

Mrs. Carlone: Because there is usually family, the churches…

Mr. Wilbourn: Right. Well, the real sad part of this is I think there were several children that were killed in a fire and I think the parents are still alive. I lost a child that was 16 years old and I know how that feels. It is devastating when you don't know what happened to your child.

Mr. Di Peppe: So these graves were supposedly moved there in 95?

Mr. Wilbourn: In 1965.

Mr. Di Peppe: I'm sorry… in 1965 supposedly these graves were moved there.

Mr. Wilbourn: Supposedly.

Mr. Di Peppe: And so what you found out is you have gone to the site… so we don't know what happened. Where did they come from, these…

Mr. Wilbourn: It was when VDOT expanded the right-of-way of 95 and so VDOT would have contracted with somebody and it looks like they contracted with this Bailey Mortuary.

Mr. Di Peppe: The one in Fredericksburg you mean?

Mr. Wilbourn: Yes.

Mr. Di Peppe: Okay, thank you.

Mrs. Carlone: But anyway, I feel comfortable that you are taking care of the Greenhowe, but how deep for the depressions.

Mr. Wilbourn: Believe me, I had a lot of questions because they only went about four inches and I said why don't you go two foot, why don't you go three foot.

Mrs. Carlone: Like six or five.

Mr. Wilbourn: Whatever, and they are archaeologists and what they do is they go to what they classify as virgin soil and I volunteered to have spoon tests done by geologists that would drive down a hollow tube and then get a core to see. The County looked at it, their cemetery person, the people that we hired, the archaeologists, and the State and they all said it doesn't do you any good because what is there is virgin undisturbed soil.

Mrs. Carlone: Okay, just one more question Mr. Wilbourn. The actual area of this cemetery, about how big is that?

Mr. Wilbourn: Which one?

Mrs. Carlone: The nine.

Mr. Wilbourn: The nine? We went about forty foot around the graves and I think it required thirty-five. But now I think as of tomorrow the State is going to designate that a non-cemetery.

Mrs. Carlone: Okay, thank you.

Mr. Wilbourn: And the other picture with the trees, you will see the surveyors and the archaeologists and what they were doing there was setting the boundaries of the buffers and actually siting in the gravesites and those will be all recorded for record.

Mr. Fields: Any further questions for the applicant?

Ms. Kirkman: Yes. It looks as though you are only seeking rezoning of a part of a parcel, is that correct?

Mr. Wilbourn: The County Board rezoned our 56 acres of M-1…

Ms. Kirkman: No, I mean the area around… it looks like the area where the RPA is you want to leave in A-1?

Mr. Wilbourn: Oh, yeah, we are leaving the RPA in A-1 and eventually I have intentions because that is contiguous with the RPA behind the jail and the County property, I thought in the future that would might make a good linear park or something to that effect. So we kept that out until after we get our work done and then we will probably just go ahead and dedicate that as a linear park, if the County wants. If they don't then we will keep it.

Ms. Kirkman: I guess I am concerned of creating two zonings on one parcel. I have some concerns about that. I can't see, you know…

Mr. Wilbourn: Oh, with the final plat once recorded…

Ms. Kirkman: It will subdivide that off?

Mr. Wilbourn: It subdivides all of it.

Ms. Kirkman: Okay, that addresses that concern. And then, in terms of the pump station issue, am I understanding it correctly that you have been asked to upgrade beyond capacity?

Mr. Wilbourn: That is the first I have heard that because we met with the Utility Department on our first application because we were anticipating or we needed to question whether or not there was capacity at that pump station and so we asked for, in writing from the Utility Department, if there was and there was which we got that letter. But we stilled proffered if that pump station needed to be upgraded because of our project that we would pay our pro rata share because there is still quite a bit of vacant land in the area.

Ms. Kirkman: And then in terms of traffic improvements, has VDOT reviewed your plan?

Mr. Wilbourn: No, VDOT has approved our plans. We met with VDOT I can't count the number of times and, as a matter of fact, we are very concerned about the access on Wyche Road for not only our project but for everybody's and so we have actually volunteered some designs for the off-ramp. The northbound would come off and you would be able to get into a slip lane that would actually come back around to what is the existing Venture Drive and key right into Wyche Road. Now, we originally had dual access to this site where it's entering now and then we came out exactly on the alignment of the County's easements of right-of-way because we too thought that that would be good. My background is engineering and minored in urban planning, and because that would have given us direct access also to Route 1. We were told that we could not have two accesses by both the County and DEQ because of the wetlands and if you look on those large photos, you see where the jail is and the youth detention area, you see the wide green areas, that is wetlands and we did have to mitigate wetlands even to come in where we did but they did not want to give us a permit to impact that much wetlands. And so that restricted us to the one access.

Ms. Kirkman: And then, in terms of this sheet that you gave us, so the history on this was you originally had a rezoning that would have limited traffic generation to 4,200 vehicle trips per day…

Mr. Wilbourn: Well, that included… the 4,200 included are already 56 acres of M-1. We would have actually only added less than 1,200 by the other 35 acres. But that was the total 85-90 acres was 4,500, I think it was, for 85 acres but we were already zoned 56 acres of M-1. So we would have had negligible impact on Wyche Road with that rezoning application.

Ms. Kirkman: And then, some of your parcels were rezoned but there were no traffic improvements associated with that rezoning and now you are arguing that you will actually generate less vehicle trips per day than…

Mr. Wilbourn: Yeah, with the County's rezoning of the 56 acres from M-1 to B-3, that alone created 73,000 trips by-right.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Mr. Chair, I have a question as well. On the sheet that Ms. Kirkman was just referring to, where are you getting the vehicles per day?

Mr. Wilbourn: That comes out of VDOT's trip generation and staff has the same reference.

Mr. Howard: I just want to go over a couple of these things. You are saying a bank with a drive-through will generate 19,000 trips per day.

Mr. Wilbourn: That is that many square foot. There will be more than one bank or…

Mr. Howard: So, how many banks will that be? What is twelve percent of the land?

Mr. Wilbourn: Well, I am not that brilliant to pop it off the top of my head, but that was done with the overall development plan based on standard practices of you would have a certain percentage of stand-alone restaurants, a certain percentage of banks or lending institutions to office to commercial and so on. That all comes out of what we call cookbook references.

Mr. Howard: Well, somebody must be estimating the number of…

Mr. Wilbourn: That was done by our civil engineer.

Mr. Howard: So, how did we get that answer? Because… you understand that 19,000 trips a day to a bank is obviously…

Mr. Wilbourn: Well, it would not be one bank, it would be like three banks or four banks plus the restaurants. I think that says stand along restaurants and banks.

Mr. Howard: You have a separate line for what you are calling it, high turnover sit down restaurants and that is 16,000 additional vehicles on top of the 19,000.

Mr. Wilbourn: Right. Well, like I say, that 19,000 would be based on… if it would be that percentage, it would be that percentage of 1,200,000 square foot.

Mr. Howard: If you are familiar with Stafford, if you thought about Stafford Marketplace on 610 right off of 95, do you know what the vehicles per day coming out of that is?

Mr. Wilbourn: At 610? I know it's a lot at 610 but I don't know what it is. I know, like I agree with the staff on what it is coming out of Wyche Road.

Mr. Howard: I guess where I'm going with this is, we will have to do more homework on it, that seems extraordinarily high.

Mr. Wilbourn: It is.

Mr. Howard: The estimations on these traffic counts.

Mr. Wilbourn: It is. That was the same argument that I made repeatedly to the Board and the Planning Commission before the rezoning by the Board that what they were doing was going to create traffic generations of ten to fifteen times what was over there. And we asked them, as you pointed out, that

you shouldn't do this without a full blown study of the area and the impasse, not only transportation, utilities, services, everything.

Mr. Howard: I am not really following you. I am just asking you the question. You handed us a sheet of paper and on here you have got vehicles per day, trip generations. So I am asking you how many banks are you proposing on your parcel? I do not think it has anything to do with the County. I am trying to understand your methodology, your rationale, what you presented which was hey, by the way, what I am intending the use to be is going to be significantly less than what I am allowed. And I am sitting here saying mathematically I don't get that.

Mr. Wilbourn: Well, it's like any project; I may not have a single bank there but I may have more…

Mr. Howard: I am not going to debate it, I just wanted the answer. You don't have it and we have to get that answer. I appreciate your time.

Mr. Wilbourn: That isn't meant to be…

Mr. Howard: I got it.

Mr. Wilbourn: In fact, that is softer than if we just went with the max trips and I think staff, didn't Ryan give you that same paper? So staff has had the opportunity to see that.

Mr. Howard: We have more homework on that, that's all. Thank you.

Mr. Fields: Alright. It's 9:30 and we still have other things to do.

Mrs. Carlone: Excuse me, just one more question. This has to do with transportation. When we had talked earlier, one of the staff members and I, when you talked with VDOT did they mention Mooney Drive, any type of there coming out at the signal that is the next stop down?

Mr. Wilbourn: Okay, is that where the fire station is? In fact, that is one of the areas that we focused on too was with the new interchange to bring that road on across and in front of the fire station over to Venture Drive and that short distance would help that entire corridor.

Mrs. Carlone: So, is it just kind of in limbo right now so to speak?

Mr. Wilbourn: Well, I guess it is because of both VDOT and County funds. But we definitely support that.

Mrs. Carlone: Okay, thank you.

Mr. Wilbourn: Any other questions?

Mr. Fields: Let me just suggest that we have, this is the Aquia District and certainly we have a public hearing yet. Certainly we obviously have some more homework. One of the outcomes that I would suggest is that Mr. Rhodes and Mr. Howard and I are on the Transportation Committee. This certainly seems like a prime candidate to have at least one session of the Transportation Committee by itself where we can sit down with the maps and the modeling of the County and our traffic model and really go through lots of permutations and look at things. This is no indication that we don't respect the work

you have done; I think it is complex. I thought it was successful with the South Campus project to have a Transportation Committee separate session on that where we can look because one again we have to look comprehensively at the whole Courthouse Redevelopment Area, how this fits in and how these uses, and really have that debate which we always have about whether the standard ITE numbers reflect reality in Stafford County or simply are they ITE numbers. It is always an issue. It kind of gets to your point, Mr. Howard, you know, how many banks equal 19,000 trips a day. That is really a lot in Stafford County. About five is your sense of it? I mean, we need to kind of hack through a lot of that in detail. That is one of the places I hope we go with this. If there are no specific questions for Mr. Wilbourn then let's open the public hearing.

Mr. Wilbourn: Can I make one more comment?

Mr. Fields: Sure.

Mr. Wilbourn: Always keep in mind that anybody tries to project a mix that would be built. None of us are clairvoyant enough to be one hundred percent right and, respectfully, I am going to request I would appreciate an up vote but I will accept a down vote, but I would really appreciate a vote tonight. We are on a deadline with the Board on this because of some issues. We would prefer not to have it delayed.

Mr. Fields: Understood.

Mr. Wilbourn: Thank you.

Mr. Fields: With that, let's open the public hearing. Is there anyone here that wishes to speak for or against this project? Alright, hearing none we will bring this back to the Planning Commission. This is in the Aquia District.

Mr. Mitchell: I am a lot like yourself, I see a lot of unanswered questions. I am not ready for an up or a down vote, either one. I would rather defer it and get some of these questions answered, some of the additional proffers that were suggested by staff, I would like to see some of those answered. I would like to see the fire and rescue recommendations, to see if those could be answered. There are a whole number of issues that were brought out during the conversation and especially the trips per day. So I would like to defer it for an appropriate time until we have a chance to meet and then Mr. Wilbourn has a chance to meet with County staff and look at some of these recommendations.

Mr. Fields: We have a motion to defer on the floor.

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Let me just say that we can… Mr. Rhodes and Mr. Howard, I am certainly willing to move our Transportation Committee up to the second Wednesday rather than the fourth Wednesday. Is that okay with you, do you think, off the top of your head?

Mr. Howard: What is the date?

Mr. Fields: The second Wednesday of September. We are not having one this month.

Ms. Kirkman: Mr. Chair, I am concerned about that because, as you know, the Board will not be acting on any rezonings starting at the end of October and I am concerned if we don't act on it before the end

of September they won't have sufficient time to have a public hearing on this this year. And, quite honestly, for me I hardly jump up and down in support of development projects as most people know, but this is really a matter of basic fairness. Massive rezonings were done in the area with absolutely no improvements extracted. This fellow has tried and tried to do something with his property. He was going to do a use that would have had far less impact, the Board denied that rezoning and then came in and arbitrarily rezoned in that area and now…

Mr. Fields: Let me remind you, a minority of the Board did not deny that rezoning and I supported Mr. Wilbourn's position when I was on the Board of Supervisors.

Ms. Kirkman: Okay, Mr. Fields.

Mr. Fields: I don't want to be tarred with that brush, okay.

Ms. Kirkman: I won't tar the entire Board with that brush, it was only a majority. But, really, the point here is one of fairness. This man has been working for years to try and develop that project and been given contradictory criteria such as… I just think it is absolutely ludicrous that we hear from staff tonight that the problem with this application is that it is Urban Commercial which is inconsistent with the surrounding industrial uses which is what the Board sought to eliminate with their rezoning. So, my concern about pushing this to the Transportation Committee is that it is really going to back things up. So I am really concerned about that kind of delay on this.

Mr. Fields: I understand. I do not have a comprehensive understanding of all these potential road networks and how they all work out and the timing of the interchange. And believe me, I think Mr. Wilbourn knows that I certainly have supported… we had conversations in 2007 and I tried I vain to support his rezoning back then. I thought it was a reasonable use for that property and certainly less impactful than what it ended up being. So, I certainly am sympathetic to his position and was unsuccessful two years ago in that. I just… I can't right this evening; maybe we can push this up. Let's maybe look at calendars and push this up. I can't right this evening just completely say that I am completely comfortable with all the transportation ramifications and permutations to say yes or no. Like I said, even though I am inclined to… I agree with your position. I am in support of what he is trying to do and I want to see it happen. I just can't quite say yes right now because I haven't… I need to see how these proposed… what has been talked about, how it looks on 95, the new possible interchange, how these new possible interconnector roads… I mean, I just need to look at this stuff. At least that is where I am. I don't know whether other people are at that point. But, I mean, if there is a majority that wants to approve it right now that is the way it goes. My reluctance has nothing to do with whether I think this is a good idea or not.

Ms. Kirkman: I can support a motion to defer it just to our first meeting in September. We could get some more information in the meantime. The other think I would point out, Mr. Chair, is you all did all that work on the South Campus rezoning and all that meeting of the transportation stuff and now the Board is ignoring that work.

Mr. Fields: Oh, are they?

Ms. Kirkman: Yeah.

Mr. Fields: I didn't know about that. Well, we have still got to do it. They don't have to listen to us. But the public pays attention to that stuff I think. Alright, first meeting in September? Mr. Mitchell, do you have some thoughts about how we can fasttrack resolving some of these transportation questions?

Mr. Mitchell: Depending on how soon the Transportation Committee can meet.

Mr. Fields: Okay. We were going to not meet next week but, is everybody available? Where's Fulton? I take back what I said earlier.

Mr. Harvey: Mr. Chairman, we will have to check to see if that meets the notice requirements.

Mr. Fields: Oh, okay. Another possibility is maybe a slightly earlier start on September, take an extra half hour up front or something to try to work through this?

Mr. Harvey: Mr. Chairman, for your September meeting right now we only have one public hearing scheduled. That is the Reservoir Overlay Ordinance. You already have your work session pretty filled up with the two deferrals from earlier today and then also if you discuss any of the ordinances that were referred by the Board last night.

Mr. Fields: Right. We could always do those in the evening as well. Well, let's maybe work on this in the interim. Is that alright with you Mr. Mitchell, next meeting?

Mr. Mitchell: Yes.

Mr. Harvey: Mr. Chairman, would you like us to schedule it during the regular session?

Mr. Fields: Well, I think we are being a little more fluid with our sessions now so, right, we are not doing the official work session and then back into the evening? Let's just try to get it on the agenda and then work it through the day.

Mr. Harvey: Yes sir.

Mr. Fields: If maybe we have a little flexibility to maybe start a little bit earlier, at 5:00 or something, and have if staff can get us something. I just need to look at all of this stuff so I have some concept of what we are looking at.

Mr. Di Peppe: Do you want the whole Planning Commission or just the Transportation Subcommittee?

Mr. Fields: I had dreams of a Transportation Committee working on this but I think I have been overruled on that so, and not unfairly. But I think it is just everybody is going to work on it. We will work through it fast and get it done. So, Mr. Wilbourn, I am afraid two weeks, the first meeting in September, is the best I can do for you tonight. I know it is not optimum but, hopefully, we will get you where you need to go. Okay, motion on the floor? Everybody 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? That's a 7-0 vote.

Mr. Di Peppe: We need to come in here a half hour early.

Mr. Rhodes: I will do my best.

Mr. Fields: Okay, these two… we have two more public hearings. Is there anyone here in this room that is from the public that wanted to speak on numbers 11 or 12? Because the folks from the VRE have been sitting here for four or five hours, something like that. If you guys don't mind I would like to push them through here and see if we can't get that…

Mr. Di Peppe: Great.

Mr. Rhodes: Yes.

Ms. Kirkman: Yes.

Mr. Fields: And then we will come back and pick up the two public hearings for which there is no public to speak. So, if that is alright with you guys. Okay, number 13, Telecom Tower. This will be really it is 13, 14 and 15 all together, right?

Mr. Zuraf: Yes, if that is okay.

UNFINISHED BUSINESS:

13. 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)**

14. 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)**

15. CUP2900104; Conditional Use Permit - 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: Good evening Mr. Chairman and members of the …

Mr. Fields: Let me just briefly say, folks I am sorry it is certainly no disrespect to you, it happens when we get backed up. When we have public hearings scheduled, I feel compelled because the public is involved, that we have to go through with those first and so, I needed to get through those. I am sorry.

Mr. Zuraf: Good evening, at your last meeting on July 1st the public hearings were held for these cases. They were proposals to reclassify the land that is adjacent to the Leeland Road VRE parking lot to M-1, Light Industrial zoning and then also conduct a Comprehensive Plan Compliance Review and consider a Conditional Use Permit for a one hundred and fifty foot tall mono pole telecommunication facility that would allow the co-location of private carriers on that tower. The VRE did provide a response to concerns that were expressed by the Planning Commission at that meeting. The response did note that the telecommunication facility and tower would take up the potential for ten parking spaces on the site that would be displaced. Also the letter did provide justification as to why VRE would not be able to reduce the County subsidy equivalent to the cost of these parking spaces or be able to revisit the lease agreement with the tower contractor. Those were some concerns expressed by the Planning Commission at that meeting. Representatives from VRE and the tower company are present and I will turn it back to you Mr. Chairman.

Mr. Fields: Alright, any questions for staff?

Mr. Di Peppe: I keep saying this, but I think we are doing it out of order. I think you should always do the comprehensive plan compliance review before you do the rezoning. I have said that before, I would like maybe legal to weigh in on that because you are rezoning it first and it does not meet the comprehensive plan, so why wouldn't you change…do the comprehensive plan first then the rezoning? I believe I brought this issue up last time.

Mr. Fields: And what did we tell you?

Mr. Di Peppe: You did not agree with me. But I still think on the face of logic that if you are going to do it the first step is you do the plan first then you do the rezoning. It may not make any difference to anybody, but it is just to me flies in the face of logic.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: My question for Mike.

Mr. Zuraf: Yes sir.

Mr. Mitchell: And I did not want to interrupt you because you were doing a great presentation. But we are loosing ten spaces.

Mr. Zuraf: Yes.

Mr. Mitchell: And there is no way to re-negotiate it, there is no way to get money for it, there is not way to reduce our subsidy for it. Is that what you are telling me?

Mr. Zuraf: That was the response from VRE.

Mr. Mitchell: That was the response from VRE.

Mr. Zuraf: Yes.

Mr. Mitchell: What I am saying, ten spaces a day would be fifty spaces a week which would be two hundred spaces a month. If you do the math excrementally then you are looking at a year worth at two hundred a month, twenty four hundred potential spaces will not be utilized.

Mr. Zuraf: You may want to discuss that with the representative from VRE.

Mr. Mitchell: I will be happy to.

Ms. Kirkman: I don't know if you can answer this or perhaps our Chair and former Supervisor could. But has the County put any money into creating parking spaces at Leeland Station?

Mr. Zuraf: We have a transportation planner.

Mr. Fields: You mean this proposed?

Ms. Kirkman: Or any at all.

Mr. Zuraf: For the expansion, you are talking about for the expansion parking.

Mr. Fields: This is all of the money. This is like two and a half million dollars of Stafford money for this parking lot.

Ms. Woolfenden: We have of course the lease lot which is the adjacent property and we have been acquiring CMAC funding through FAMPO. We have a certain allocation we get every year and a large portion of what we have been requesting is for parking in this area, so yes and no. It is federal funds, but we have been directing it to this use for our allocation.

Mr. Fields: I would like to say, you know…I mean and certainly Ms. Kirkman is the expert on analyzing CMAC funds. She has proven that she knows more than anybody in Stafford County about CMAC funds. But once again I will point out, it is certainly within the code, obviously it is the way it goes. But, once again having to use CMAC money to build parking spaces for cars is still somewhat antithetical to where we are getting with congestion management and mitigation air quality. So we are loosing ten spaces and that is the end of the story. Well how about somebody from VRE addressing that. It looks like your statement is saying that the plan all along was for two hundred and one spaces so we are not really loosing any spaces. Is that what I am getting from the response one?

Mr. Suran Mushantiff: Yes, sir. Good evening. Suran Mushantiff with VRE. The issue of the ten spaces, yes the foot print takes up potentially ten additional spaces, but per se we are not really loosing anything, we are gaining two hundred and one spaces.

Mr. Fields: Okay. Is there any other questions for VRE from the Commissioners.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Yes sir.

Mr. Mitchell: Is there anything that can be done other than your denial letter.

Mr. Mushantiff: To pay for…to compensate for the ten spaces?

Mr. Mitchell: We are loosing 2,400 parking spots per year. You can divide it by the month, divide it by the week whatever you want to do. But we are still loosing 2,400 spaces. There are 2,400 cars that will not be parking at that lot because of this presentation.

Mr. Mushantiff: Well we have looked at the plan and there is no way to make up for those spaces. So the answer is no, there is probably nothing you can do unless you want to just reject the tower. But the tower is…I know you guys know the background. The tower is a critical component of the security and safety communication system that we are trying to install. If the tower does not in, Stafford does not get the coverage. We have other towers, one in Alexandria and one in Fairfax Station that will provide coverage to the rest of the system. But if this tower is denied, Stafford will not get the coverage.

Mr. Mitchell: Can you tell me briefly, how the tower specifically helps Stafford when it is giving communication going north of us.

Mr. Mushantiff: Basically the coverage that this tower provides is the Stafford area. So if along the railroad, if something happens we would not be able to communicate with the trains in this territory.

Mr. Mitchell: I think we had that same issue up in DC a couple of weeks ago, with communication. This is no offense to you sir, but I am not buying the whole communication is the main crux of the matter. DC had a crash up there and it was tremendously terrible, but I am saying they had communication. So how would communication not…

Mr. Mushantiff: Right now the only way VRE can communicate with conductors and engineers on the train is to go through Amtrak. Amtrak may not be our provider in the next few months. We are putting out an RFP for a new provider. Secondly, if there is an emergency and their communication goes down there is no way, there is no secondary way to communicate.

Mr. Mitchell: I hate to ask a simplistic question, but your people could not carry a BlackBerry.

Mr. Mushantiff: Well...

Mr. Mitchell: I mean I am not being facetious I am being dead serious.

Mr. Mushantiff: They are not our people. They do have…

Mr. Mitchell: Sure, why couldn't one of the people up in Alexandria pick up a cell phone and call a conductor or call an engineer or call someone specifically and say hay we have an issue here this is what we need you to do. I am just saying…

Mr. Mushantiff: It is railroad protocol, they do carry cell phones but we are not allowed to call them. We can call Amtrak and they can call them because they are Amtrak employees. They are contractors to VRE, they are not VRE employees. They do not want to be distracted while they are running the train, so they do not want anybody just picking up the phone and calling them. This system would be a stand alone system incase of an emergency we do have a way of contacting them.

Mr. Di Peppe: So there is going to be phones right there in the engine specifically for this that only get communications from this tower.

Mr. Mushantiff: Right.

Mr. Di Peppe: Or these towers.

Mr. Mushantiff: They are actually two way radios.

Mr. Fields: Okay, well…

Mrs. Carlone: Excuse me.

Mr. Fields: Seeing how it is ten of ten and I don't want to rain on anybody's parade but there does not seem to be any future in particularly in asking questions so, I think at this point we need to just simply vote on these issues and move on. We have received the questions and we have received all the information.

Mrs. Carlone: Mr. Chair.

Mr. Fields: Sure, Mrs. Carlone.

Mrs. Carlone: Let me ask the question. In the case of emergency there is always extenuating circumstances that you could make a phone call with your little BlackBerry. Isn't that a possibility for a waiver for an emergency situation to have that contact from the engine to emergency services or…I am really having a problem figuring out why that would not be extenuating circumstances, to be able to contact someone.

Mr. Mushantiff: It is possible. We have to go through protocol to make it happen. Two, cell service in the area is not good. Three, this is a stand alone system, we have our own channel through the FCC. So we have a way to communicate that is not dependant on cell towers and it is not dependant on anything else. It is a stand alone system once it is installed, that is.

Mr. Mitchell: I hear what you are saying, but I just find it incredibly ridiculous that you have a protocol that says that you can not contact people strictly because of a protocol.

Mr. Mushantiff: Well it is a railroad protocol. We do have ways of communicating right now, but we have to go through Amtrak, and they may or may not let us talk to the folks on the train. Right now the

do not let us talk to the engineers and conductors, and we would not for day to day operations, we would not talk to them we talk to the communication center and they talk back to us.

Mrs. Carlone: We are talking an emergency situation, not someone just chatting and telling through another vehicle that I am going to be late for dinner. This is an emergency situation, so sometimes protocol needs to be set aside and I think you should have a policy when there is an emergency that there could be direct communication. Not for any…

Mr. Mushantiff: It is just right now that is not the intent of this two way system. We received funding from Homeland Security to install and independent system for VRE to communicate in an emergency. So right now it is conceivable that we could go through Amtrak and get somebody on the phone, it could happen it there is cell service, if the network is still up. But the intent of the project is to have an independent system, an emergency ready system.

Ms. Kirkman: Why is it that the tower has to be constructed right there? Why can't it be constructed somewhere where you won't lose parking spaces? For instance on adjacent private property.

Mr. Mushantiff: Because we own the land. That is really the main reason. We did not want to go out and try to acquire property.

Ms. Kirkman: Brooke Station, there is access parking capacity there, why couldn't you put the tower there. That is also in the area that is in desperately in need of better cell phone coverage. Why can't you put the tower there?

Mr. Mushantiff: I am not sure how it works with this communication system. With a two way radio system.

Ms. Kirkman: I don't understand your response.

Mr. Fields: The spacing for coverage.

Mr. Mushantiff: Right, I am not sure it can communicate with the other towers from Brooke. We know it works from Leeland, but we did not study Brook to make sure it works from Brooke. Plus we do not own the property at Brooke. It is owned by VDOT, I believe. This is the only piece of land in Stafford that we own.

Mr. Fields: Okie doke folks. We have three things that we need to…I think we have the…I don't have the full documents, I think those are from the last public hearing. So first item, we have three votes. First item is RC2900102, reclassification.

Mr. Di Peppe: That is in my district.

Mr. Field: Yep.

Mr. Di Peppe: Mr. Chair, I hate to lose the parking spaces, but we have VRE coming before us with a Homeland Security problem. The last thing you want to do is set up a situation…you are going to have to accept their word for it in these kinds of situations. Like I said when the VRE comes to you and says this is a Homeland Security issue, we need to be able to talk to trains directly, as bad as I don't want to

lose the spaces anymore, I can not see how we could possible in good faith deny this. So I am going to recommend the reclassification RC2900102.

Mr. Fields: Is there a second?

Mr. Rhodes: Second.

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

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: My bottom line, I hate to lose 2,400 spaces. If Homeland Security gave money for the construction of the towers, whatever, they could have given money for a piece of land that they could have put the tower on and not cost the people of Falmouth, or whoever parks down there 2,400 yearly spaces. I will be voting against it Mr. Chairman.

Mr. Fields: That is fine Mr. Mitchell. Any other comments? Alright, all those in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mrs. Carlone: No.

Mr. Fields: 5 to 2…

Ms. Kirkman: No, I am going to abstain. I feel I just don't have enough information here.

Mr. Fields: Alright. COM2900103 Comp Plan Compliance Review.

Mr. Di Peppe: Yes sir. Mr. Chair, I would recommend voting for the…what do we do, vote for the change in the Comprehensive Plan?

Mr. Fields: Yes, I don't have the text in front of me.

Mr. Di Peppe: Okay, as you say COM2900103.

Mr. Rhodes: Second.

Mr. Fields: Moved by Mr. Di Peppe, seconded by Mr. Rhodes. Any discussion?

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: Again I hate to give up 2,400 spaces.

Mr. Fields: How many spaces is that?

Mr. Mitchell: Two thousand four hundred.

Mr. Fields: Thank you sir.

Mr. Mitchell: I hate to give them up, I hate for the people of Falmouth to give them up. I will be voting against this Mr. Chairman.

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Fields: Two?

Ms. Kirkman: Abstain.

Mr. Fields: One abstention? Alright. CUP2900104.

Mr. Di Peppe: Mr. Chairman I move for approval of Conditional Use Permit 2900104.

Mr. Rhodes: Second.

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

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: Thank you, how did you know it was me? Mr. Chairman, I totally object to loosing two thousand four hundred spaces, multiply that out by ten years.

Mr. Di Peppe: In case you just tuned in, we are loosing ten spaces a day and that is where those numbers come from.

Mr. Fields: It is significant.

Mr. Di Peppe: It is…

Mr. Fields: Believe me, people are parking…hanging their cars…

Mr. Di Peppe: I understand and it is in my district and I don't want to deny ten people the right to park at Leeland Station, believe me. But I don't know what else to do when VRE comes to me with a Homeland Security issue about communicating with trains in case of an emergency.

Mr. Fields: Well, maybe if we get enough overflow because we lost the ten spaces, we can tell the people from Spotsylvania and Fauquier that that is their ten spaces that was lost.

Mr. Howard: Mr. Chair, for the record, I think that…and the applicant unfortunately can not address this. I think it is not necessarily a Homeland Security issue, I believe they have been given a grant through the Homeland Security Department to pay for the tower. I want to make that clear, so those who are voting no or abstaining, they are not necessarily voting against Homeland Security.

Mr. Fields: Certainly, I think we all understand that. Thank you for that clarification.

Ms. Kirkman: Mr. Chair, I want to say to the applicant that I am very disappointed in the response. It was just basically take or leave it and I just feel like that was not the kind of response that establishes the kind of cooperative working relationship we need particularly in some of our stations like Leeland where we have got some real problems.

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mrs. Carlone: No.

Mr. Fields: Abstentions?

Ms. Kirkman: Yes.

Mr. Fields: Alright, thank you. Sorry to keep you waiting so long. Alright, let's pick up back to number 11, Amendment to the Subdivision Ordinance, Amendment to Section 22-5, Family and Minor Subdivisions. Mr. Stepowany.

Mr. Stepowany: Thank you Mr. Chairman…

Mr. Fields: Just five though. I am not going to…

Mr. Stepowany: Okay.

The Planning Commission reconvened at 10:05 p.m.

11. Amendment to Subdivision Ordinance - Amendments to Section 22-5, Family and Minor Subdivisions, of the Subdivision Ordinance, pursuant to O09-38. The amendment limits a minor subdivision to no more than one (1) Private Access Easement per parent parcel.

Mr. Stepowany: Thank you Mr. Chairman and members of the Planning Commission. Item number 11 is proposed ordinance O09-38 which pertains to number of private access easements in a minor subdivision. Ordinance O09-38, the purpose of the ordinance is for the Planning Commission to consider a proposed amendment to Section 22-5, Family and Minor Subdivisions of the Subdivision Ordinance. This was authorized to the Planning Commission for a public hearing by Resolution R09-249 with a time limit of September 15, 2009. The purpose of the Ordinance is to limit a minor subdivision to only one private access easement. Private access easements can serve only two lots including the lot it travels through. Adjoining lots are restricted from using the PAE because that requires a note on the final plat. Prior to December 13, 2005 a PAE could serve three lots not including the lots it traveled through. Basically we saw one PAE serving five lots. 12/13/05 the definition of street was changed to any means of access serving three or more lots. All streets must be public except for family subdivision and townhouses, they must be public to avoid the need for rural road funding. That was the whole purpose for the changes back in 2005. Even if a townhouse has private street it must comply with VDOT standards. Family subdivision may continue to use ingress/egress easement with no limits on the number of lots being served and that does not change the status of the easements serving the lots in family subdivisions. A Subdivision within a street is a major subdivision and requires preliminary subdivision plan approval. However minor subdivisions may use two separate PAEs to avoid having to PAEs side by side which would serve four lots and would be a public street. For example, and we have gone through this before, these are minor subdivisions with two PAEs that have already been approved. As a result this one lot end up putting the PAE there and putting that lot and the PAE there. The original proposed would have both that yellow line and a green line coming down to Cranes Corner Road, side by side to serve four lots. On this plan that lot put the PAE there and that lot put its PAE there, but again the original plan had the green line next to the yellow line and again going down to Mountain View Road where you would had one basic PAE serving, in this case, five lots. This was the same situation where they ended up putting their PAE along there and that one at the top of the subdivision. But the original plan was to put both PAEs side by side. In cases, all three of these minor subdivisions all of these PAEs were approved by the Planning Commission. Staff recommends approval of the proposed ordinance that limits a minor subdivision to one PAE in order to prevent circumvention of the Subdivision Ordinance and reduce the number of access points on to a public street and I will be more than happy to answer any questions that the Planning Commission may have.

Mr. Fields: Any questions for staff? Alright, hearing none I will open the public hearing. Is there anyone here from the…

Ms. Kirkman: There is no one here.

Mr. Fields: Ms. Kirkman what is your cell number we will tell people at home that they can call you on your phone and you will put it up to your microphone. Alright, close the public hearing and bring it back to the Planning Commission. Any wishes of the Commission? It's all of our districts.

Ms. Kirkman: I make a motion to recommend approval of proposed Ordinance…

Mr. Fields: O09-38?

Ms. Kirkman: Yes.

Mr. Rhodes: Second.

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

Mr. Howard: Yes.

Mr. Fields: Yes sir.

Mr. Howard: Had we had this in place many years ago this certainly would have eliminated all the nonsense with the SPCA because that road wouldn't exist.

Mr. Fields: I think we can all go chapter and verse on a number of existing problems.

Mr. Howard: I just felt compelled to bring that one up.

Mr. Fields: I think it is a good one.

Mr. Di Peppe: I don't think it would have eliminated all of the…

Mr. Fields: We're not going there. 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, number 12, amendment to zoning ordinance.

12. Amendment to Zoning Ordinance - Amendments to Section 28-25, Definitions of Specific Terms and Section 28-39(a) Fences, walls and hedges, of the Stafford County Zoning Ordinance, pursuant to Ordinance O09-32. The amendment defines a street facing side yard and specifically

states the maximum height of a fence, wall or hedge to be four (4) feet for such yard in Residential Districts and five (5) feet in the Agricultural District.

Mr. Stepowany: Thank you Mr. Chairman, members of the Planning Commission. Item 12, again, is proposed Ordinance O09-32 and it pertains to the special regulations section of the Zoning Ordinance, specifically fences, walls and hedges. Computer please. The purpose of this ordinance is for the Planning Commission to consider a proposed amendment to Section 28-25, Definitions of specific terms, and 28-39(a), Special regulations of the Zoning Ordinance. It was first authorized from the Planning Commission by Resolution R09-226 and then on July 7th the Board approved Resolution R09-278 which was handed out tonight also, it has a number 12 on the top. And that extended the time limit for recommendation by the Planning Commission to September 16, 2009. Currently, a conflict exists with determining the permitted height for fences, walls and hedges along the "side" street of a residential corner lot. A residential property owner may construct a fence, wall or have hedges as high as eight feet along the side street of a corner lot. Such structures or features are not to impair clear sight distance for the intersection. The Board of Zoning Appeals submitted a request to the Board of Supervisors for an amendment by adding "street facing side yard" to Section 28-39(a). The proposed amendment defines "street facing side yard" as an open space adjacent to a street and extending from the property line to the required yard of twenty-five feet or the minimum front yard requirement for the zoning district, whichever is less. The Planning Commission modified the initial proposal of the proposed ordinance to exclude A-1 and A-2 zoned properties from the street facing side yard requirements. As a result, the proposed amendment no longer shows the requirement in 28-39(a), Agricultural district (A-1), and what I mean by that, if you look at the Ordinance you are going to see Agricultural District A-1 without any strikeouts or underlines and that was the intent of why that is in there unchanged because that originally had including the street facing side yard, that was removed. And then in the Rural and Residential Districts (A-2, R-1, R-2, R-3 and R-4) we have added except A-2. Staff recommends approval of the proposed Ordinance and I will be more than happy to try to answer any questions the Planning Commission may have.

Mr. Fields: Any questions for staff?

Mr. Howard: I do. We are only talking about the height but what is the distance from the property line at the fence can be? Is that part of this? Is this really a height issue or is this an issue where the line of sight is impeded from a vehicle because of the distance?

Mr. Stepowany: It is a combination of both because of the line of sight distance you do not want to allow a height of a structure to go over, I believe, four feet or five feet and this was the case where this section was looked at that on a side street, if the house was facing one street and then you have the side street on the corner, they could put a structure or hedges up to eight feet tall. So, if you are approaching that corner, that becomes a line of sight issue and normally with the line of sight triangles it has to be reduced and this was to clarify the discussion that yes it has to be at a maximum height if it is on a corner lot.

Mr. Howard: Right. But is there a Zoning Ordinance out there that has something to do with the distance? I think ten feet comes to mind, I am not sure why.

Mr. Harvey: Mr. Chairman and Mr. Howard, currently there is no setback for a fence from the property line.

Mr. Howard: Okay. This is one of those examples where I think there could be an unintended consequence where somebody might want privacy from their bedroom window and I do not think if you are sitting in a vehicle, four feet or eight feet makes a difference. But I do think line of sight or away from the property line of the corner can make a huge difference, whether you can see a pedestrian or another vehicle in the intersection. I understand the rationale of why we thought about the height but I am not sure if it solves the issue. Or does that create a new issue for the homeowner or the property owner.

Mr. Harvey: Mr. Chairman, to answer part of Mr. Howard's question, just because this proposal limits the fence height on the street facing side yard is not necessarily going to solve a sight distance issue. It ends up being more of a community standards issue of how do we want our neighborhoods to look. This is more geared towards the neighborhood situation where you have houses that are on a corner lot, how is that house and how is that yard going to look along the street and along the neighborhood. Because, as I mentioned, the fence could either be to the property line which is the right-of-way line or if you have a sidewalk adjacent to the sidewalk, if that is right at the edge of the property, so part of it is a matter of perception for your community. You will probably find it, as in most communities, as in Stafford, any fence in the front yard is supposed to be shorter than the fence in the back yard. There is no science behind it, there is no technology behind it, it is just a matter of what people generally see as desirable.

Ms. Kirkman: I'm sorry, I thought the reason why this was before us was because of the safety issue. And now it's being presented as an aesthetic issue and can't that be dealt with with homeowner covenants?

Mr. Harvey: Most neighborhoods do have covenants with regard to those type of features but not all neighborhoods do.

Ms. Kirkman: But any new ones coming up online they could deal with it. I don't understand why we are regulating this if it is simply a matter of aesthetics.

Mr. Fields: We were requested by the BZA… didn't the BZA require this?

Mr. Stepowany: Yes.

Mr. Harvey: It originated at the BZA.

Mr. Fields: To give them some guidance in looking at their issues? Is that correct?

Mr. Harvey: Yes.

Mr. Fields: Okay. I think that is the real reason for it, is to create a definable county standard that they have to work with in terms of granting exceptions and waivers, etcetera. Okay. Alright, no further questions? We will open up the public hearing. No one is here yet. We will give them twenty minutes and then we will close it. Okay, close the public hearing, come back to the Board. What are the wishes of the Board? Let's just do this. We have been looking at this one a long time. Motion to approve?

Mrs. Carlone: Yes.

Mr. Fields: By Mrs. Carlone. Second?

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Discussion? Alright, hearing none all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Di Peppe: No.

Mr. Mitchell: No.

Mr. Fields: Two no's? Alright. Okay, that's the public hearings. Let's see, unfinished business. We have got to go back to number 4, we still have clustering number 3 and traffic impact analysis. What do we have on clustering? Good news?

Mr. Nugent: Some questions please?

Mr. Fields: Yes sir.

Mr. Nugent: Help me out. Do we have a time issue with this?

Ms. Kirkman: Yes. We have to decide what we are sending to public hearing tonight or call a special session next week and decide next week what we are sending to public hearing.

Mr. Rhodes: Then call a special session.

Mr. Nugent: Well, the resolution from the Board authorizes the review of this ordinance but the authorization is limited to making any technical or clerical amendments to the ordinance. We are talking about Ordinance 09-27, correct?

Mr. Fields: Mm-hmm.

Mr. Nugent: Some of the things that were discussed earlier I think will be on the technical or clerical category.

Mr. Fields: Okay. That's fair enough. Well then, what we have before us is to recommend pretty much the clustering ordinance as we have it in our package for public hearing.

Ms. Kirkman: What do you feel of what we discussed earlier… well, first off, what does technical mean? I mean, when we are coming up with definitions and… to me the entire Zoning Ordinance is

technical so that is why I am having a hard time understanding what it means to say we can make technical changes.

Mr. Nugent: I would expect that a technical change would be something like a change in a dimension from twenty feet to fifteen feet or something like that. That might be a technical change. A clarification that something that reads better than it read before but means the same thing could be a technical amendment. Clerical amendments, I think that speaks for itself. I think technical or clerical amendments means something other than substantive amendments. But I will defer to the Commission if there is another category of authorization that the Board routinely issues with these directives. Is it only ever technical or clerical amendments or do they reference something beyond those two words occasionally?

Mr. Fields: I am not sure I can answer that precisely. Mr. Harvey, do you have an insight into that?

Mr. Harvey: Sometimes the Board gives the Planning Commission broad discretion; sometimes it is very narrow with no instructions for changes. So this is somewhere in the middle.

Ms. Kirkman: I don't think we have had one that has read like this before.

Mr. Fields: Right. Which would indicate that this is a tweaking exercise, not a substantial rewrite.

Mr. Di Peppe: We could vote for the public hearing with this the way it is and then if we have…

Ms. Kirkman: No, we can't. The problem is we can't make it more restrictive.

Mr. Di Peppe: We can't make it more restrictive.

Ms. Kirkman: And that is my concern about the open space stuff.

Mr. Rhodes: I am fine with it.

Mr. Fields: Well, what we can do… well, the only thing we really can do is vote to either… well, we have to go to public hearing. We have no choice; we are required by the Board to go to public hearing. We have to vote this to go to public hearing as it sits. And then we will probably not be able to make at the public hearing a recommendation that has the changes in it. We can certainly make those recommendations for the Board to consider that as it looks at the Ordinance and then it can make those changes before it goes to public hearing.

Mr. Nugent: Yes, that is correct Mr. Chairman.

Mr. Fields: So, I believe that is technically and legally our option at this point. I understand everybody's frustration with it. I am not happy that that is exactly where we are at either but…

Mr. Rhodes: So moved.

Mr. Fields: Moved by Mr. Rhodes.

Mr. Mitchell: Second.

Mr. Fields: Second by Mr. Mitchell.

Ms. Kirkman: I am going to oppose it. I think this is a terrible piece of legislation the way it is structured and I won't have anything to do with supporting it in any kind of way.

Mr. Di Peppe: I am also going to vote against it because I do not think it is a workable… it is just too many unanswered questions to make it happen. And the fact that we are under a deadline, when that happens to me, I have to vote no.

Mr. Rhodes: It was fine in June, fine in July.

Mr. Di Peppe: No it wasn't; we asked a bunch of questions.

Mrs. Carlone: No it wasn't.

Mr. Rhodes: And we just clarified technicalities. We did not go into these massive changes in two months.

Mr. Di Peppe: Well, I think the same issues I raised to night I raised back then.

Mr. Fields: Alright. And remember, we are still voting to send this to public hearing, not our final recommendation on the Ordinance. Alright, if no further discussion, all in favor of sending this to public hearing signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Di Peppe: No.

Ms. Kirkman: No.

Mr. Fields: Is that two opposed?

Mr. Di Peppe: Two no's.

Mr. Fields: Five – two, two no's. Alright, number 4, Traffic Impact Analysis Requirements. That had within it the possibility of four proposed ordinances I believe. Do we need to take a look at these in a further work session or do we want to vote to send these to public hearing as they sit?

Mr. Di Peppe: What is our time limit on them?

Ms. Kirkman: I recommend we send them to public hearing. This is really more of a housekeeping thing than any substantive changes. It's to make our ordinance consistent with the VDOT requirements.

Mr. Harvey: Mr. Chairman, just to clarify, the Commission would be referring this to the Board for their referral back.

Ms. Kirkman: Oh.

Mr. Fields: That's right, that's our process. Okay. Can we make a resolution to refer all things in one resolution or do we need four resolutions?

Mr. Harvey: I would say it is a singular item.

Mr. Fields: We can do one…

Mr. Nugent: One resolution for all. Just specifically identify each of the four in the one resolution.

Mr. Fields: Alright, do we have a motion to refer these to the Board to refer back to the Planning Commission?

Ms. Kirkman: So moved.

Mr. Fields: For 09-45, 09-46, 09-47 and 09-48.

Mrs. Carlone: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. Okay, so we've got our old business, we've got our public hearings. We have, before we get to minutes, we have the Planning Director's report.

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. I will first start off with the thing of most importance, from the Planning staff's perspective, that occurred yesterday at the Board meeting. The Board passed a resolution requesting the Planning Commission participation in a joint public hearing for October 6 at 7:00 p.m. That is a Tuesday. I have got copies of the Resolution as well as the Board's recommended Comprehensive Plan and a document that shows the differences, the track changes from the Planning Commission's recommendation to the Board's recommendation. I will be happy to pass those out but the Board will need to have some consideration again from the Commission as to your willingness to participate.

Mr. Fields: Alright, this is a joint public hearing on the latest draft of the Comp Plan as revised by the Board of Supervisors.

Mr. Harvey: Yes sir.

Mr. Fields: Amendments to the Comprehensive Plan.

Mr. Harvey: Yes sir.

Mr. Fields: Okay. Do we have everything that we need or are we still awaiting that final document?

Mr. Harvey: We have final documents here; if you want, I will have them passed out to the Commission.

Mr. Fields: Alright. Do I hear a motion to… do we agree to a joint public hearing with the Board of Supervisors? Is that the motion?

Mr. Howard: So moved.

Mr. Fields: So moved.

Mr. Mitchell: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, we will be there. I hope they are ready.

Mr. Harvey: Mr. Chairman, before I continue with my report for the record, can you clarify the motion and the second?

Mr. Fields: The motion is for the Planning Commission to conduct a joint public hearing with the Board of Supervisors on amendments to the Comprehensive Plan on October 6 at 7:00.

Mr. Harvey: Who made the original and the second?

Mr. Howard: I made the original.

Mr. Mitchell: And I made the second.

Mr. Fields: Mr. Howard, original, and Mr. Mitchell, second.

Mr. Harvey: Thank you very much. Also, I wanted to mention to the Commission that the Board referred two amendments down to the Commission dealing with the names on subdivision signs and also dealing with clinics in commercial zones. They approved the Stafford Nursing Center Proffer Amendment and deferred the South Campus application to the September 15th meeting. The Board also formed a committee of Mr. Brito and Mr. Milde to look at the parking requirements in the Zoning Ordinance because of some concerns about parking and how it is allocated in various commercial areas of the County. And that concludes my report.

Mr. Fields: Alright. Any questions for the Planning Director?

Mr. Mitchell: Was that parking at the VRE? Or was that parking in commercial? I'm sorry.

Mr. Di Peppe: It was parking in front of your house.

Ms. Kirkman: Mr. Harvey, I was just wondering if you could clarify. We heard from the Board last November I think it was that they did not want to make any changes to CUPs until after the Comprehensive Plan was passed because we sent them an ordinance that would have eliminated CUPs from non-listed uses which would have eliminated a lot of nonsense. And at that time their position was they did not want to make any changes to CUPs. Did they go into any detail about why they are now willing to make changes to CUPs before the Comprehensive Plan has been passed?

Mr. Harvey: There was not any discussion on that. My recollection was the Board said they did not want to consider that ordinance amendment specifically until the Comp Plan was dealt with. So it would be dealing with non-listed uses with CUPs.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Alrighty, that concludes your report?

Mr. Harvey: Yes sir.

COUNTY ATTORNEY'S REPORT

Mr. Fields: County Attorney? Do you have anything to report?

Mr. Nugent: Nothing additional, thank you.

SECRETARY'S REPORT

Mr. Fields: Thank you sir. Mr. Secretary?

Mr. Mitchell: Nothing additional sir.

COMMITTEE REPORTS

Mr. Fields: Alright. Any committees that we need to hear of? I don't believe we have anything. I guess since we are going to work this other issue out, we will have the next Transportation Committee meeting the fourth Wednesday of September.

CHAIRMAN'S REPORT

Mr. Fields: I have nothing to report other than I had a nice vacation. I hope everybody did as well.

OTHER BUSINESS

None

APPROVAL OF MINUTES

Mr. Fields: Let's go back to approval of minutes, May 20, 2009 work session.

Mr. Mitchell: Motion for approval.

Mr. Fields: Motion for approval by Mr. Mitchell.

Mr. Di Peppe: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Abstain.

Mr. Fields: With one abstention.

May 20, 2009 Regular Meeting

Mr. Fields: And motion to approve minutes from May 20, 2009 regular meeting.

Mr. Mitchell: Motion to approve.

Mr. Fields: Motion for approval…

Mr. Rhodes: Second.

Mr. Fields: Second. All those in favor say aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Abstain?

Ms. Kirkman: One.

Mr. Fields: One. Yes indeedy. Okay. Have I missed anything?

Mr. Rhodes: Mr. Chairman? I would just like to once again thank staff for their tremendous work day in and day out. They deal with a bunch of different people elected and appointed and many other perspectives.

Mr. Howard: And anointed too.

Mr. Rhodes: They stay consistent and I think they deal with many more ludicrous things than they deliver back to us and I thank them for their efforts.

Mr. Fields: We all do and we all wish Mr. Howard a Happy Birthday. Today is his birthday.

Mr. Howard: Thank you.

Mr. Fields: Amazingly enough it's not an official Stafford Holiday, if you can believe that oversight. I would call your Supervisor if I were you Mr. Howard.

Mr. Howard: That's okay.

Mr. Fields: Alright, thank you very much. We will see you next time. We are adjourned.

ADJOURNMENT

With no further business, the meeting was adjourned 10:32 p.m.

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Peter Fields, Chairman
Planning Commission