

**STAFFORD COUNTY PLANNING COMMISSION**  
**September 2, 2009**

The work session of the Stafford County Planning Commission of Wednesday, September 2, 2009, was called to order at 5:10 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, Howard and Kirkman

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Nugent, Stinnette, Baker, Stepowany, Hess, Ansong, Carter and Woolfenden

DECLARATIONS OF DISQUALIFICATION

None

REVIEW OF PROPOSED ORDINANCES

1. Elimination of the Preliminary Subdivision Plan Process (**Deferred for legal analysis**)

Discussed during regular meeting.

2. Amend Definition of Subdivision Sign in the Zoning Ordinance (Referred to Planning Commission by Board of Supervisors)

Mr. Harvey: This item was referred to the Planning Commission from the Board of Supervisors. The Board is concerned about subdivisions changing their name after a final subdivision plat has been recorded. There are concerns when a subdivision uses the same or a similar name to a subdivision that already exists. Staff will need to work with the legal department to develop changes to the Subdivision Ordinance in addition to the Zoning Ordinance because of their concern about issues with regulating content of a sign, that is something not allowed by local governments.

Mr. Fields: Okay.

Mr. Harvey: So we will be looking at creating a separate ordinance dealing with the construction plans requiring a subdivision sign to be shown on the construction plans and to identify the name of the subdivision that is to be on the recorded subdivision plat. So we will try to get to the issue from that perspective.

Mr. Fields: Okay.

Mr. Harvey: At least that is the latest discussion.

Mr. Fields: Do you need anything from us tonight on this?

Mr. Harvey: Just your indulgence for us to come back with another ordinance for your consideration.

Mr. Fields: Okay, any other questions or comments?

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Mr. Di Peppe: One real quick question. I understand you are saying we can not regulate the content, does that go so far as saying we can not require the name?

Mr. Harvey: From my discussions with Mr. Nugent, that is correct.

Mr. Di Peppe: Thank you.

Mr. Fields: Okay. We have medical and dental clinics that has been referred to us by the Board.

3. Medical and Dental Clinics in Commercial Districts (Referred to Planning Commission by Board of Supervisors) (**Time Limit: November 17, 2009**)

Mr. Harvey: Yes sir. In the background report we give some information as far as where medical and dental clinics are permitted. Presently they are allowed by Conditional Use Permit in the B-1 and B-2 Zoning Districts. The proposal would be to allow them as by-right uses in a number of zoning districts.

Mr. Fields: And they are by-right in Albemarle, Fauquier, Hanover, King George, Spotsylvania, Prince William and the City of Fredericksburg?

Mr. Harvey: Yes sir.

Mr. Fields: What is the history? Why did we end up getting them as CUPs instead of by-right? Do you have any idea about that?

Mr. Harvey: Yes, that was done in the 1990's and it was due to concerns about the types of clinics we may get locating in the county and whether the county wanted to regulate the location or some of the activities that may occur there. But we have never really seen any concerns voiced from the community for any Conditional Use Permit that we have had from my recollection.

Mr. Fields: Okay, it certainly seems to me...we are just discussing, it is a work session.

Mrs. Carlone: We should have a problem with doing away with the conditional use permit; there are so many factors now as far as population, traffic and whatever. If you look at the explanation of by-right it is a use that is permitted without additional information or consideration by the Planning Commission or the Board of Supervisors. Conditional use, a use that allows in a zoning district upon consideration of BOS and PC and it gives them the ability to request provisions. We are taking away, little by little, our ability to have a say in some of these and not to override approval but just to look ahead at some of the locations. This just takes away it all.

Mr. Fields: But there is a whole list of commercial uses that do not require a CUP so I guess my concern is why single out the medical and dental uses compared to other commercial uses.

Mrs. Carlone: When you compare... they mentioned Fauquier and Albemarle and some other locations. Those are not densely populate and they appreciate having...we are beginning to get more and more clinics and medical offices, i.e. Route 1, 610, Route 17 and I just feel that we are doing away with our ability to the type of clinic, not to be too restrictive but give us a chance if there is some extenuating circumstances if you feel there is something that needs to be added into the request. That is it.

Mr. Fields: Any other comments?

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Ms. Kirkman: Yes, I have two questions for Mr. Harvey. My first question is has the Board acted yet on the legislation that we sent to them regarding striking the unlisted use as a CUP?

Mr. Harvey: No they have not. They deferred that for the comprehensive plan to be considered first.

Ms. Kirkman: So why are they now sending to us a change regarding CUP's before the comprehensive plan has been done? Did they articulate this seeming flip flop in their position?

Mr. Harvey: I do not recall any discussion in that regard. The general discussion was brought up initially by Mr. Dudenhefer and his concerns about that we may be losing out on businesses compared to other jurisdictions that do not require conditional use permits for medical clinics.

Ms. Kirkman: And back in the 90's when this was first instituted, what were some of the concerns about the types of clinics that might come in under this as a by-right use?

Mr. Harvey: I believe some of it was dealing with the types of procedures that may occur on the sites or within the individual businesses and if they would become a distraction to the community.

Ms. Kirkman: And what types of procedures are you thinking...were considered at that time to be procedures that might cause a distraction to the community?

Mr. Harvey: My recollection was there was concern that you may have abortion clinics or some other types of clinics that may not be as desirable in certain community areas.

Ms. Kirkman: So by eliminating this, then say Planned Parenthood could come in and open an abortion clinic as a by-right use.

Mr. Harvey: Yes, they would be permitted.

Ms. Kirkman: Could the same be true for drug treatment facilities where people come in for shots and that sort of thing?

Mr. Harvey: I think anything that qualifies as a clinic under our definition would fall under this ordinance.

Ms. Kirkman: Okay, thank you.

Mr. Fields: I question this, sometimes I can understand certain community concerns I am just, you know the...quite often because we do not have some of the ability to have a discussion or dialogue that we would like I am sometimes concerned about the use of a conditional use permit which is certainly different than a rezoning as a exceeding sort of its real true regulatory scope. The type of use, who occupies the property and what they do with it other than impacts to traffic and the architectural environment and the ascetic environment and certain kind of things. I think it is a slippery slope to maintain a CUP based on what peoples value judgments on the nature of the business being operated there. That seems to me to be a very slippery slope to get into to maintain a CUP for that purpose because I do not think that is really what a CUP was meant to do they were meant to mitigate its impact to the community in terms of land use and traffic and demand on services and infrastructure.

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Mrs. Carlone: Mr. Chair, in your discussion there, in the Planned Development PD-1, those were primarily set up for residential with open space and such and looking at some of the...they can go ahead and start up the business. I am not anti-clinic or anything but I just feel we should not loose control and that some of these clinics are really not what PD-1 was set up for.

Mr. Fields: I understand, I am just having a conversation here. I am not trying to make a point necessarily, I am just expressing my...I am just thinking through the problem that is all. I am trying to raise some points.

Ms. Kirkman: Mr. Chair, I do agree with you and I think it is rather forward looking of our Board of Supervisors to remove a land use restriction that apparently was put in place to prevent women their access to exercising their right to choice so I think we should congratulate them for removing that restriction.

Mr. Di Peppe: I am sure they will appreciate that.

Mr. Fields: I am sure they will appreciate that. I just...a CUP...when we have this problem and those fees we have created I have always defended as being crafted to recover the cost so the tax payers do not subsidize the process. But I think we always have to keep the practical consideration, we have to keep in mind is that ten thousand dollars a CUP is not an insubstantial investment. So if we are asking one group, one class and one type of businesses, we are saying you need to pay ten thousand dollars in fees plus the attorneys' fees that requires them to be properly represented before both the Planning Commission and the Board of Supervisors. You know when we single out businesses for that much more arduous task of going through that process before they can get in business, I just want us to make sure that we have thought that through and that is for all of the most correct reasons. There are a lot of businesses that, as we all know, I have had these I am sure it has come to the Planning Commission, I know and Mr. Mitchell probably did when he was on the Board, I have had several issues when I was on the Board of Supervisors of people, certain businesses opening by-right in the B-2 or B-3 and constituents being aghast that a certain business would open. You can not...there is a limit to what you can control or should control in that aspect. There is a wide range of businesses that different segments of the community may or may not find to be their optimum neighbors or their optimum use. I don't know that we can have that kind of control. We either control everything, either every business that goes into B-2 or B-3 requires a CUP or if there is some by-right. Selecting one out for not being by-right is a big deal to me.

Mrs. Carlone: Okay, another point.

Mr. Fields: I am just concerned about fairness really.

Mrs. Carlone: That is okay.

Mr. Fields: If there is a compelling reason why medical and dental clinics have a traffic infrastructure impact that is addressable through a CUP that is distinct from other by-right uses, that to me is the case that has to be made. If there is not one I am not sure that you can justify maintaining a CUP for them.

Mrs. Carlone: Okay, the Albemarle, Hanover, Fauquier, King George, these locations are by-right in their commercial zoning districts, in their commercial zoning districts. So the point I was trying to make...is that PD-1...I understand what you are saying but I just wanted to make a point that PD-1

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again, how do you say which ones or how many office buildings within a rural area. I do not know myself.

Mr. Fields: That is what I was saying, it requires some thought obviously.

Mr. Howard: Mr. Chair.

Mr. Fields: Yes sir.

Mr. Howard: In the spirit of discussion, other jurisdictions to my knowledge have a different process with similar types of establishments. And that would be a CON process which is a Certificate of Need and that goes back to the comprehensive plan design, so are these businesses in areas that actually need those types of services. So is the relationship to the hospital site or are there outer lying areas within our county that do not have access to medical services where some of these clinics would open up whether it is a seven day clinic or a twenty-four hour type of clinic that is staffed with a physician. It is certainly worthy of discussion to think through this more thoughtfully than making some decision tonight. I know no one is suggesting that, but there are reasons why you would want to do that. And then the question you are asking, the real reason you would want to make sure there is some type of checks and balances is probably the medical waste piece of this. What type of medical services are taking place on the facility and how in fact is the medical waste being disposed of and what is the business owner, if you will, signing up for in terms of assuring that actually takes place from a county perspective. Because there is oversight and regulation from medical boards that have oversight of those practices, but then from a county perspective what would we want in terms of making sure that these things were taking place so no harm is coming to residents within close proximity to those businesses.

Mr. Fields: I understand those aspects of medical and dental practices that are unique to those businesses.

Mr. Di Peppe: I think this is a great discussion. I was in the pharmaceutical business for five years and every place I ever went they had vendors that actually took care of hazardous waste. They were stored in particular types of containers until they were picked up and they were picked up on a regular basis, but it is a good point to raise. But I understand Mr. Chairman, what you are saying too because if you start regulating business on things other than their actual hard impact such as lighting, such as traffic such as something like that then I think you are not only on a slippery slope but you are setting yourself up to lose in court because they can say arbitrary and capricious for this particular type of business, what kind of impact does it have that this other one does not have and if you are doing it for any other reason then we are setting ourselves up.

Mrs. Carlone: Mr. Chairman.

Mr. Fields: Yes ma'am.

Mrs. Carlone: Mr. Howard, who is it that has...that we could check with the Certificate of Need, do you know which jurisdiction has it?

Mr. Howard: To my recollection they are some of the Northern Virginia counties, also the District of Columbia and I believe there are one or two counties in Maryland that have that process where you go through what is called a Certificate of Need for this type of...

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Ms. Kirkman: Mr. Chair.

Mr. Fields: Excuse me just a minute. Are you finished Mr. Howard?

Mr. Howard: Yes.

Ms. Kirkman: Mr. Chair, I was just going to offer clarification that actually the statutory authority for Certificate of Needs according to Virginia Code lies with the State, specifically the Department of Health and they are the ones that administer that process. Secondly, medical waste is regulated by the State although I am not sure which agency it is, it may even be DEQ.

Mr. Fields: Department of Health.

Ms. Kirkman: Is it Department of Health, so there are already state regulations in place around medical waste and I don't know that we could offer anything, you know impose anything as a condition other than that they would comply with the state regulations which is standard boilerplate of what we have got already on our CUPs.

Mr. Fields: That is an interesting question about the Certificate of Need. Mr. Howard, do you know are those localized Certificates of Need or are they state administered? That is an interesting concept I had not heard of that.

Mr. Howard: In most cases Ms. Kirkman is correct where the state regulatory body would have oversight in determining if in fact a Certificate of Need would be required. But it is a thought that the County should consider and think about it, that is why I brought it up.

Mr. Fields: It was a good point.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: Thank you sir. I am concerned that a medical clinic could open up and just be a medical clinic. Maybe you and I could start one Pete and just call it a medical clinic and we would not need a CUP. We could call it faith healing or whatever and we would not need doctors. I am just concerned that just opening up the word medical clinic could have more than one definition.

Mr. Fields: Sure.

Mr. Di Peppe: Do we have that defined?

Ms. Kirkman: Don't we have a definition in our Zoning Ordinance of that?

Mr. Harvey: Yes, I was just getting ready to pull that up. A medical or dental clinic is a building or a group of rooms used by two or more licensed professionals listed below practicing as a group to conduct their normal operations associated with health care providers. Those professionals include physicians, dentist, orthodontist, optometrist, ophthalmologist, chiropractor, psychologist, psychiatrist, physical therapist and similar profession. Patients are treated on an outpatient basis only. There shall be no overnight stay or treatment.

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Mr. Fields: So the part of the key is the licensed professional, right? That is part of the...so I think that might answer part of your question Mr. Mitchell. You do...you would have to be certified as a doctor, nurse, physical therapist or something like that. You and I no matter how good a job I think we might do probably could not open one.

Ms. Kirkman: Well if you did it would be fraud.

Mr. Fields: Okay, well I think maybe some of the things to think about is if we have concerns about the impact of medical and dental clinics on the community, do we need to continue looking at this as a CUP or do we need to offer possibly an alternative thought of increasing the performance standards in the regulations for those uses defined as medical and dental clinics? There is always two ways to go, you can make it a CUP requiring the review for a conditional use permit or you can change the standards so that type of use is always regulated in a certain way. Two different ways of looking at it, anyway. What is our time limit on this? November 17<sup>th</sup>?

Mr. Harvey: November 17<sup>th</sup>.

Mr. Fields: Well that is all the time in the world.

Mr. Mitchell: Mr. Chairman, if we could get some more information on the Certificate of Need. Maybe the staff could get some data from the other counties.

Mr. Fields: Yes, how are they applying that to these types of things and is it still through the Department of Health is there a localized version of it or is it one of those things that the County Executive or County Manager counties have that our type of government does not have. Sometimes, as you know, there are certain things that cities and County Manager/County Executive counties get to do that County Administrator/Board of Supervisor counties do not.

Ms. Kirkman: I think one helpful place to start would be to see if there is any authority for us to legislate CONs.

Mr. Howard: Right, we have to check through the state legislature.

Ms. Kirkman: I think that would be the first place to start.

Mr. Fields: Okay, let's keep moving on this. Put it on the next agenda and see where we are with it and keep working on it until we finish it. Okay, Rappahannock River Overlay...

Ms. Kirkman: Oh, and could we also get back to us what exists about medical waste?

Mr. Fields: Moving right along, number 5, North Stafford Center for Business and Technology, the Shoppes at North Stafford.

4. 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)

REVIEW OF PENDING REZONING/CONDITIONAL USE PERMITS

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5. 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) (History - Deferred at August 19, 2009 Regular Meeting to September 2, 2009 Work Session)**

Mr. Harvey: Mrs. Baker will give you an update.

Kathy Baker: Just to brief you this application was heard at your August 19<sup>th</sup> public hearing. It was deferred so that more information could be provided on the uses, particularly on the difference of uses between the B-2 and the B-3 Zoning Districts. We sent out, in your packages, a list of uses and there are several different sections and I will briefly go through that. The first, the following uses are used by-right under the B-2 zoning with proffers as proposed by the applicant under this application, so that goes through a list. On the next page, page 2, the following uses have been proffered out by the applicant, so there were five uses that they were proffering out from the B-2 by-right uses. Next on the list, the following uses that would be allowed by-right under both B-2 and B-3, so the similar uses that could be allowed in both categories and the next section is the remaining uses that would be allowed under this proposal. So, exclusive of the uses that are allowed in both B-2 and B-3 and exclusive of the uses that have been proffered out. So the bottom of page 2 and the top of page 3 are those uses that would be allowed under the change in the zoning that they are proposing. The last two pieces are just for your information as far as the conditional use permits that are allowed in B-2 and B-3. I would be happy to answer any questions regarding that.

Mr. Fields: Are there any question for Mrs. Baker?

Ms. Kirkman: So just to clarify, the bottom of page 2 that list that starts with bakers.

Mrs. Baker: Yes.

Ms. Kirkman: Those are the uses that they can not do now that they will be able to do if this is approved.

Mrs. Baker: That is correct.

Ms. Kirkman: And those look like primarily retail uses.

Mrs. Baker: That is correct.

Mrs. Kirkman: Okay, thank you. One other question, I am looking though the staff report and it says the change in zoning will not increase traffic and I don't understand how that can possibly be the case given that this adds a whole bunch of retail uses which typically have a high trip generation.

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Mrs. Baker: Again, when they originally prepared the traffic impact analysis that was prepared with certain uses. Because the entire office complex is really a mix of office and retail uses. There are certain retail uses that are allowed in the B-3 zone. So when they prepared the traffic impact analysis it took higher intensity uses and included that in their traffic impact. So based on that, by changing this they had already accounted for these uses that were going to...that would have been allowed.

Ms. Kirkman: What was the mix of retail verses other that they used in the original traffic impact analysis?

Mrs. Baker: Give me just a minute, I will have to pull the traffic impact analysis. They have done several iterations of the traffic impact each time they added...this went through changes over the years since the initial rezoning. So they did make some addendums to the original traffic impact study.

Ms. Kirkman: For some reason what we seem to have in our packet is the 2004, even though there are others referenced.

Mrs. Baker: They are all grouped together. There is a 2002, a 2004 addendum, a 2007 addendum and a 2009 addendum that was submitted with this application. And without going through each individual one, I am not sure if you want to know the original from 2002...

Ms. Kirkman: Yes, since they are saying we don't need to do anything else because the original accounted for all of this, I am looking for the original figures and want to be able to compare those to the 2009 analysis.

Mrs. Baker: They did have general office building, shopping center, drive in bank were three of the uses that were listed.

Ms. Kirkman: But, what were the mix? The percentages of those and how does that compare with the percentage of what they are proposing now?

Mrs. Baker: I may ask you to have their engineer describe that who may be a little more familiar with the specifics of the traffic impact.

Ms. Kirkman: Again, I am looking...you know I looked through this before and I just want to see that side by side comparison of the original and the 2009.

Mrs. Baker: Would you like for the engineer to address this? Because she is...

Ms. Kirkman: It sounds like she would be in a better position to do that.

Mrs. Baker: She is certainly more knowledgeable about the seven year old traffic impact study.

Kathy Coffey: Hello, I am Kathy Coffey with Bagby, Caldwell and Associates and our office is in Fredericksburg. In 2002 this area was always intended to be, kind of the commercial retail portion of the development and hopefully with uses that might support the office such as restaurants and restaurants are allowed in the B-3 as well as in the B-2. Because of the nature of an office park, we assumed there might be something, let's say a Quizno's, which would count as a high turnover restaurants and fast food type restaurants not with a drive through. We never assumed that, but we tried to make very reasonable assumptions. We did not want to assume it was going to be office when we

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figured there was going to be some type of support for the office. In here I have got the 2007, which was the most recent report. It has high turnover sit down restaurant, thirty-five ninety-five square feet, fast food restaurant without drive through at twenty-eight seventy-two...

Ms. Kirkman: Excuse me, could you just point out to me where in the traffic impact analysis that we have it lays out side by side what was done in 2002 verses what was done in 2009.

Ms. Coffey: It is not side by side in there.

Ms. Kirkman: What page is the 2002 analysis on and what page is the 2009 analysis on?

Ms. Coffey: The 2002 was much more broad and I think things started coming down from that that is why we went with the 2007...

Ms. Kirkman: I am asking for the 2002 please.

Ms. Coffey: And that is what I am looking for. It is page 2, which appears to be on page 37 of 74. And that one if you look where it says proposed development, number 3, it's got four hundred thousand square feet of general office, twelve six hundred square feet of strip shopping center and five thousand square feet of bank.

Ms. Kirkman: Okay.

Ms. Coffey: Since that rezoning, two parcels to the east were added. Those two parcels were rezoned in 2007. The 2007 traffic study included the park as a whole instead of just looking at those two pieces and that was an additional office building and a bank.

Ms. Kirkman: The staff report...but where does it show...so where is the 2009 analysis that staff references that was updated for this application?

Ms. Coffey: 2009, on page 68. If you look at that. That is the table that breaks it down between what is specifically the Shoppes at North Stafford, which is this development. It is table 1 on page 68, I am not sure if...

Ms. Kirkman: You show a difference of three thousand trips here.

Ms. Coffey: Between...

Ms. Kirkman: So you show a total in 2002 of seven thousand five hundred and twenty-nine and a total in 2009 of ten thousand nine hundred and thirteen. That is an additional three thousand trips per day.

Ms. Coffey: The whole traffic study has been updated, I think, four times now. What I am saying is what has been designed and constructed reflects what was done in accordance with the 2007.

Ms. Kirkman: So what we have been told is no proffers are needed...no traffic improvements are needed because there is no increase in the daily trips per day, yet what your report says is that there is an additional three thousand.

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Ms. Coffey: Between the 2002 and between now, but what I am saying is that another rezoning...this incorporates...2007 incorporated another piece of property that was not in the 2002.

Ms. Kirkman: But we have got all the impacts cumulatively that we have to deal with in this one and there are an additional three thousand trips from the 2002 rezoning.

Ms. Coffey: Correct. The first rezoning dealt with, I believe it was two parcels. And that rezoning was done and the traffic was looked at and then adding two additional parcels, adding additional acreage would naturally add more traffic which is why everything was revamped. We also had better information on exactly how much office was going in because some of the plans had been approved, some structures had been constructed at that point. So things had been refined and honed from the 2002 until where we are. VDOT has reviewed all of these and they have reviewed the plans that were constructed to make sure that the improvements out there accommodate the traffic that was there.

Ms. Kirkman: So this project as a whole generates three thousand more trips per day.

Ms. Coffey: This project meaning the overall development?

Ms. Kirkman: Mm-hmm.

Ms. Coffey: That would be difficult to say because, like I said it incorporates additional property that was not in the original rezoning.

Ms. Kirkman: But that is what we have now is three thousand more trips per day. And how does that not generate the need for some additional traffic improvements?

Ms. Coffey: When we had done the original...when we set down to look at doing a traffic impact analysis, you have to look at what would theoretically be the most intense use. Especially on something like a multi-tenant retail where your tenants are going to change over the years. You might have a dry cleaner today but tomorrow you might have a sub shop. So we have to look at what traffic could be generated on that sight. Under B-2 zoning and under B-3 zoning the maximum traffic that could be generated would be with restaurant type uses. So that is why it is assumed those are allowed in both zonings.

Ms. Kirkman: Right, but regardless of what you used it is generating more traffic now. Three thousand more trips per day. How is it that that does not create the need for some additional traffic improvements? Your square footage...if you look at your square footage from 2002 to the table on page 68, your square footage now for retail now is almost twenty-eight thousand square feet where in your original proposal it was about three thousand. How can you go from three thousand square feet of retail to nearly thirty thousand square feet of retail and not generate additional traffic?

Ms. Coffey: What I am saying is that the 2002 does not reflect the most current approved by VDOT reviewed by the Planning Commission and the Board the 2007 is the most current. We had to make assumptions in 2002 of what was going to be there and VDOT has looked at this and said the improvements that were done, that is why Kimley Horne did this entire traffic study to verify that the improvements done were adequate to address all the traffic that was generated.

Mr. Howard: Mr. Chair.

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Mr. Fields: Yes.

Mr. Howard: I do not have the detail in front of me. My recollection is when this applicant came before us, and I remember this because it is in Rock Hill, they had proffered a few things additional when they requested the additional space I believe they purchased a homeowners property that was adjacent to the office complex. Came before us and requested the permission to build or add to their GDP building number 4 and also a bank that was going to have some drive through activity at that location, which is separate from the parcel they are speaking of today. The parcel they are referring to today is called the Shoppes at North Stafford. And at that time I think that was B-2. Is that correct?

Ms. Coffey: That project is B-2.

Mr. Howard: The uses you had in there, it was twenty eight thousand square feet, and that was in 2007 and you did have, I forget what the percentage was, but it was over a third of the uses sit down restaurants at that time. I think the applicant is referring to the difference between the 2007 and today not the 2002. Again I do not have the proffers in front of me that was before us in 2007, but that is my recollection.

Ms. Coffey: The change, Debrarae does have the proffer, but the change to accommodate for that was an addition of office and the bank with the drive through.

Mr. Howard: Correct.

Ms. Coffey: So it was kind of, we took a separate piece and added it and that was well after 2002 it was in 2007.

Mr. Howard: I thought in 2007 you had updated also the vehicle count.

Ms. Coffey: It has been, yes.

Mr. Howard: I thought you presented that to us at that time.

Ms. Coffey: We did, correct.

Mr. Howard: Okay.

Ms. Coffey: And it was verified that the road as it was with the construction that had been done was still adequate with the improvements. That is why we made sure that on that particular parcel there was only right in access, access out back to 610 you would have to go to the light. We could not develop the front parcel until the back one was purchased so that access would be in keeping with very good traffic circulation in that intersection.

Mr. Howard: I think on the very far end you had a right in/right out on 610 and you had to go to the center of the development, which is where the traffic light is.

Ms. Coffey: Right.

Mr. Howard: In order to make a left turn on 610.

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Ms. Kirkman: What is the definition of specialty retail?

Ms. Coffey: Specialty retail is just a generic term that is in the ITE which is the trip generation manual that is used.

Ms. Kirkman: What are the examples? I know they have specific definitions.

Ms. Coffey: I do not have the examples with me. I can certainly provide that. I would think it would be clothing shops, I am trying to think of some other ones. A bead store, a craft store would be kind of specialty retail.

Mr. Howard: A card store, a Hallmark store.

Ms. Coffey: A baseball card shop, Hallmark, a jewelry store.

Ms. Kirkman: Because this gets back to the applicability of this TIA to the addition, the changes that will be made in the use if this is granted. We need to see that the trip generator that was used for this specialty retail that the ITE definition matches up to this long list of retail uses that will be allowed if the rezoning is approved.

Ms. Coffey: And one thing, just to point out. If you look at the traffic numbers generated by all of the restaurants in comparison to the amount in the retail. The retail has more square footage. The restaurant has smaller square footage and more traffic. Which is why we made that assumption to be more conservative. We did not want to propose something to you that was ultimately going to be inadequate.

Ms. Kirkman: Sure, but I would still like to see how the ITE definition matches us with our definition of these retail uses. And then if staff could answer, have they proffered limitations on square footage on each of these things?

Ms. Coffey: The buildings are constructed and I believe the proffers do restrict it to what it is.

Ms. Karnes: Yes, if I may Mr. Chairman.

Mr. Fields: Yes ma'am.

Ms. Karnes: The proffers restrict the total retail development to twenty nine thousand square feet. I believe it is twenty nine thousand sixty-six. That is not an increase from the existing as-built development.

Ms. Kirkman: So does it limit specialty retail to twenty thousand square feet? The proffer?

Ms. Karnes: It does not impose a limitation on any specific use.

Ms. Kirkman: But that is what the ITE is based on. On that square footage.

Ms. Karnes: I understand that is one of the uses allowed. Another component of the traffic study involved the calculation of the impact of those uses that have the biggest impact on traffic and that really is a restaurant.

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Ms. Kirkman: Well we need to see what is included in the ITE definition of specialty retail and how it compares to this long list of by-right uses so we can ascertain that.

Ms. Karnes: We can get you that.

Ms. Kirkman: That would be great.

Mr. Fields: Okay are there any other questions for the applicant or staff?

Mrs. Carlone: Mr. Chair.

Mr. Fields: Yes ma'am.

Mrs. Carlone: I was looking...Debrarae one of the uses that was left in was the child care center and I am concerned about the child care center outdoor play space. I did not see a stand alone building for it but, where would you be placing it...the child care?

Ms. Karnes: There is no room there for outdoor play...

Mrs. Carlone: Would you mind then going ahead and taking that out of by-right for this use?

Ms. Karnes: Mrs. Carlone, I would be glad to consult with my client on taking out anything that the Commission recommends. My client is not here tonight.

Mrs. Carlone: I just...you know...it is really not a place for child care if they can't have some play areas out back or something. That is it, if you would see if the would proffer out.

Mr. Howard: Mr. Chair.

Mr. Fields: Yes Mr. Howard.

Mr. Howard: I would like to know if the applicant has a copy of the proffer statement from 2007. Did you say you had that?

Ms. Karnes: I emailed that to Mrs. Baker this afternoon. If I may Mr. Chairman, Mr. Howard had one questions for me this afternoon.

Mr. Fields: Okay.

Ms. Karnes: He wanted to know whether there would be a FRED bus stop somewhere on the sight. Either in the retail or the office component. And the 2007 proffers do provide for Fredericksburg bus stop to be somewhere on the property at the time that FRED bus service is extended to this area.

Mr. Howard: That was my recollection when it came before us in 2007...

Mrs. Carlone: I remember that I had asked for it to have a covered...

Mr. Howard: With the updated traffic study and traffic counts and the uses they were proposing.

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Mr. Fields: They were factoring the availability of transit into their traffic impact?

Mr. Howard: Not into their traffic impact.

Mrs. Carlone: It was supposed to be a space set aside.

Mr. Howard: It was proffered as use for the County basically.

Ms. Kirkman: Did that go into the calculation for parking spaces? Did the applicant take a ten percent reduction for a FRED bus stop?

Mr. Howard: No they agreed to put us a separate, according to my recollection,.

Mrs. Carlone: Just a kiosk.

Mr. Howard: A separate free standing covered area where people could stand and wait for the bus. Is that correct?

Ms. Coffey: It is, and with service not provided out there now, we did not think we could take any reductions in parking.

Mr. Howard: They do not go past Park Way.

Ms. Kirkman: I am saying in the construction plans. Did the construction plans take a ten per cent reduction for the FRED bus stop?

Ms. Karnes: No

Ms. Coffey: No ma'am.

Ms. Kirkman: Okay.

Mr. Fields: Let me ask a question. There is sort of an interesting...there is a lot of variables that I know are difficult to pin down. This part of the problem. The ITE numbers are...they are just a number. I mean they are just an average that could be or not be applicable. That has always been the frustration with them. My concern, I guess I am hearing as expressed by others, if you simply say twenty-nine thousand square feet of retail and then do a ITE...do a traffic impact, what are you using ITE or some other source based on a certain mix but are not proffering the mix, which I understand why it is difficult to do because market forces dictate you know what mix. But I think you can see it sort of...if you took twenty-nine thousand and did an ITE number on the highest traffic count use as allowable under that type of zoning for all twenty-nine thousand feet you would get a substantially large number. So, now it is unlikely that you are going to do twenty-nine thousand square feet of whatever the highest use, restaurants or whatever, but if you are not willing to and I understand why it is difficult to proffer, but I think you can see the problem here. I mean theoretically here we are in theory there is a much larger number or possibly a smaller number than what we are seeing. But it is a little hard for us to get a handle on.

Ms. Coffey: Can I speak to that?

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Mr. Fields: Sure.

Ms. Coffey: One thing that is actually very good about the way the Zoning Ordinance is that with mixed use type things as this one the ordinance in a way governs itself. Because we could not put anything in there that there is not adequate parking for. We looked at what could physically be put in there, the higher traffic generating uses are also the uses that require more parking by the ordinance. So there is...if we filled up half of one building with restaurant and that was all the parking we had, the rest of it would sit vacant. And that is all that could be developed. So in a way it is sort of self limiting.

Ms. Kirkman: Well, not really because then you purchase...you make arrangements for shared parking or you purchase an adjacent lot and that does not address the traffic situation, it only addresses the parking situation. And we have actually seen a number of plans that have pieces like that to it. So a certain extent, but not as much as we all would like.

Ms. Coffey: I understand that.

Mr. Fields: Mr. Di Peppe.

Mr. Di Peppe: There is another self limiting aspect to it because if originally you are talking about office space in these other retails being support services, you are going to have say a Quizno's or something like that, it is going to have to have enough office space with enough people in order for that person to make a living doing that. And I think in some ways you are not going to have six sandwich shops because they are not going to survive. So in some senses if you are going for the office space and supporting they are only going to support what they can support. And I think that would in some sense limit of those higher traffic volumes.

Mr. Fields: It is on Garrisonville Road so everybody on Garrisonville Road can go to those uses.

Mr. Di Peppe: Alright.

Ms. Kirkman: It is not just the office space.

Mr. Fields: That is the problem we create, I am not trying to limit business, but I mean it is kind of a mess up there. You know, I think you can understand the concern. It is your district Mr. Howard, I think we are all concerned as I am sure you are as not making 610 one little bit worse than it already is.

Mr. Howard: I think in fairness to the applicant that is before us, this part of 610 is...while there is plenty of traffic opportunity by Joshua Road, I think there is a plan in place to fix that and should be underway next year. The likelihood that this would create additional trips down 610, I think people are already traveling down 610 to get to the eastern portion, where the Stafford Market Place is and this would actually...this might actually improve congestion along 610 if there were a business that you could pull into closer to home and not have to travel a mile and a half towards 95. So I don't think it is going to create additional traffic other than the office complex which hopefully, we have said this several times all of us on this commission, if we could have people work closer to home that is always a positive. Certainly this is a great office complex, it is well designed and they have got some very good companies in there today. They are here before us because they can not rent the retail space. They have not had success doing that and that just generates additional tax revenue for the county. There are buildings sitting there that are vacant today.

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Mr. Fields: Right. Okay, I appreciate that insight.

Ms. Kirkman: Mr. Chair. I think the traffic concerns are still legitimate one though and I will tell you why. Each project was evaluated as it went on Garrisonville Road and the conclusion was with each one the traffic improvements were adequate. And yet you can't get down Garrisonville Road on a Saturday morning. So that is the problem when these things are done incrementally, project by project. So I think we just have to be really careful and the applicant may very well have the information to address these concerns and one of them is demonstrating to us that the ITE trip generator, the definition of specialty retail matches the by-right uses that would be allowed. For instance I have a hard time seeing how recreational facility matches specialty retail, but perhaps it does in the ITE definition. And then the second is somehow making the ITE calculations match up with a proffer about what will and will not be done on site. So I think the concerns can be addressed by the applicant and I am confident they have the information to figure out how to do that.

Mr. Fields: Alright then.

Ms. Karnes: Mr. Chairman.

Mr. Fields: Yes ma'am.

Ms. Karnes: My client is willing to work with the Planning Commission to assure whatever concerns they have, whether it be the appropriateness of a child care center as expressed by Mrs. Carlone, or the ITE numbers. By the same token, my client has, for the most part, a building that has only one tenant and is anxious to move forward to the Board this year. We would very sincerely ask the Planning Commissions help to get us there.

Mr. Fields: Alright.

Mr. Howard: Why don't we defer this to the next work session, and then we will have those answers. This is one of those issues in Rock Hill, we sure could use the business. The residents out there do not have a lot of services, there is not a lot of retail out that way, this would be very beneficial. I think this would actually improve some of the congestion Ms. Kirkman is referring to on Saturday morning, where you have to run down towards Stafford Market Place to get anything whether it is a gallon of milk, a dozen bagels or whatever. Certainly having something closer would benefit the residents that live out there. It would be nice to see those buildings occupied, since they are built and empty.

Mr. Fields: Okay.

Mr. Howard: I make a motion to defer RC2900138 Reclassification The Shoppes at North Stafford to the next work session in the hopes that we can resolve this then.

Mr. Di Peppe: Second

Mr. Fields: Second. Any discussion on the motion then? Make sure...now is the applicant and staff clear about questions that are outstanding and needs to be brought back to the next meeting?

Ms. Karnes: I think we are clear. We will bring numbers to the table as well as the owner's rep to be able to negotiate. Could you tell me when that work session would be?

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Mr. Fields: It would be the next one, it is September...when is it?

Mr. Howard: Two weeks.

Mr. Fields: September 16<sup>th</sup>. Two weeks at 5:30. What do we have coming up on the next work session Jeff?

Mr. Harvey: Right now we have anything that is left over from ordinances and what gets left over from the work session today.

Mr. Fields: Okay, so it is not too heavy at this point.

Mr. Harvey: No.

Mr. Fields: We should have the time to work through it. Okay, all those in favor of the motion signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright the motion carries 7-0. Alright moving on reclassification Taylor Industrial Parcel.

6. 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) (History - Deferred at August 19, 2009 Regular Meeting to September 2, 2009 Work Session)

Amy Ansong: Good evening Mr. Chairman and members of the Planning Commission. I stand before you tonight to address concerns that were brought up at the last Planning Commission meeting on August 19<sup>th</sup>, concerning the reclassification for Taylor Industrial parcel 45-51A and 45-51B. At that meeting there were three main concerns that were brought up. In the package that you have before you we have addressed two of the concerns. The first concern dealt the wetlands and we included a perennial flow study with your packet as attachment number one. The second concern we addressed dealt with the uses that were allowed by-right in the M-2 and the B-2 zone. So if you flip through your package you will see the first under number two, first we addressed the following uses which are

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allowed by-right under the M-2 zoning with proffers. Then we addressed the following uses that had been proffered out by the applicant at that time. Then we show the uses that were allow by-right under B-2 zoning. Then we show the uses that are allowed under the CUP for both zones for the M-2 and the B-2. Since the creation of this package, this week staff met with the applicant and Mr. Arch Di Peppe. The applicant for RV Parkway was willing to proffer out more uses as you will see in your new updated proffer statement. The additional uses the applicant chose to proffer out are aquiculture, motor vehicle rental, recycling facilities and the automobile assembling/disassembling/painting/repairing use providing that detailing, upholstering and glass work for cars and light trucks shall be permitted. Another new addition that the applicant added to their proffer statement was number four. The applicant proffered that each building constructed on the site shall contain more than one unit. There still are some uses that the applicant did not proffer out such as light manufacturing and storage warehouse. But those uses are part of the definition of flex office, so they were kept. Based on the changes that the applicant has made to their proffer statement, staff does change their recommendation which was initially denial. We do change that now to approval for this recommendation. And the last concern that the Planning Commission had concerning this application dealt with economic development in terms of how many jobs would be created due to this site. And tonight we have Bob Carter who works for the Office of Economic Development, so if you do have any questions you would like to ask him concerning that he is here in the audience to answer any questions you have concerning that.

Mr. Fields: Okay, any questions for staff at this point? We will get Mr. Carter up in a second, any questions for planning staff? Yes ma'am.

Ms. Kirkman: In the packet that you prepared, can you tell me which of these multiple lists is the list of things that they will be able to do if this application is approved with these proffers that they can not do now? That is what we had asked for and in the other application it was titled the following uses are the remaining uses allowed under the proposal that differ from the B-3 zoning. So I am looking for somewhere in this packet what the list of uses after you consider what is covered in both and what has been proffered out, what they will be able to do if this rezoning is approved that they can not do now.

Ms. Ansong: Okay, I have a list here, should I just hand it to you? I have another list.

Ms. Kirkman: And what is that list?

Ms. Ansong: This is just another list that I have that might be easier in terms of what you are asking for.

Ms. Kirkman: So do you not have that list in the packet that you prepared us?

Ms. Ansong: I would say it is there.

Ms. Kirkman: Okay, well what page is it on?

Mr. Harvey: Mr. Chairman, Ms. Kirkman I believe it is the first list which specifies what will be allowed by-right in M-2 considering the proffers. As you may recall this property right now is presently limited to the use of a parking lot. So that is the only permitted use at the present time. These would be additional uses that would be allowed as proposed.

Ms. Kirkman: So the very first list, these are the things that they can not do now and will be able to do under the rezoning after the proffered uses have been taken out, the uses that they said they won't do have been taken out.

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Mr. Harvey: That is correct, however this list does not include the additional proffered out uses that were discussed earlier this week.

Ms. Kirkman: And what is the issue about flex office space, why can't they proffer out some of the uses within flex office space?

Ms. Ansong: The applicant chose not too. They felt that the definition did include light manufacturing and storage warehouse. So they kept it in since that was part of the definition of...

Ms. Kirkman: So it is not a technical issue of how we define flex office space, it is the fact that the applicant chose not to proffer out those uses.

Ms. Ansong: Well, I would say it is part of the definition.

Ms. Kirkman: I understand it is part of the definition. Is there any reason why...is there any technical or legal reason why the applicant can not proffer out some of the uses included in the flex office definition?

Ms. Ansong: We can let Debrarae address that.

Ms. Kirkman: Well actually I would like staff to address that.

Mr. Harvey: Certainly, there are no technical or legal reasons why someone could not proffer out a specific use. Again the rezoning is something that ends up getting negotiated and that would have to be something that applicant would agree to.

Ms. Kirkman: My concern about the wetlands was the source. But also whether or not the applicant was willing to not disturb the wetlands and redesign the site plan to accommodate that. Was that discussed with the applicant?

Ms. Ansong: We did look at the wetlands but in terms of redesigning what they currently have, no.

Ms. Kirkman: You did not discuss that with the applicant.

Ms. Ansong: Yes, that was not...

Ms. Kirkman: That was one of the specific requests made by the Planning Commission. Okay, thank you.

Mr. Howard: Mr. Chair.

Mr. Fields: Yes sir, Mr. Howard.

Mr. Howard: What was the source of the wetlands?

Ms. Ansong: Based on the report there is a culvert, there is no stream leading directly into the parcel in fact I believe the stream runs away from it. So it is just the topography and supposedly a culvert.

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Mr. Howard: So is it runoff from the parking lot? I thought that was what was indicated two weeks ago.

Ms. Ansong: Yes, runoff yes because it kind of slants down, yes. There is no stream leading into it.

Mr. Howard: Okay, thank you.

Mr. Fields: Mr. Di Peppe.

Mr. Di Peppe: We had a good field trip. Mike Zuraf was there also, Amy and myself. There is a precipitous drop off down to where the wetlands are. It is good to always, when we can, to go see sites because this is not a very pretty part of Stafford County right now. It really is in great need of some rehabilitation. Before you are going to get any rehabilitation you have to have someone that comes in and is willing to spend the money to put something better. One of the things we are going to get rid of, there is a fair amount of stuff that is parked back there, old equipment, vehicles and things like that are on the property now. Plus hopefully if we can get a better building back there, there might be some impetus then for the bus people who are just parking buses back there might be able to find a higher and better use. A large part...there is this part drop off down to the wetlands, but a large part of this property is fairly flat. One of the things when we sat down because I was very interested in what staff had to say about what they needed to have proffered out, what they thought was inappropriate for the area. And of course one of the main areas was this intensive use for automobile assembling or disassembling and painting and things. The applicant asked to keep in things like detailing cars and pick up trucks doing windshield work, glass work on cars and upholstery because it is not very far from the auto auction and they thought that it would possibly be able to have some tenants close by that would be interested in the area just because of the close proximity. But having sat down with staff and spoken to them first and talking with different people and then sitting down with staff and the applicant we went through all of these saying what were the matters of most concern. When we got into light manufacturing uses, things like that, I don't think staff had a real problem with that in that area because of the kinds of things some kind of light assembly. And also one of the things that Jeff had talked about, he said you could address the higher intensity by making sure that each building had more than one unit. You were not setting up whole buildings to do certain activities. But I thought we had a good meeting and once I actually got back and saw the site I was very happy to see someone come forward that was going to spend some significant money to begin redoing this area because I really do believe that, and you have to take a first step somewhere, this is an area that greatly need rehabilitation. Thank you.

Mr. Fields: Okay, any other questions for Amy at this time? Alright Mr. Carter we just wanted to kind of get an overview on what some of the positive features of this are, employment wise verses a parking lot. Which should not be that hard to do, but if you can give us an overview of like how you guys would look at this in terms of its benefits in terms of jobs and income etcetera.

Bob Carter: Sure, I would be glad to. My name is Bob Carter and I am the Assistant Director of Economic Development for Stafford and this month I start my twentieth year so it is a record year for me. I looked at the Generalized Development Plan and the one I worked with showed nineteen units with about thirteen hundred and fifty square feet each. And the applicant, I think, correctly estimated eighty dollars a square foot for the investment to build that property, which would work out to 2.05 million dollar investment in the improvements to the building alone. With that figure, nineteen units at a minimum of three people per unit would equate to fifty-seven people total in the park and on a higher end I wanted to look at a maximum use of five people per unit which would work out to ninety-five people that would be allowed in that park. So at fifty-seven people at an average salary of forty

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thousand dollars which I think is not too high and again not too low, thirty thousand, fifteen dollars an hour probably is not much of a living wage in Stafford County so I think forty thousand dollars is a good average. At fifty-seven people, forty thousand, that would generate 2.2 million dollars and on the high end ninety-five people at forty thousand dollars would generate 3.8 million dollars. So I think your potential for job improvements there could be between 2.2 and 3.8 million dollars. Any other questions? Is that what you wanted to capture?

Mr. Fields: Ms. Kirkman.

Ms. Kirkman: This is just general...does the economic development office always assume that employers will pay a living wage? Because you said you did not use thirty thousand because that was too low it is not a living wage. Is that the assumption that the Economic Development Office always uses, that incoming employers will always pay a living wage.

Mr. Carter: That is the type of jobs we are looking for in Stafford County. We are not looking for the low end job generation. These being small units, typically you might have a plumber with a truck, so you would have someone in the office and maybe two or three people as the type of job that could work in this facility. It is not going to be a large manufacturing facility, it is not going to be a large warehouse where you may have more less paid employees.

Ms. Kirkman: Do we have any kind of living wage ordinance that requires...

Mr. Carter: No ma'am.

Ms. Kirkman: Is that something that something we can make a condition of a rezoning? No I guess we can't we can only ask them to offer. Okay, I was just curious.

Mr. Carter: Sure.

Mr. Fields: Just by reference, you may be aware of it, but the State Department of Social Services has what they publish it is called a self sufficiency numbers. They have an index for, when I was on the Board of Social Services, we used that. For a single individual in Stafford County at least a couple of years ago it was about thirteen to fifteen an hours. It was the absolute bare minimum where you could afford food, shelter, transportation and all that type of stuff. So what you are saying is that these type of uses, where you tend to have a lot of...a clustering of small businesses engaged in trades or light manufacturing stuff tends to be a higher general wage profile then either a, well I don't know. Do we have anything in this area that is even large manufacturing that you would have really, really low wage in the manufacturing sector?

Mr. Carter: No sir.

Mr. Fields: Other than Colonial Circuits I don't believe anyone is actually making anything in Stafford County.

Mr. Carter: They are making printed circuit boards there.

Mr. Fields: Right, that is what I am saying. That is a true manufacturing operation. There are not too many others that I am aware of.

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Mr. Carter: No sir. The largest one we used to have was Break Parts Incorporated, and they have been gone for about six years.

Mr. Fields: Do you know, let's say...and I am not putting Mr. Osborn's business on the spot but do you know the extent of wages there? Is that a little bit different than some of these or is that still consonant in the manufacturing sector?

Mr. Carter: I think that might be a little different because they have some specialty products that are high tech that they require there. But again forty thousand is an average, so you might have someone with thirty and two people with sixty.

Mr. Fields: Right, I understand that is an average. But in general you would say this type of thing is not generally is not going to be people making at the very bottom end of the scale is generally not going to happens in this type of location.

Mr. Carter: I would be surprised if it was.

Mr. Fields: Okay, Mr. Di Peppe.

Mr. Di Peppe: I left out part of my report on the environmental aspect. I spoke with Hal Wiggins.

Mr. Fields: Are we done with Mr. Carter?

Mr. Di Peppe: I am sorry, yes. I apologize.

Mr. Fields: Does anybody have any more questions for Mr. Carter? Okay, thanks a lot Mr. Carter. I appreciate...

Mr. Carter: You are welcome.

Mr. Di Peppe: I spoke with Hal Wiggins, Army Corp of Engineers, and he said that of course the applicant would have to file for a permit to see if they would even allow them to disturb the wetlands. He said it is possible they might say no. But another questions that came up last week, that I wanted to report on, was there was some concern that if there was mitigation that it would be far outside this area and Hal Wiggins said Bernie Farman of King George, has a wetlands bank so that if there was mitigation it may not...there is no place in Stafford, but there is in King George and also in Culpeper but King George is closer. So I wanted to make y'all aware of that because we did address those issues. But the applicant would have to get the permit to disturb the wetlands and it is possible that they would say no.

Ms. Kirkman: Yes, Mr. Chair that is a theoretical possibility, but I can't cite a single application that has been denied in the last five years.

Mr. Di Peppe: Well, I don't want to...I spoke with Hal and specifically asked him about that and he said he would have to take a long hard look at that, because even 2/10<sup>th</sup> or .26 acres is a fair amount of wetlands for them to consider. At least that is what he said, that would at least...that is not something he would necessarily say oh yeah, we can do that. You could be correct Ms...but I raised that question with him.

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Mr. Fields: Is the mitigation site in King George on the Rappahannock Watershed or the Potomac Watershed?

Mr. Di Peppe: Now that I can't say off the top of my head.

Ms. Kirkman: That makes a difference.

Mr. Di Peppe: I believe that some of the concern with the Commission last time was couldn't we get something a little closer to home.

Mr. Fields: But there is no availability of wetlands mitigation. Because there is some wetlands mitigation done at the Silver's property down on Potomac Creek. They did some, I thought it was used for something recently.

Ms. Kirkman: Yeah, well there was. Actually, the most notable wetlands mitigation that was done in Stafford County was along Potomac Creek in exchange for the airport land that was purchased which now constituted the Herron Rookery.

Mr. Fields: I knew that was a mitigation purchase, so there has been some in Stafford. Is it just that there is nothing available in that general banking category.

Mr. Di Peppe: Not right...the only closest one is King George. I had hoped originally and I even spoke with Friends of the Rappahannock, that there was some project that they might have, right along the banks of the Rappahannock.

Mr. Fields: Sure.

Mr. Di Peppe: If that would qualify and I spoke with John Tippet too. I was doing my homework. I spoke with everybody.

Mr. Fields: You really did your homework.

Mr. Di Peppe: I did, but there is not. You have to have a specific wetlands bank.

Mr. Fields: I got you, okay.

Mr. Di Peppe: And it either meets that criteria or it does not.

Mr. Fields: Alright then. Are there any other questions for staff, applicant, Planning Commission, general public, anybody? Alright, Mr. Di Peppe this is in your district. How would you like to...

Mr. Di Peppe: I would like to move for approval of the reclassification.

Mr. Fields: Okay.

Mr. Howard: Second.

Mr. Fields: Moved for approval by Mr. Di Peppe, second by Mr. Howard. Any discussion on the motion? Alright, all those in favor signify by saying aye. Mrs. Carlone: Aye.

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Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright, Mr. Taylor, thank you. Good luck with this. We are really zipping through. We have only got one more thing to do and we have not gone to dinner yet. Well we will get started on Wyche Road and if we have to break for dinner we will just break and come back. We don't have a public hearing, so and we don't have any other business that I can tell. So we will start with this, take a dinner break, play some basketball and come back.

7. RC2900101; Reclassification - Wyche Road Properties - A proposed reclassification from the A-1, Agricultural Zoning District, and B-3, Office Zoning District, to the B-2, Urban Commercial Zoning District, to allow development of flex office uses on Assessor's Parcels 38-76A, 38-76B (portion), 38-76C8, 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) (History - Deferred at August 19, 2009 Regular Meeting to September 2, 2009 Work Session)**

Joey Hess: Okay, well Wyche Road properties reclassification, I prepared a memo for you and listed out several of the raised issues from the public hearing held on August 19<sup>th</sup>. What staff attempted to do was take what the applicant handed out to you, which looks like this sheet of paper her, I believe it is attachment number 1 in your packet for this case. It says I-95/Wyche Road rezoning by-right and it basically has the vehicle per trips generation calculations done and what we did was to help maybe...help you all understand it a little bit better was break it down step by step, which I certainly can go through if you want me to. But it basically is like a five step process to explain the steps and then give an example to kind of help it out according to the sheet that they have. I do apologize on step number five, I laid out the step correctly but I did the example wrong. It is actually, taking the gross floor area ratio and divide it be one thousand first and then multiply it by the 22.88 vehicle trips per day to get your approximately eighty eight hundred vehicle trips per day per thousand gross floor area ratio for a recreational community center. And then went into...staff took these numbers and tried to look at them from, I don't know, a more realistic approach is the correct terminology here, but we basically took building permit data since 2000 on all the uses that were used in this calculation handout from the

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applicant and broke it down spread sheet by spread sheet and those are attachments 2 through 7. Which is taking each use, each of the six uses that were used, the two under A-1 and the four under B-3, the by-right uses, and took the real data which was the building permit data and took the average and you will see there was a column that talked about potential square footage which is what you get when you get these vehicle trips per day generation numbers and the paragraph below that explains how that was calculated. And so that is why you get some of the unrealistic numbers that the vehicle trips per day would generate as far as building sizes. And that was a statement that was put in there about the thirty banks, the fifty-seven medical offices, the fifty-two high turnover sit down restaurants, the six day care facilities, the thirty-nine recreational community centers and the fourteen commercial retail centers. After that we put back in from the staff report that you got last time were the proffers that staff had recommended to the applicant to consider. And then we went on to talk about some of the other proffers like, for instance 5C recommending that the sixty two thousand five hundred vehicle trips per day that is being proposed, being capped off by the applicant, be reduced down to reflect something more realistic. We went on then to talk about, so transportation took up the first pages of your memo and then we went into Fire and Rescue. And talked about how the applicant did address Fire and Rescue proffers or suggested proffers rather all except for the third one. They made a modification about putting the Opticon RIR traffic signal pre-empt on, I guess I gave you the handout as well, which I just received a couple of days ago, it should say August 27, 2009 at the top of it, that was the handout I had just gotten which should have been handed out to you, it shows the strikethroughs and underlines but you will see that after this memo went out, the proffer statement dated August 27, 2009 talked about putting this preemptive signal on the Wyche Road, Courthouse Road traffic signal. Staff stated in its earlier report that it does not seem that it would be a signal that would be requested by VDOT or County Transportation Office. There was an issue of putting the two year timeline on that as far as after approval of the reclassification, this proffer would go away after two years. So Fire and Rescue Department did not agree with that portion of the proffer. We go onto Utilities, we took what the county suggested to the applicant be the wording of the two proffers A and B and what the applicant has been proposing in their proffer statement. The big difference here, it seems as though from what the Utilities Department has been relaying to our department is that the facility, the Rowser pump station, is a temporary pump station. It is pretty much already near capacity and that any upgrades to the pump station would be at the expense of the applicant. In the event that the Utilities Department would ask the applicant to build above and beyond I guess to accommodate additional future flows for the service area that they would be reimbursed for that improvement. But moving along, then there was talk about Parks and Rec and cultural resources and those discussions essentially came up when the applicant was standing here in front of you last time and talking about proffering potentially a linear park and also talking about in the case of the cemeteries expanding the existing Greenhowe cemetery and also putting up a marble monument sign to put the names of those that remains were not found in the Howe cemetery which was the nine grave markers on the actual applicant's property. So, with that there were still some issues that were outstanding and what staff has also done, Sara Woolfenden is here with the Office of Transportation. She has a short and quick presentation she put together to give you some kind of comparisons of other developments of this scale, this nature, and what they are generating as far as vehicle trips per day and what they also proffered as far as transportation improvements, just to try to keep things in perspective. And I believe the applicant's engineer is here, Mr. Ryan Faroughi, as well to answer any questions you may have. I don't know if you want to go with the presentation now or...

Mr. Fields: That sounds good.

Ms. Kirkman: Do we have a hard copy of that?

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Sara Woolfenden: No, I'm sorry. It can be provided though. Computer please. What I am going to be talking about is the TIA and how it shows significant delay. And this TIA is from the 2007 TIA. What is the maximum potential of development? We are also going to examine development of similar square footage, mix of proposed usage and vehicles per day. And what is generally needed for this type of development in terms of road network. So, in the TIA that was provided to us, it was from 2007 and it only shows 5,364 trips per day generated from this site. This was when it was under the industrial use. And it has 727 a.m. peak in and out and 751 p.m. peak. It shows that the northbound Wyche Road left turn onto Courthouse Road is a level of service F both now and in the future. And it has a delay of 667.2 seconds. When we go to 2011, which is when the build-out year was, the left turn without the development is again an LOS F and a delay of 4,813 seconds or 1.3 hours. When we put the development into place, all of this is an unsignalized intersection. The left turn movement is LOS F, of course, and a delay of 73,459 seconds or 20.4 hours. You can see that this adding an additional 5,300 trips onto Wyche Road with the left turn movement significantly impacts this development. Even though the level of service is the same, the delay is beyond what the capacity of the road could handle since this is only the a.m. peak delay. And, of course, you get weird things like this because of SYNCRO but, at the same time, it is a good perspective on what the delay would be with just 5,300 trips and an unsignalized intersection. Currently Wyche Road has 1,900 average daily trips per the 2008 VDOT counts. This would add another 5,000 under the old one. Under the new one, the applicant is proffering a maximum of 1.2 million square and no more than 62,000 vehicles per day which is significantly more than what was shown in this TIA. So what would that look like? So, we looked at it also at the GDP level. So, under the GDP we see 1.2 million square foot. Now, if it is general office it would generate 13,000 vehicles per day. If it was half general office/half medical office it would go up to 28,000 vehicles per day. Now this does not include the shopping or the other options that you saw under this. So this is the handout that you got and you can see again the average. Now all of these would be included to generate your 82,000 vehicles per day. So you would have now 30 banks, 57 medical office buildings, 52 high turnover restaurants, 6 daycare centers and 39 recreation/community centers, these are A-1, and retail centers 14. Now this one, the square footage is actually fairly realistic. This one could also be like two Lowe's or a couple Targets kind of thing. But the rest of them, you can see we probably would not get 39 community centers on that A-1 parcel. But that is another option. Now, to be fair to the applicant we did ask him to give us a maximum usage that we could expect on this property and this is what we got. And we did tell him that we thought it was a little unrealistic.

Mr. Fields: Go back to that. How many medical office buildings are there total in Stafford County right now?

Ms. Woolfenden: Not this many. I think it is about eight.

Mr. Fields: Okay. So, you would have to have an increase in population to about seven or eight hundred thousand people to support 57 medical offices? That is kind of my concern with this. I understand this is kind of playing out what the hand that's been dealt but how will we get our head around this to... I will let you keep going but that is obviously... we are into some absurdities here with this.

Ms. Kirkman: Mr. Chair, we are into some absurdities but the applicant could have just done like the previous applicant and said specialty retail which includes all these issues.

Mr. Fields: I agree. I am not faulting the applicant here; I am just trying to figure out how we are supposed to deal with these numbers. They seem to be a fact of the rezoning and yet they are obviously not logical numbers to work with.

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Mr. Di Peppe: I believe it was the applicant before the last applicant. You said the last applicant.

Ms. Kirkman: Oh, thank you for that correction. They all blur together.

Mr. Di Peppe: Well, just to be fair.

Ms. Woolfenden: Well, so let's look at some other examples of how it has played out in Stafford County. So, Quantico Corporate Center has 1.3 million square foot at full build-out of general office and 60,000 square foot of warehousing. And you can see this is just slightly bigger than the proffered amount and there is some infrastructure improvements that they have created that we wanted to look at as typical infrastructure. They have two entrances proposed. They obviously built the north one; they have not built out the south one yet but this is not a completed project yet. They also have four lanes in this loop road proposed to serve this development. They have access to an arterial and in fact a primary road and they have signalized access. They have also made improvements to the left-hand in and outs here and significantly improved this intersection. Another similar use, this one is for vehicles per day and what they proposed. Again, they proposed 62,500 vehicles per day as their maximum. A similar use that has proposed was Celebrate Virginia. Now this is the original Celebrate Virginia and it has quite a larger acreage actually than this does, but you can see it generates about 66,000 vehicles per day at full build-out of Celebrate Virginia. It has golf courses, business hotel conference center, four quality restaurants, four high turnover restaurants, a shopping center of 32 acres, specialty retail... actually it is shopping like your little strip type shopping... convenience store with gas, bank drive-thru, daycare and drugstore/pharmacy. And you can see the infrastructure; they put in Celebrate Virginia Parkway as well as some of the other infrastructure that was put in with Celebrate Virginia, the road network. Part of the Celebrate Virginia or a little bit later development, we see the Grove/Payne/Cornerstone development and this is right up against 17. Now this one came in not that long ago and the total expected traffic from this is 26,000 vehicles per day or almost 27,000, it has seven restaurants, one fast food that is separate, two drive-in banks, one coffee shop, one gas station, 268,000 square foot of shopping and one health or fitness club. If you look at the road network that supports this, they have a lot of the road network built specifically for this development. These pieces of it were built to support this. They have direct access to an arterial road. They have several traffic lights and this supportive road network, most of which are four lane roads surrounding this so that the transportation network supports it. A very recent application is South Campus. This has 21,000 vehicles per day proposed. They also have three entrances, this eastern entrance, Old Potomac Church and South Campus Boulevard. Now, I realize that this was a point of contention here but they ultimately may have the potential to have another entrance that way. They also have direct access to a primary road and they have six to eight lanes supporting this use and access to at least two traffic signals and actually three considering now... well, ultimately this may be signalized as well up here on Courthouse Road. So the common infrastructure you would see is access to an arterial road, supporting road network, multiple entrances, multiple lanes to a roadway, and access to a signal with this type of very large development. In this case, you can see, this is our site again. One of the constraints again are Wyche Road is so close to our interstate access and because of primary access management standards which are based upon safety, right here this is too close to have a signal because the queuing you would get backing up onto the interstate and that would be a safety issue for us. As people are exiting they would be backed up. And that is one of the reasons why we don't have a signal there and why it would be very difficult for them. Now, should this move to the south as has been proposed perhaps it may happen some day, then Wyche Road could get a signal if these intersections were closed, these ramps were closed and they were moved down. It would not be the same problem. Now, the applicant has proffered a signal pro rata share. Again, there is a couple difficulties with that that we see. One the pro rata share again considering then someone else would have to come in and pay for the rest which would mean that in the County's budget situation I don't

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know if that would happen. That is an option. They have also proffered that they would reserve right-of-way here for a period of five years. Now, as you know, we don't usually accept reservations of right-of-way and particularly for not that short of a time frame and we have discussed this with the applicant, but this was what they proffered. There are some other options that we have also discussed with them which is connecting onto the future Jason Mooney Drive. Wherever this goes there is a signal at Red Oak and there is right-of-way dedicated along these areas. Now, there is also a potential to connect through this parcel down south. The applicant faces some challenges which is their offsite improvements from their property and they would have to coordinate with the various other entities in order to get that access. However, it would be difficult otherwise to develop to the type of traffic generations that you are looking at without those access points, either without signal, without delaying, and without access onto a supporting network. Courthouse Road is approximately 16,000 vehicles per day right now. This should be a four lane road now. To add additional traffic onto it at this level would really seriously compromise this. As you have frequently discussed, the intersection of Courthouse Road and Route 1 this signal is difficult, particularly in the p.m. hours. So, staff has recommended that they face the development so that it builds as the roadway capacity is added to meet the needs of the development. While the roadway is not the applicant's responsibility per se, if they build the development without the roadway infrastructure, it does compromise the surrounding area. We also need signal access and we have talked about the difficulty there, multiple entrances, at least one second entrance or exit, an access to an arterial or at minimum a major collector. And those are our recommendations.

Mr. Fields: Okay, Mr. Di Peppe.

Mr. Di Peppe: Considering the current economic conditions and the lack of money for doing roads, it could be how long before we have the money to do the adequate improvements that would... I mean, that is one part of the problem and I think that even makes it more important that we don't allow somebody to have a sunset clause on their things like right-of-way and things like that. But, I mean, realistically speaking, looking out to make say Courthouse Road a four lane road up at that end...

Ms. Woolfenden: It's a long time out.

Mr. Di Peppe: Yeah, so then is that reasonable that we could put this much activity knowing it has to go somewhere without redirecting it, I do not even know if that is possible, more of it to go to Route 1 as opposed to... I have been down that part of Courthouse Road a lot of times right now where you cannot even get on it with the existing... I mean, it is tough sometimes to get out onto Courthouse Road along that stretch right now.

Ms. Woolfenden: Particularly if you are turning left from Wyche Road, yes.

Mr. Di Peppe: It says here twenty hours.

Ms. Woolfenden: Right. You can see people backed up there right now and that is without additional development.

Mr. Di Peppe: Is there any other reasonable transportation plan where it could direct the traffic out to Route 1? I know that all solutions create problems but does it make any more... I mean, to direct that traffic out to Route 1 a little lower than the hospital of course.

Ms. Woolfenden: Oh, you mean if there was a connection that way?

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Mr. Di Peppe: Yeah, that went that way and not even allowed them to go out. Because here again, realistically speaking, if we say we are going to do this at the time as the capacity is going to get better when we know that the capacity realistically probably isn't going to get better, we need to deal with reality and say if you are going to put this many more cars onto our roads we are going to have to have a realistic way to accommodate that traffic and maybe direct it out towards another main artery.

Ms. Woolfenden: Absolutely.

Mr. Di Peppe: Thank you.

Mr. Fields: If you add this to South Campus you are already at 85,000 trips a day on Courthouse Road and Route 1.

Ms. Woolfenden: Yes.

Ms. Kirkman: But we did recommend approval of South Campus.

Mr. Fields: I know, I am just saying as all of this B-3 starts to build out it turns into... you are in a conundrum here. This is only a fraction of the B-3 zoning that was done. We are at eighty-some thousand trips a day so what do you end up if you build out all of that B-3 zoning, what do you end up with, 300,000 vehicle trips a day on the Courthouse...

Ms. Kirkman: It's unfortunate that the Board didn't consider that when they (inaudible).

Mr. Fields: I don't know what we are supposed to do with that.

Ms. Kirkman: I do have some questions for staff.

Mr. Fields: Mrs. Carlone had a question first.

Mrs. Carlone: Just very quickly. Did you all look at Mooney...

Ms. Woolfenden: Jason Mooney Drive? Yes.

Mrs. Carlone: Yes. I mean, it will still be bringing traffic out but did you look at perhaps moving some of the proffered money over?

Ms. Woolfenden: We did discuss that with the applicant and, again, they were unwilling to make any further road proffers. Now, Jason Mooney Drive we expect will relieve some of the traffic at the intersection of Route 1 and Courthouse Road because it will end up being a cut-through essentially to go southbound on Route 1. People will come, if they are coming off the interstate if the interstate stays where it is. There are many ifs obviously. But if they were to go, then they could go southbound on that and avoid the intersection at Courthouse and Route 1.

Mrs. Carlone: Did you broach the subject of maybe some of the money that was "pro rata" to move it towards Jason Mooney to do some improvements? Was that also turned down?

Ms. Woolfenden: I couldn't speak to that but my understanding was yes, we did talk about that. A traffic signal is about \$300,000. A road is significantly more.

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Mrs. Carlone: That wouldn't go very far. Okay, thanks.

Mr. Fields: Ms. Kirkman.

Ms. Kirkman: Did the applicant complete the TIA in accordance with all regulations?

Ms. Woolfenden: Not currently, no.

Ms. Kirkman: What do you mean? At the time of the application which is the standard that we have been using.

Ms. Woolfenden: What we have done is this particular application was taken to VDOT for them to discuss with the TIA. And VDOT told us that they would not require a TIA at this time for this application. Some of the things that were discussed were because they had a previous TIA although it was significantly less, fewer vehicle trips, than what they are proposing. Unfortunately, this meets our requirement under the TIA. It does not meet 527 but, again, when we brought it to VDOT they essentially waived it from that standpoint.

Ms. Kirkman: So in that respect they have complied?

Ms. Woolfenden: Yes.

Ms. Kirkman: And VDOT approved this?

Ms. Woolfenden: VDOT does not approve these. VDOT looks at them.

Ms. Kirkman: Staff and applicants come before us all the time and say VDOT approved this.

Ms. Woolfenden: They do say that and usually that is not correct. That is not how it works. VDOT looks at it and they give their recommendation. VDOT certainly... there are a couple things obviously going on with this application, one of which is that the Courthouse interchange is being looked at by VDOT. Because of that issue, VDOT and the applicant agreed that unless they were to model adjoining types of access points, for example access onto Jason Mooney Drive, access onto Route 1, which is what we had asked for or discussed with them which they were not willing to do and so it would just show further delay on Wyche Road which is their current access point. And so because of that, unless they modeled an additional access point they saw now reason to have a TIA which showed the full proffered amount that they are saying. So you can see that this TIA is significantly less than what they are proffering which is, again, the proffer is 62,500 vehicles per day; this is 5,364 vehicles per day in the TIA which was modeled.

Ms. Kirkman: And can you give me one other example in the past two to five years when VDOT has said they have now complied with the regulations, we are waiving the TIA, and staff has gone back and looked at actual plans and said well, they may have met the regulations but we don't like it because it doesn't match up with these other plans. I mean, I applaud you all for your industry in this matter, I just haven't seen you be so zealous about any other TIA so I am wondering maybe you can give an example where you have done that.

Ms. Woolfenden: Certainly, usually when they come in they have met the full vehicle trips per day and they have modeled it in the TIA. And that is why we don't usually do it to this extent. This extent was

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because we had proffered 62,500 vehicles per day with no TIA showing what the road network would be. As a result, we had to pull from other things to look at them. When we have a TIA which shows all of the vehicle trips per day in it then we don't have to do that. So, this is one of the differences between this application and most applications that you see.

Ms. Kirkman: And, has there been any discussion among staff that if this rezoning is approved it would make the land more expensive for acquisition should the interchange be located further south?

Ms. Woolfenden: That is not usually a consideration that we consider.

Ms. Kirkman: But have staff discussed that possibility?

Ms. Woolfenden: Again, whether it does or not should not have any bearing I am assuming on the rezoning.

Ms. Kirkman: I agree it shouldn't, the question I asked is has staff had that discussion.

Ms. Woolfenden: Has it ever been raised? Absolutely. Does it impact it? No.

Ms. Kirkman: Thank you.

Mr. Fields: Any other questions?

Mr. Howard: Yes Mr. Chair. And I am not sure if Joey wants to answer this or Sara, but you determined that the data that the applicant presented was unrealistic, is that correct in terms of estimated trips per day? So they submitted this information because there was no TIA required they came up with their own version of that?

Ms. Woolfenden: Correct.

Mr. Howard: And they submitted that as part of the application process along with their application?

Ms. Woolfenden: Correct.

Mr. Howard: And then you made a determination that it is grossly over-exaggerated.

Ms. Woolfenden: We had that discussion with the applicant, yes.

Mr. Howard: And why did that occur?

Ms. Woolfenden: I'm sorry, why did what occur?

Mr. Howard: Was there any explanation offered as to why there would be numbers on the application that are not accurate?

Ms. Woolfenden: What they did... well, again, it is the difference between what we would expect to see in this type of a property or development scenario versus what could technically be built. Usually most developments come in are significantly smaller than what the plan could technically provide. So, our forty percent gross floor area ratio allows for a certain amount of building. What usually comes in,

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however, is significantly less unless you are on a very small parcel because you have a number of other issues going on such as parking. And here they could certainly do that. They could build parking garages, they could go up, they have all sorts of other options. At this point in Stafford County we have not seen any of that.

Mr. Howard: Well, my recollection is that part of their rationale in the numbers they were using was to indicate or suggest well we don't really need to proffer anything else because we are actually going to come in way below what is already approved in terms of the zoning. So I have a huge issue with that and I was trying to reconcile that with myself mentally because that is an integrity issue. So I am struggling with that one sitting up here. Okay, thank you.

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

Mr. Di Peppe: I am greatly concerned that the different things that are being considered for the graveyards are not proffered. And I could not support this because without a proffer there is no legal way to do that. I am also interested; there was a stop work order issued I believe. Do you know anything about the stop because trees were getting knocked... you know, in the buffer zone near the graveyard. Do you have any information about that? Some issue came up, I was called about there was a concern that the buffers had been violated and things like that. But I am interested in that and also proffers for that linear park. That's a problem. If they are not willing to proffer it, it's a deal killer for me. And I don't know if you have any information. I see you have it mentioned in there that you have suggested that they proffer it. Are they saying they are absolutely not willing to consider those proffers?

Mr. Hess: I definitely couldn't speak for the applicant, but in emails that have been exchanged it has been relayed to me that at this time the applicant would rather... I guess in the case with the cultural resources they would like to work with the family and come up with some additional, I guess above and beyond, things that are to be required because last time we brought this to you... well, the first time we brought this to you rather... there was a permit that was issued from the Virginia Department of Historical Resources and within that permit there were several conditions listed out that the applicant has to abide by, a permit he has to abide by. It sounded like, when the applicant was up here speaking about some of the things he was intending to do working with the family, those things seemed to go outside the purview of that permit that they got from the Virginia Department of Historical Resources.

Mr. Di Peppe: I certainly applaud his reaching out to the family and trying to find everything that would make them happy. But if he is willing to do that then it should be a small matter to put it in writing.

Mr. Hess: Sure.

Mr. Di Peppe: Thank you.

Mr. Fields: Any other questions for staff?

Mrs. Carlone: Joey, I guess this will really be for the applicant but as Arch said we do have quite a few concerns about the cemeteries. Getting these in writing for future, he has already mentioned that and we talked this morning. We need to have these in as proffers. Also, I wanted to talk with the applicant about number 4 about the cultural resources when he comes up.

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Mr. Fields: I think what we are going to do is we will finish up with staff and then we will break for dinner. And we will come back after dinner and then have Mr. Wilbourn and his people talk and finish this up. It seems like a logical thing. We cannot really finish it up quite yet.

Mr. Di Peppe: Are there any reports that staff has on that stop work order and the amount of damage that was done to the buffers? Is there any way to find that out?

Mr. Hess: I am not sure who would have the stop work order or if we have access to that.

Mr. Di Peppe: And could staff get some information about the nature of what happened, how that happened, and was their any mitigation of that destruction.

Mr. Hess: Was that with Public Works?

Mrs. Carlone: I spoke this morning with Keith Atkins and I think it was Brenda was the one that reported to him and that is why the stop work order was issued and that was because before there were any permits they were bulldozing and had come up to, if I understand this correctly, up to the gravesites.

Mr. Di Peppe: Because I would like to know if the staff required them to put that back the way it was or do we need a proffer to guarantee it gets put back the way it was. If there was some destruction that should not have been done I would be interested in knowing what that was and what they are going to do to make that right.

Ms. Kirkman: Having followed and filed complaints a number of times, I can tell you that what staff always works to do is get compliance rather than enforcement. And so that is always a part of the process is to have them correct the damage that has been done.

Mr. Di Peppe: Can we find out?

Mrs. Carlone: What was in the report?

Mr. Di Peppe: I would like to know. If we don't make a point of being concerned about that then people in the future can say they don't care. And we do care. At least, I know I do and I know other people on this...

Ms. Kirkman: Well, if we do that then I think we need to start, as the BZA does, getting a history of zoning violations on every applicant before us which we have not done to date.

Mr. Di Peppe: I would support that.

Mr. Howard: Mr. Chairman, just one more. Mr. Hess, do we have any copy of documentation, whether it is from VDOT or the State, that indicates that in fact that the second cemetery location is in fact no longer considered a cemetery? Do we have something in writing?

Mr. Hess: I am not sure if it is no longer considered a cemetery.

Mr. Howard: The applicant indicated that when they were here two weeks ago that it was the applicant's belief the following day that that property would no longer be considered a cemetery and they can continue to move forward with whatever they were doing.

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Mr. Hess: I remember what the intent was to take whatever remains they were to find in that cemetery, the Howe cemetery, and move them adjacent to the Greenhowe cemetery which is not the applicant's property.

Mr. Howard: No, I understood that. But what is on their property or adjacent to their property, my recollection and we can go look at the video tape is that the indication was that they expected the following day that that area would no longer be considered a cemetery and the State would sign off on that. I would like to see that documentation.

Ms. Kirkman: Mr. Chair, I believe it's DCR that regulates cemeteries and I believe last week DCR issued a letter regarding that.

Mrs. Carlone: What was that?

Ms. Kirkman: That there isn't a cemetery there to protect.

Mrs. Carlone: Now, I understand from yesterday's Supervisors meeting that there is going to be an investigation into this. Can you tell us a bit what was ...

Mr. Harvey: Mr. Chairman, I can comment. The Board of Supervisors requested that the County send a letter to the State Attorney General to request an investigation. We are currently working on that letter.

Mr. Fields: The Attorney General's office investigates it or the State Police criminal investigation or...

Mr. Harvey: To date we are working with the County Attorney's office...

Mr. Fields: Because ultimately this is potentially a criminal investigation, right?

Mr. Harvey: Yes, so we have been directed to send our correspondence to the State Attorney General.

Mr. Fields: Okay. Alright, any more questions for staff? We will take a brief dinner break, we will come back and then we will work with the applicant and move forward.

REVIEW OF PENDING SUBDIVISION PLANS

None

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

None

OTHER UNFINISHED BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 7:00 p.m.

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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, September 2, 2009, was called to order at 7:34 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Nugent, Stinnette, Stepowany, Hess and Woolfenden

DECLARATIONS OF DISQUALIFICATION

Mr. Fields: Any declarations of disqualification? Hearing none. We are kind of continuing the afternoon session; I do not see anybody from the public. I do not want to leave out any public presentations. I do not see anybody here for the public hearing which has been cancelled for tonight and rescheduled for two weeks from tonight. So, with that, I believe we can just move on to where we were.

PUBLIC PRESENTATIONS

PUBLIC HEARINGS:

8. Amendment to Zoning and Subdivision Ordinances - Amendment to Section 28-25, Definitions of Specific Terms, and Section 28-61, Reservoir Protection (RPOD) Overlay District, of the Zoning Ordinance; and Section 22-87, Content of the Subdivision Ordinance, pursuant to O09-39. The amendment creates an overlay district that would restrict uses within the upstream watershed of the County reservoirs.

UNFINISHED BUSINESS:

9. 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) (History - Deferred at August 19, 2009 Regular Meeting to September 2, 2009 Work Session)**
10. 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

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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) (History - Deferred at August 19, 2009 Regular Meeting to September 2, 2009 Work Session)**

11. RC2900101; Reclassification - Wyche Road Properties - A proposed reclassification from the A-1, Agricultural Zoning District, and B-3, Office Zoning District, to the B-2, Urban Commercial Zoning District, to allow 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) (History - Deferred at August 19, 2009 Regular Meeting to September 2, 2009 Work Session)**

Mr. Fields: Mr. Wilbourn, would you and your staff... I guess it is time now to have a dialogue here and decide how we want to resolve this. Did you want to respond to some things you heard first and then we will start asking some more questions?

Mr. Wilmer: Sure.

Mr. Fields: See if we can get this all figured out.

Ed Wilbourn: Mr. Chairman, fellow members. First I think it is important that we put this back into the proper perspective. I think it has gotten blown up to where it is not really being focused on what it is. The fifty-five acres of this application was zoned and is currently zoned B-3 right now. What we are trying to do is combine the A-1 with the commercial, or the zoned, property. So, the impacts and the mitigation really should be focused on the A-1 properties. And of the forty or so A-1 acres, approximately twenty acres of that is RPA and unusable, so we are really dealing with twenty-five acres. The TIA that VDOT requires, it requires you to look at a maximum impact and, as Sara properly stated, that is why the exaggerated or the maximum number of trips was used and that is what is used to define whether or not you go to the next step of the TIA. Also part of the TIA is the requirement that if we exceed the by-right uses, it kicks us into the 527 TIA. And what we have actually done in showing the maximum uses, and that was not totally maximum, we could have put more retail, more other things in there to kick that number on up to one hundred thousand but we didn't, and the by-right fifty acres shows the seventy-some thousand trips. What we tried to do to mitigate it was to hold it to the sixty-two which includes the other twenty-five acres that is coming in. So, it is not that this application is forcing sixty-some thousand dollars onto the County, the Board of Supervisors did that when they changed the zoning from M-1 to B-3. So, the reason there is no TIA is because we are below the threshold of B-3, much less B-2. The frontage road improvements that were discussed, we are at the end of a cul-de-sac,

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so you are not going to have left turn lanes. You have got right turn lanes which we have already agreed to put in and we are reserving the area from building on. If a road change is ever done in the next twenty years there will be no building obstructing the use of any needed right-of-way for VDOT. We have spent a lot of time with VDOT looking at the potentials of the various interchanges and accessing Wyche Road. Given the County wants to keep Courthouse Road open, that creates some design issues with VDOT to access Wyche Road. We will work very diligently in our own interest with VDOT to make sure that proper access is there. And as far as land values go, we have already discussed with VDOT that if any of our property needs to be taken, we would swap with them. They have a maintenance station on Wyche Road that they may not necessarily want in the future. So, fine, if they take three acres, we could swap. We are not asking for monetary, we are not trying to set up anything. We are trying are very best to be good County neighbors in this whole issue. That is addressing the interchange acquisition. Now, for the cemetery issues, there never were two cemeteries. There was always one platted cemetery and then there were nine unplatted grave markers. The unplatted grave markers were protected from day one. They were fenced and there was a wrongful stop-work order issued and Mr. Hubble received a letter from us with pictures on that issue. What they misinterpreted as bulldozers was the archaeologists requiring the hand-clearing of that site. People went in with chainsaws and hand-cleared the area within the perimeter of the nine now alleged graves. So, it never was classified as a grave; it was classified as potential graves. As we all know now, there are no graves there and that cost us about seventy thousand dollars. It cost us nineteen thousand dollars in permits because of that misrepresentation plus working around it, delays, leaving work, gaps and so on. So, we have not been villains in this situation. As far as proffering, what I am going to do for the family, I am sorry there are no graves there, I am only required by code to put a fence and a buffer around the existing grave. I am going to do something for that family because we have built a relationship and I will honor my word to them. But I will not be pressured to do something that I am going to do with my own free will and good heart for this family. So, there are no proffers and they will have a beautiful cemetery in our development that they can come and visit. There will be parking spaces made for them and I am going to keep my word with Jackie Sanders and that family. I lost a daughter, somebody lost a child in this situation and they do not know where that child is. I respect that. And that family will get everything that I promised them. As far as the linear park, it is a similar situation. We have not impacted any of the RPA that we have not permitted and paid for. I have issues with proffering a park they may never be used, and I will, again, honor my word... if my word is not good enough, I will remove it all off the table. But, it does not make sense to proffer something until we have the cooperation of Stafford County to build a linear park to begin with from Route 1. The County owns most of the property. We will agree to do common accesses and so on. But, like I told Joey, I cannot proffer anything there because if I need to expand a stormwater management pond or whatever that comes up that I do not know about right now, then I would have to come back to you and redo this proffer. So, we are trying our best. We have been doing this for over two years now. We have not tried to pull the wool over anybody's eyes on anything. We have only been trying, what we felt, to build something good for this community, to create jobs, to create a tax base that I will be proud of. I have invested a lot, my partners have invested a lot, we want to build some flex space here but we are being, it seems like, discouraged at every step. And I would greatly appreciate it if you would consider an up or down vote tonight. But I will answer any questions that you have further.

Mr. Fields: Any questions for the applicant? Mr. Howard.

Mr. Howard: Just a quick question. On the fifty-four acres that were previously I guess zoned B-1 by the Supervisors, are you indicating, is that right?

Mr. Wilbourn: It was fifty-five plus acres that were zoned M-1 that are now zoned B-3 by the Board.

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Mr. Howard: Right. Are you indicating that if you were to build out those fifty four acres that there would be seventy thousand vehicles per day by-right if you built it out by-right?

Mr. Wilbourn: I do not know what is going in there, I am not clairvoyant.

Mr. Howard: No, I am asking you a question. But you made a statement; I am just trying to clarify.

Mr. Wilbourn: What I stated was that the by-right uses that could go in there could be a lot more than the seventy thousand that we showed you depending on the mix. What I do not want to do, and the only reason we proffered it less than what the by-right and we proffered less far than by-right, because we honestly we do not want that overbuilt, we are not intending to overbuild it, we are trying to mitigate, and if a user came in there that the County would want and that I would want and was a heavy traffic generator, again, I do not want to come back to the Board. I would be plenty happy if only twelve thousand trips were generated on that ninety acres. That would not bother me a bit. And if it builds out as flex space instead of retail space, the traffic count will go down and that is one of the legitimate uses. And it is not going to be built in a year, in two years, in three years, in four years or in five years. The natural cycle of it, it will be phased.

Mr. Howard: Right. The question I was asking you is are you indicating that as a by-right under the B-3 zoning of the fifty-four acres or the fifty-five acres, that you believe based on your estimation or whatever it is you are using, you would generate seventy thousand vehicles per day?

Mr. Wilbourn: We estimated that that was a possibility.

Mr. Howard: Right.

Mr. Wilbourn: Is it a reality? I do not think so.

Mr. Howard: Okay. And is that the logic you are using that if the additional twenty-five acres that are currently A-1 were to become B-3, you are stating that you believe the number of vehicles per day would be less than the seventy thousand when you combine the two?

Mr. Wilbourn: Yes. Basically what we are saying is that the new twenty-five usable acres is included in the sixty-two five. Really, I should not even be talking about a proffer on the fifty-five acres. That should be off the table. So, basically I am saying that is a net zero issue...

Mr. Howard: Then, do you disagree with the staff's comments that they do not believe that the numbers that you used initially were correct, that they may have been exaggerated? Do you disagree with that?

Mr. Wilbourn: I absolutely disagree with that because I think Sara clarified that that we were required to use a maximum number. We were not required to use a logical number; we were required... and that is how all your studies are done. When you create a zoning, your models are based on maximum, not minimum. And then you back the developer off of that.

Mr. Howard: So, in your thought process, you anticipated square footage and also a required number of parks per usage?

Mr. Wilbourn: Parking spaces?

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Mr. Howard: Yes.

Mr. Wilbourn: Yes.

Mr. Howard: And then you still believe that the fifty-four acres under the B-3 would generate seventy thousand vehicles per day?

Mr. Wilbourn: By-right could generate more than that.

Mr. Howard: Okay. Thank you.

Mr. Wilbourn: Do I think it will? No.

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

Mrs. Carlone: Mr. Wilbourn, on fire and rescue, C is really not applicable anymore according to Sara. This is the one about the Opticom traffic signal; it won't happen. And it says below if the signal is installed within twenty-four months but it will never pass VDOT and we know that.

Mr. Wilbourn: And that is the same as the signal at Wyche Road. If there ever was going to be a signal there it would be there because it warrants one now by traffic count. But it is impossible to put one in.

Mrs. Carlone: I was just going to say I think this is the latest one and can be removed from that.

Mr. Fields: Mr. Di Peppe.

Mr. Di Peppe: First, I appreciate you clearing up the matter about the stop-work order because I got calls about that.

Mr. Wilbourn: I understand.

Mr. Di Peppe: So, I apologize to you because I was going on incorrect information. I was told from a number of sources, oh, they did this, they did this. So, I should have worded the question better. But I do appreciate you saying hey, that didn't happen.

Mr. Wilbourn: Well, we were very respectful.

Mr. Di Peppe: I do really appreciate that. Are you concerned at all though about this kind of development coming out Wyche Road onto Courthouse Road? I mean, that is going to be a... for anybody that, for example, a future person that comes in to rent your property or buy it or whatever, you cannot get in and out of there. Are you going to reasonably be able to get in and out of there considering that it tends to be a nightmare today without any addition?

Mr. Wilbourn: I think that over the next four or five years, I do not see it as being a major problem because the timeframe before the first building could be out of the ground and occupied is probably three years from now. And I know that they are currently surveying for the right-of-way for the interchange. We are keeping very close tabs on that and we are volunteering time, engineers and everything else to have input so that we can make sure that Wyche Road is reconnected. I think that the interchange will be the catalyst that will cause the absorption of our park. So, I think that they are

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probably going to go hand-in-hand. I think that we are going to have a lot of vacant ground for a long time.

Mr. Di Peppe: And then just one final question. I understand what you are saying about the linear park, but from our viewpoint, from this side looking back at you, we have lots of applicants that come in and over and over and over again we say to them, okay if that is what you are willing to do, put it in writing. And that is what the proffer is. I understand you are concerned and saying well what if I need a stormwater. There is no engineer that can go out there and look at that property and go...

Mr. Wilbourn: Well, the issue would never be on the table if I hadn't... I didn't volunteer that to get any approval. I simply had volunteered to work with staff to do that because I don't need to proffer to mitigate RPAs. I have done all of that; I have got plenty of that. This is simply something that I felt like would benefit our park and the County. But, it won't benefit anybody if I proffered it and nothing ever happened. It has to be a joint effort with Stafford County to create this park behind the ballfields that exist, behind your complex, behind the jail. I do not know all the issues that have to be worked out with the jail or any of these other things. So, there are a lot of issues that need to be worked out before a linear park can happen. I am sorry, but I was, again, trying to do a good deed and if my good deed ends up being a stumbling block, I am sorry.

Mr. Di Peppe: Okay, thank you.

Mr. Fields: Any other questions? Ms. Kirkman?

Ms. Kirkman: I guess I have to address a concern about the vehicles per day proffer and actually my concern that it is even in there. And I say that because, for instance, just tonight we have looked at applications that are for similar zonings and are generating 2,250 trips per acre. And, so my concern is you are seriously underestimating what could be the potential of your property and that you will just end up in here a year from now having to ask for an amendment to the proffers. So, I actually have concerns about the vehicles per day proffer even being in there.

Mr. Wilbourn: I really do not mind it being in there. I understand and I should be thinking the same way you do as the developer of the property because it would be definitely to my advantage not to have it there. But I think that with the given traffic situation we have got and even with the new interchange, VDOT is going to need something to model that interchange, they are going to need something to model what happens with Wyche Road and the more specific information that they can get, the easier it is going to be for them and us to come up with a good access for Wyche Road. So, that is the main reason we put it in there was in discussion with staff and VDOT. But I agree with your point.

Mr. Fields: Mr. Mitchell:

Mr. Mitchell: Mr. Chairman, I don't know if you have a copy, I don't think you do, but on page 4 of the memorandum to the Planning Commission, they talked about the County's request that you upgrade the Rowser Pump Station and then they looked at your statement that the applicant shall make a pro rata share contribution. And according to our Utilities Department, the pump station is temporary and therefore is not a pro rata share project nor does it plan to be upgraded in the water and sewer plan. Can you comment on that please?

Mr. Wilbourn: Yeah, back in 2006/2007 we have numerous meetings with the Utility Department. We asked them numerous times about the availability of sewer and they said there was plenty capacity for

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first come first served, and we, in fact, got a letter to that effect and I have given a copy since to Joey. And with what we have done, actually again by mitigating the allowable FAR to hold it to the 1.2, the fifty-five acres would allow one million ninety-seven thousand square foot which we know we can place on the property. That is an absolute fact; that fits on the property. And then the usable A-1 would kick us over a couple hundred thousand square foot, all by-right. And the way that we designed the system, it starts on our project and ends at Route 1. There is about three thousand foot of pipe from the Rowser Pump Station back towards our property that has capacity in case they have a surge or whatever. And the diameter of that pipe actually would equate to about the capacity of four or five of the Rowser Pump Stations by volume before it would hit the emergency requirements of the alarm of the pump station. We have all looked at that; we have had engineers look at it and I think we have had discussions with Dale on that also. So, here again, we are willing to do anything that we impact, but an actual twenty-five acres of A-1 coming in cannot build a new pump station, just because it may be great to have in the future but it is not needed because of our project.

Mr. Fields: Mrs. Carlone? Were you through Mr. Mitchell?

Mr. Mitchell: Yes.

Mrs. Carlone: Mr. Wilbourn, I know you have been working with VDOT and you have mentioned meetings but we have not seen any type of engineering plans or anything. Working with them as you have, at this time do you have any idea where that is going to go as far as your property?

Mr. Wilbourn: We have discussed a couple of possibilities and one, I think I mentioned it the last time would be to expand or extend the road that would go in front of the new fire station over to Venture Drive. And that is the reason we looked at that with VDOT before we made our entrance location. The two entrances that we considered, the first one lined up with the property that the County has in their easements that would go over to Route 1 over by the jail. That became a problem in other departments of the County with regard to environmental issues. Our first plan had Venture Drive and looped all the way around. Then we were told that basically we had to hold it to one access because we were not allowed, or could not get a permit, to impact wetlands in two locations for one project. So that is the reason it was narrowed down to the one that seemed to be the least impact on the environment and the most logical to tie a loop to Courthouse and to Venture.

Mrs. Carlone: So, from this determination, how will that affect your two pieces of property? I was trying to picture Venture and then the Mooney Road, I was trying to picture do those enter into the equation at all with VDOT?

Mr. Wilbourn: Well, the only reason those were discussed... those lined up with the potential exit ramps off of Northbound 95 with potentially new interchanges. That is how that particular one came about. And when the new interchange comes about, Wyche Road will not access Courthouse Road; there will have to be a new access provided. And the distance between the fire station and 95 is the distance that is needed for an exit ramp to queue off before they can have the first light or first access to come back onto Wyche Road.

Mrs. Carlone: That is the most definitive that you have heard from them so far. Okay, thank you.

Mr. Fields: Alright, are there any further questions? Well, I believe this is in the Aquia District.

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Mr. Mitchell: Mr. Chairman, we have listened to a lot of discussion on this thing and we have all looked at it from a number of perspectives. I believe the applicant at this point requested a vote up or a vote down tonight. I do not have a problem with that. This is a multi-faceted scenario with part of it being zoned the B-3 and part of it being zoned the M. But my motion at this point, Mr. Chairman, for RC2900101, Reclassification, Wyche Road Properties, would be a motion for denial.

Mr. Nugent: Mr. Chairman, excuse me. Just for purposes of clarification, are we still technically in the work session?

Ms. Kirkman: No, we no longer have those distinctions.

Mr. Fields: Right.

Mr. Nugent: Okay, thank you.

Mr. Fields: We are in one continuous thing now; we do not have that.

Ms. Kirkman: Which, actually, I think we now should technically recess for dinner and not start all over again in the evening. We can work that out later. That is part of what makes it confusing.

Mr. Fields: Right. Okay, there is a motion for denial. Is there a second?

Mr. Howard: Second.

Mr. Fields: Second by Mr. Howard. Alright, discussion? You have the first shot at the discussion.

Mr. Mitchell: I leave it to the other six members.

Mr. Fields: Okay.

Mr. Howard: Just to explain my thoughts on this, I would love to see that area of Stafford County redeveloped. I am pro business, I am pro property rights, always have been, always will be. I think the unintended consequences to the County to rezone the additional twenty-five acres recognizing that the fifty-five acres were rezoned by the Board of Supervisors, there is unintended consequences with that. I think to make a second mistake in this case is a big mistake of the County moving forward. There are too many things left in the air in terms of the type of development that would occur, the access to this development. I sit here wondering if we are putting people at risk because the number of vehicles per day that will actually be created and generated by this new development, at risk from sitting in traffic to can safety fire and rescue vehicles get through. I do not see that as a possibility. So, just to rezone the additional twenty-five acres because in the past we have rezoned the fifty-four acres to be B-3 I do not think is the right answer tonight. So I am going to vote to support the motion to deny because I believe there would be huge unintended consequences by moving forward with those additional twenty-five acres.

Mr. Fields: Is there any other discussion?

Ms. Kirkman: Mr. Chairman, I am going to oppose the motion to deny. I just feel like we have no basis for denying this application given the hundreds of acres that were rezoned by the Board and have created this problem to begin with, also, given this Commission's recommendation for approval of a

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project just down the road. So, I just feel like we have absolutely no basis other than an arbitrary and capricious one for denying this application. I believe the applicant has gone above and beyond actually what is in his own self-interest by limiting the vehicles per day on the property and he has proffered things that he does not have to do in order to address things that may or may not be the making of his own project. So, for that reason, I am going to oppose the motion to deny.

Mr. Fields: Are there any other discussions?

Mrs. Carlone: I feel that you have tried your utmost to work something out but when it was just mentioned that on the proffers, I just feel that we really have not gotten a yea on some of these proffers. I just do not see the problem with going ahead and approving some of these proffers that were brought up, and I do agree about the problem that we have down there. I do not know if there is any solution; I cannot think of any other than some of the egress. But as far as this, I really have mixed emotions. Right now I would go ahead and recommend denial. I would like to see it deferred but this is not what is up to vote to see if we can't do a little better on some of these proffers, and that is all.

Mr. Fields: Any other discussion?

Ms. Kirkman: Can I clarify with the County Attorney... proffers are voluntary. Do we have a legal basis for denying an application if the applicant doesn't proffer what we want solely because we want those proffers in there?

Mr. Nugent: The simple answer to that question is no.

Ms. Kirkman: Thank you.

Mr. Fields: I will also oppose the denial. For a multitude of reasons, I feel that Mr. Wilbourn has not been dealt a fair hand by Stafford County. When I was on the Board of Supervisors and he came before us and we discussed his project for the M-1, I thought it was a perfectly logical and productive use. It is kind of interestingly coincidental we heard tonight how quite often industrial property, in terms of its income potential, in terms of salaries and quality employment, often far exceeds commercial property and we are talking about obviously the profile can be plumbers and tradesmen and independent businesses versus low-paid service employees, cashiers and stuff like that. And I think that is why I supported it back then and unfortunately I could not convince three of my other colleagues. I think we all know Mr. Wilbourn comes to us with a great deal of consideration, having served on the Prince William County Board of Supervisors, as well as being an urban planner. Everybody, of course, that comes before us is sincere and knowledgeable and Mr. Wilbourn is probably uniquely understanding of the dynamics, having served in local government as well as being trained as an urban planner. And I think he, in my mind, has thought through this. It was not his doing nor his request; he did everything in his power to avoid having that property zoned B-3. He had a perfectly legitimate plan for M-1 property that I thought was perfectly fine for the County. That was my personal opinion and I was not able to prevail. I cannot, in all good conscience, recommend denial. I thought he tried; he is doing the best he can with what he has been dealt with and he has been sincere and forthright with us and I appreciate and respect that. So, I am going to oppose the motion to deny. Alright, if there is no further discussion, all those in favor of the motion to deny the reclassification request signify by saying aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

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Mr. Fields: Opposed?

Mrs. Carlone: No.

Mr. Rhodes: No.

Mr. Di Peppe: No.

Ms. Kirkman: No.

Mr. Fields: No. So, I think the motion fails. How many for no? Five?

Mr. Rhodes: Five.

Ms. Kirkman: Mr. Chair, I make a motion to approve application RC2900101, Reclassification, Wyche Road Properties.

Mr. Fields: Alright, is there a second?

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Any discussion on this motion?

Mr. Howard: I think the, correct me if I am wrong, doesn't the motion... I mean, we can vote on it anyway, but I think it passes anyway by default.

Mr. Nugent: I do not believe that it does Mr. Howard. I think that the positive vote is what is necessary.

Mr. Howard: Okay.

Mr. Fields: Alright, any further discussion? If there is none, all those in favor of the motion to recommend approval of the request for reclassification signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Howard: No.

Mr. Fields: The motion passes 5 to 2. Mr. Wilbourn, good luck. Thank you for your time.

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Mr. Wilbourn: Thank you.

Mr. Fields: Alright. Well, we do not have a lot left. If we can pick up, since we got started early, if we could pick up actually on the very first item, which is elimination of the preliminary subdivision plan. The entire pending issue on that is legal and now Mr. Nugent is here and so, Mr. Nugent, enlighten us please, as you always do.

Mr. Nugent: Alright. I am not sure if there was any discussion on this in my absence but I can tell you that, if you recall from the last time we met, what was accomplished on this subject did not eliminate the preliminary plan process, and it certainly did not address the very real consequences that are attached to it. So, my department, in conjunction with the Planning Department, had to start from scratch to figure out where this was going to go and how it was going to get done. In very early order it was learned primarily through the efforts of Mr. Smith from my office that there is a domino consequential effect involving various State, County, agencies and other departments, that this does not involve simply deleting preliminary plan wherever it is found in the Stafford County Ordinances but has the potential to create some very real problems that I do not think up to this point were contemplated. I am going to let Mr. Harvey address some of those specific problems that have been encountered because it seems to me that the Commission needs to make a decision, knowing what we know now, whether this should go forward because potentially there could be an enormous waste of resources if the ultimate outcome is going to be not to pursue this any further.

Mr. Fields: Okay. Mr. Harvey?

Mr. Harvey: Thank you. In pursuit of trying to find out what will be necessary from other agencies, we contacted the Virginia Department of Transportation. Mr. Stepowany spoke to Ms. Margaret Neiman and Mr. Clyde Hamrick and they were of the opinion that short of having a preliminary subdivision plan we would be having a problem with the new subdivision street acceptance requirements. Because the new subdivision street acceptance requirements specify that you have to have a ratio of a number of access points to road links. With a construction plan, typically you are only building a portion of the project so you may only be building one or two streets. It is likely that your ratio would not be sufficient enough for VDOT to be able to take those streets into the State system. That is why they felt it was going to be problematic for us not to have the requirement for a preliminary plan. We are attempting to get a response in writing to that affect.

Ms. Kirkman: Mr. Chair? I do have a question regarding that because right now our process is people file a final plat and a construction plan sort of simultaneously.

Mr. Harvey: Correct.

Ms. Kirkman: Wouldn't they have to file a final plat... I mean, because the final plat has to be recorded before construction begins.

Mr. Harvey: Actually, most development occurs when the construction plan is approved first and the developer typically builds the infrastructure first so they do not have to post a large security, and then they will record the final plat.

Ms. Kirkman: But there is a final plat that is done somewhere in the process.

Mr. Harvey: Correct.

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Ms. Kirkman: I guess what I am wondering is how... since there has to be a final plat, that final plat would address that access point issue, wouldn't it?

Mr. Harvey: Well, what VDOT is telling us is that if you have a final plat that has one or two streets on it, that final plat in and of itself would potentially not meet the threshold of connectivity that they require in the Code.

Ms. Kirkman: Well then, wouldn't they just have to submit a plat for the entire thing at that point? Instead of doing what they are doing now which is doing it in pieces? I guess it is not clear to me why this is insurmountable. It just means that you could not develop a piece of land in pieces, you would have to come forward with a design for the whole thing which actually seems to me might have some merit.

Mr. Harvey: That could be something that a developer may consider. A lot of it is going to depend on the size of the project and what can be done to meet that threshold score. So, it is hard to tell if a developer can make that happen financially and otherwise by not breaking the project down into smaller pieces. Again, we are waiting to get some more clarification from VDOT on their position with regard to that. But that is something I will make sure we ask them. The other thing that came up recently in our research was that in July the State Law changed for localities with regard to dam inundation zones. And this is not an impediment to eliminate preliminary plans but it is a positive for having a preliminary plan. The Code now requires localities to identify dam inundation zones with review of a preliminary plan or a final plat. If you have the information at a preliminary plan stage, you can see what off-site properties may be impacted by a dam being built and have a better ability to plan in advance and maybe have them move the dam or do something to mitigate potential off-site impacts earlier on in the stage. That is the additional information we have learned since the last meeting.

Mr. Fields: Alrighty. Well, are we going to get a little clarification from VDOT? I guess we will just wait to hear what they have to say.

Mr. Rhodes: Mr. Chairman?

Mr. Fields: Yes sir.

Mr. Rhodes: I just would reiterate there have been messages all through this process. A lot of good hard work trying to look at the potentialities that there have been messages all along by staff that have stated there are a lot of ripple affects, a lot of impacts, and they keep uncovering more and more as they dig in in different areas. And I think we need to tread tremendously cautiously if we are even going to consider this any further. Again, others that do not have anywhere else and would like to be trail-blazing in some areas but I think this keeps reinforcing itself as one that maybe we should say we have done a good review and just turn efforts elsewhere. Staff has a lot of other things to do and I think we are getting close to that point. Thank you Mr. Chairman.

Mr. Fields: Sure. Alright, I guess next is a discussion we need to talk about the reservoir protection which was supposed to, of course, be on tonight's agenda and is not and so maybe you Mr. Harvey or Mr. Nugent, you can bring us up-to-date on where we stand with that, what needs to be done tonight, what is going to be done, etcetera, etcetera.

Mr. Harvey: Yes, Mr. Chairman. It was noticed that we had a defect in the advertisement, specifically the map that was attached to the written description created some confusion in the public because one of

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the areas was identified as a 2,000 buffer instead of a proximity zone so we had a number of inquiries from people asking if they were in the buffer zone and what standard applied. Also, in review of the text, it was determined that we had a problem with the restriction on feed lots and that the written text had specified that a feed lot of more than fifty animals would be prohibited. By definition, the threshold for animals for feed lots start at two hundred for cattle and other types of animals. So, technically, that did not meet the definition so we were prohibiting something that did not exist. And we also received a number of other comments from the public and questions specifically about issues over bio-solids and the storage of solid waste. In looking at those, myself and Mr. Nugent have identified those items and made corrections to the Ordinance and it is reflected in the hand-out that we have provided to you. We have a corrected Ordinance as well as a corrected map. The map will be accompanying the advertisement which has been sent to the newspaper again for the public hearing on the 16<sup>th</sup>. If you would like, I can highlight the specific changes from the Ordinance.

Mr. Fields: Sure.

Mr. Harvey: The noted changes for the Ordinance begin on page 4. There was a reference to feed lots for more than fifty animals; “for more than fifty animals” was stricken. On subsection (d) it previously said “disposal of solid waste”; we have clarified that to say “disposal of garbage and/or refuse” to be consistent with other sections of the County Code dealing with solid waste.

Mr. Di Peppe: Can I ask you a quick question there? So, let’s say a person had a dozen cattle on their land and it was within that proximity; they would not have to worry about that, right? I mean, because that would be considered solid waste.

Mr. Harvey: Under our definition it is not considered to be garbage or refuse.

Mr. Di Peppe: Right. So they would not...

Mr. Harvey: That was one of the questions that we received was that solid waste or bio-solids, which I was going to get to on the next page...

Mr. Di Peppe: Because I too had a constituent call me and we had been talking back and forth the last couple of days and he was not worried about feed lots of fifty because he had maybe a dozen. But there was some problem there and then also... I will let you talk. I have another issue later.

Mr. Harvey: On the next page, page 5, under subsection (g), it said “land application of bio-solids” and we had some questions about that. What are bio-solids? Is that the same thing as manure that the farmer would typically spread on his field for fertilizer? And the answer is no, it is not. So we referenced the Virginia Administrative Code. And basically bio-solids are considered to be materials that are a by-product of a municipal wastewater treatment plant. So that makes that clarification.

Mr. Fields: Okay.

Ms. Kirkman: Could I just ask a question about it? When a... don’t you have to have a permit to spread manure over large areas when it is waste manure from another location? And I thought that was a bio-solids spreading permit; I do not know the technical term for it.

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Mr. Harvey: The only permit that I am required that the State has is if you are spreading bio-solids which are from a municipal wastewater treatment plant. As far as animal waste, I am not aware of any requirement.

Ms. Kirkman: We don't have any? Okay. Thank you.

Mrs. Carlone: Jeff, that was one of the... I have received calls and several emails and I do want to thank staff for being very quick about responding to me. That was one of the major questions between three different individuals and that they sell manure, the seasoned manure, for people to spread. But the emails did clarify from staff that and I thank them for that.

Mr. Fields: Alright, any other questions?

Ms. Kirkman: Mr. Harvey, could you please explain how this came to be incorrectly advertised?

Mr. Harvey: Yes. Again, we had an error with the map. Staff had asked the GIS department to provide us with a new map, or should I say post the map in our shared drive. The map that got posted was not the map that was presented in the Board of Supervisors report and, unfortunately, staff did not catch the differences in the maps. So that is where we had the error in the advertisement.

Mr. Di Peppe: One quick question. The use of fertilizer; it is prohibited just within the buffer zone in the first two hundred feet. Here again, I had a gentleman that had all of his farm within the two thousand feet and he just wanted to be very clear on that that the other part of it is not prohibited. Thank you.

Mr. Fields: Okay, any other questions? So, tonight do you need us to reaffirm sending this to public hearing or is that just... we are all good on that?

Mr. Nugent: I think it would be wise to reaffirm.

Mr. Fields: Alright. So, do we have a motion?

Mr. Di Peppe: Mr. Chairman, I would like to move that we move the Ordinance to amend and reordain Stafford County Sections 28-25 and 28-61 and 22-87.

Mrs. Carlone: Second.

Mr. Fields: Second by Mrs. Carlone. Alright, any further discussion? This is a motion to move to public hearing.

Mr. Di Peppe: A motion to move to public hearing, yes.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

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Ms. Kirkman: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Fields: Alright, motion passes 6 to 1.

Mr. Nugent: Excuse me, Mr. Chairman, and for clarification that is to move it to public hearing on September 16<sup>th</sup>, right?

Mr. Fields: September 16<sup>th</sup>, right.

Mr. Nugent: Thank you.

Mr. Di Peppe: For the people at home, that will be in the evening session after the dinner thing.

Mr. Fields: Right, at 7:30. Okay. Anything else? Planning Director's report?

Ms. Kirkman: Mr. Chair, before we move on, I actually at this time would like to request that the Planning Commission go into closed session to discuss a personnel matter. Unfortunately, this is not the first time that we have had an ad incorrectly advertised. It's not the second time; it's not the third time; I don't even think it's the fourth time. Some of you all may recognize this book. The Planning Commissioners that have completed the certification course. It's called *The Job of the Planning Commissioner*.

Mr. Howard: By Albert Solnit.

Ms. Kirkman: And it says when to replace your planner. While Commissioners rarely hire the planner, as the principal client they may be in the best position to see the need for change in personnel. A Commission shall not tolerate for very long a planner who can't run the department, as evidenced by fouled-up public hearing notices and applications, and incomplete, incoherent or inaccurate staff reports. And, again, I don't take this step lightly but this is a recurring problem that we have had over the last several years. And I do think we are in a position to at least make some recommendations to the people who can make decisions about this regarding this problem and the necessity of correcting it. And I think that is best done in closed session.

Mr. Rhodes: Mr. Chairman, I do not see any need for this. I think we have directed the staff into more wasted efforts with some inquiries that have been off-base and ill-conceived than any efforts they have done. And, quite frankly, with the massive amount of paperwork that is involved and that is required in the processes, with the specificity that things are required and the no margin of error, I am surprised that there are not more things that are coming out a little bit complicated like this. And I think they do a fantastic job, our planner and everyone on their staff. It is a waste of our time.

Mr. Fields: Alright, well, we have a motion... are you making a motion to go into closed session? I understand your...

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Ms. Kirkman: I don't want to discuss like the merits of staff in public. I think that is really why it is a closed session for personnel.

Mr. Fields: Let me just ask our... we do have that authorization Mr. Nugent?

Mr. Nugent: Mr. Chairman, certainly the Commission has the opportunity, if it chooses, to go into closed session. Quite frankly, I am not exactly sure that a personnel matter over which the Commission has no authority would qualify as a legitimate basis for the closed session. I simply cannot answer that question off the top of my head. I just cannot and I apologize. Be that as it may, if you do that, you will have to go into closed session on your own. I cannot participate because that puts me in a conflict position because I represent the Planning Department as well as the Planning Commission. I trust that answers your question.

Mr. Fields: Yes, well... Mr. Di Peppe then Mrs. Carlone.

Mr. Di Peppe: I cannot support it on a number of reasons. But I know that I have spoken with Mr. Nugent on a number of times because I, too, have been frustrated about problems with advertising. But I think if you ask Mr. Nugent sometimes why we have to redo it is because of Judges and what we see come down the pike with things getting overturned. And it seems... wasn't there some County that printed their whole Comprehensive Plan in the notice? So, to point a finger and say this one person is responsible, I just think is unfair and I kind of feel... just, I, too, think are we totally devoid of any mistakes? Of course not, we are all people and we all make mistakes. I made a mistake tonight. But, I think we have an excellent staff and I just could not support this. I think it is wrong.

Mr. Mitchell: Mr. Chairman?

Mr. Fields: Mrs. Carlone...

Mrs. Carlone: If there is some commonality in the problems then that needs to be looked at, if it is typos. I just really prefer not to go into this other than if there is a trend or something that could be rectified just by looking at the system, how we go about it. I just do not feel comfortable doing this.

Mr. Fields: Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, I will oppose the motion. I think we have one of the finest staffs, if not the finest staff in all of Virginia. Many of you know I served eight years on the Board along with Pete a number of those years. Mr. Harvey and his crew, his entire crew, have done a remarkable job, a tremendous job. I stand behind them and with the amount of work that is thrust upon these people, they have done superior work. I will oppose the motion. I will oppose anything involved with it.

Mr. Howard: Mr. Chair?

Mr. Fields: Mr. Howard.

Mr. Howard: I echo the comments of my fellow Commissioners who are opposed to go into a closed session or even opposed to going after the Director or some of the staff here. I think there are appropriate ways to do that. Commissioner Kirkman can certainly write a letter to Anthony Romanello, she can certainly take this up with the Board of Supervisors. They meet just like we do; they have public comments. If she has issues they certainly can be addressed directly to those people. To pull a

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“stunt” like this in a public meeting is embarrassing. I find it appalling and I am very disappointed that we would be having this discussion at this point in time.

Mr. Fields: I would just like to say...

Ms. Kirkman: Mr. Chairman?

Mr. Fields: Let me just add that I think that... it has been my experience and I do not try to presume Mr. Nugent to second guess. I remember when I was on the Board of Supervisors I had an issue with, not Mr. Harvey, but another Director of Planning and I said I think we need to talk about this in closed session. I was informed that the Planning Director does not work for the Board of Supervisors. The Planning Director works for the County Administrator. The Board of Supervisors has two employees, the County Administrator and the County Attorney. Those two individuals, not even you Assistant Deputy County Attorney or Director of Planning or Director of Utilities, may we discuss their performance in closed session because they are not our employees. We were told that we can discuss the County Administrator's job and how he is doing it vis-à-vis a lot of other issues; we can talk about the County Attorney and the Board of Supervisors has direct employees. So, Ms. Kirkman, irrespective of whether I agree or disagree with the intent, I personally do not think we have on the Planning Commission since we have no direct employees that we have the authority to do this in closed session. So, my reluctance has nothing to do with your opinion or anybody else's opinion. I do not think procedurally that we have the capacity to do that.

Ms. Kirkman: Well, Mr. Chairman, certainly if we don't, we can't. But I do want to point out that I'm not talking about those instances where the pre-eminent land use attorney in Stafford County has pulled out some new and creative interpretation of the advertising statute. I am talking about the multiple times in which simple clerical errors have lead to repeated postponements of hearings. For instance, I believe it was the drainfields ordinance... how many times did that thing have to be reheard? So, we are talking about a problem that affects the whole County when we cannot effectively get through legislation because simple clerical tasks aren't being carried out properly. I am not talking about the complicated notices and the creative interpretations that attorneys come up with. So, you know, if we don't have the authority we don't. But there is a problem in this County about how planning gets done and the citizens suffer because of it.

Mr. Rhodes: Mr. Chairman.

Mr. Fields: Mr. Rhodes.

Mr. Rhodes: I just must submit one more time that governance does not go on efficiency, governance goes on its processes and those processes cause us to do things over and over many times, but that is what our process requires. And no matter what the staff thinks or what they would like to be doing, they end up having to respond to multiple different requests of multiple different elected and appointed leaders, as well as trying to serve the public to the best of their potential possibility and their capability, and I think they do that tremendously well. I think members of this Planning Commission have driven the staff on more wild goose chases with their requests and incorrect innuendoes and inferences than any wasted time that made it come back with some comma or something else that was not necessarily caught in the reams of paper for it to go on. And the one that is making this point here previously is one of the ones who does that the most.

Mrs. Carlone: Okay, personalities... I just have one more...

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Mr. Fields: I really just want to stop this now. We are done with it.

Mrs. Carlone: No.

Mr. Fields: We are not going to go into closed session...

Mrs. Carlone: No, you keep doing that to me Pete, every time. I am just saying that...

Mr. Fields: I really don't want to do this.

Mrs. Carlone: I have known these people, some of them for twenty-six years, even before I got that actively involved and, if there is anything that can be looked at just to perhaps prevent it in the future or double-check, I don't know. It really bothers me that we would single out anybody. Let's just, if there is a problem, look at it internally. That's it.

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Fields: Okay, moving on. Anything else? Planning Director's report. We had a Board of Supervisors meeting yesterday, right?

Mr. Harvey: Yes, Mr. Chairman. I do not have any new information to report from yesterday's Board meeting, however, I will bring to the Commission's attention that presently we do not have any public hearings in the queue for the October the 7<sup>th</sup> meeting.

Mr. Fields: And we are attending the October 6<sup>th</sup> meeting?

Mr. Harvey: Correct.

Mr. Fields: So, do we need to... if we don't have any pressing business we should probably move to just not have the October 7<sup>th</sup> meeting? Do we need work session time? At this point no?

Mr. Harvey: It depends if the Commission has any issues that comes out of the 16<sup>th</sup> meeting that you want to defer for two weeks.

Mr. Fields: Okay. Well, what is the will of the Commission? Do we want to cancel our October 7 meeting?

Mr. Howard: Sure.

Mrs. Carlone: Yeah.

Mr. Howard: I make a motion that we cancel the October 7<sup>th</sup> meeting and...

Mr. Di Peppe: Second.

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Mr. Howard: And for discussion, obviously we want to make sure that we announce it. We will be present at the October 6 meeting.

Mr. Fields: We will be present for the October 6 meeting.

Mr. Howard: Do we vote on that?

Mr. Fields: We will vote on cancelling the October 7<sup>th</sup> meeting.

Ms. Kirkman: Mr. Chair, while we are looking at cancelling meetings, I am wondering if we should cancel the November 4<sup>th</sup> meeting? Traditionally, the Board doesn't meet that week either.

Mr. Fields: Or they move their meeting to the Wednesday quite often after Election Day, right?

Ms. Kirkman: I think they do.

Mr. Harvey: Mr. Chairman, I believe they have cancelled their first meeting in November.

Mr. Fields: They just cancelled it outright?

Mr. Harvey: Yes sir.

Mr. Fields: I remember some years we did meet right after Election Day, which is not very fun. It depends; it is either opportunity to gloat or to hang your head in shame, one of the two.

Mr. Howard: Should we wait till the 16<sup>th</sup> and just see what the work load is? That would be ample time, right?

Mr. Fields: I don't know; what do you guys think? We do not want to cancel the meeting and then have to redo the meeting.

Ms. Kirkman: We don't have much in the pipeline at this point. I have been watching the TRCs and the Dream meeting agendas. The Board will be ceasing all activity November 1 so they are not going to be sending us stuff. I just wondered if maybe you knew of some things.

Mr. Fields: Let's just leave it open if we can. I know there is a motion so I guess we have to vote on it.

Ms. Kirkman: I didn't make a motion.

Mr. Fields: Mr. Howard made a motion to cancel.

Mr. Howard: We have to vote on the...

Mr. Di Peppe: Can he withdraw his motion then? Then we do not have to vote on it.

Mr. Howard: You do not want to cancel the October one?

Mr. Fields: I think we have consensus that we want to cancel it; I don't mind holding the vote until next week just in case we need to have it for some reason.

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Mr. Howard: I was mentioning the November; should we wait to cancel the November meeting to make sure unless you are sure you do not want to have the November meeting. I will withdraw the motion if that is the will of the Commission.

Mr. Fields: Well, I do not have a good analysis of the potential workload of the next two months in front of me so before we cancel two meetings...

Mr. Howard: Right, that is where I was going.

Mr. Fields: I am a little reluctant to say yes or no right now because I just do not have enough information to make that decision well.

Mrs. Carlone: We have not had any TRCs in a quite a while. Anything in the pipeline there?

Mr. Fields: I know it is likely that we won't need either meeting but...

Mr. Howard: Well, we can always... the October one seems kind of like a no-brainer, but I could be wrong.

Mr. Fields: I would prefer not to meet October 7<sup>th</sup> if we are here October 6<sup>th</sup>.

Ms. Kirkman: Was there an agreement to not meet October...

Mr. Howard: Yes, there was a motion and seconded and the will seemed to say...

Mr. Fields: To cancel October 7<sup>th</sup>? Okay.

Mr. Howard: The Chairman has to say all those in favor.

Mr. Fields: Alright. All those in favor or cancelling October 7<sup>th</sup> 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? So, no meeting October 7<sup>th</sup>. Okay, anything else?

Mr. Harvey: No sir.

Mr. Di Peppe: We have the minutes.

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Mr. Fields: I know we have to do that; I meant from Mr. Harvey.

Mr. Harvey: No sir.

COUNTY ATTORNEY'S REPORT

Mr. Fields: Okay, Mr. Nugent?

Mr. Nugent: Nothing, thank you Mr. Chairman.

SECRETARY'S REPORT

Mr. Fields: Okay, Mr. Secretary?

Mr. Mitchell: Nothing.

Mr. Howard: Can I just chime in on your time? I just want to thank Mr. Harvey for the Stafford County lapel pins. He made sure that we all had those on the dais and I appreciate him doing that.

Mr. Fields: I can share mine. I still have a giant bag of them on my dresser from when I was a Supervisor. We gave them out like candy, like it was a big deal. We gave them out to boy scouts and girl scouts and eagle scouts and everybody that came here and got proclamations.

Ms. Kirkman: They never gave me one when I came for Save Crow's Nest.

Mr. Howard: You got one now.

Mr. Fields: Maybe if you had said less mean things about the Supervisors they would have given you one. You never gave me a heron.

Ms. Kirkman: You have to earn them, Pete.

Mr. Howard: Mrs. Carlone gave me two herons once.

Mrs. Carlone: Yes.

COMMITTEE REPORTS

None

CHAIRMAN'S REPORT

None

OTHER BUSINESS

None

APPROVAL OF MINUTES

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Mr. Fields: Alrighty, we have a pile of minutes here. We have work session minutes? I don't see any work session minutes on the list to approve.

*June 3, 2009*

Mr. Fields: We have approval of minutes of June 3<sup>rd</sup>. Motion for approval?

Mr. Mitchell: Motion for approval.

Mr. Howard: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Ms. Kirkman: I abstain.

Mr. Fields: Abstain.

*June 17, 2009*

Mr. Fields: June 17<sup>th</sup>? Motion?

Mr. Di Peppe: Motion for approval.

Mr. Howard: Second.

Mr. Fields: Second. All those in favor.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

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Mr. Fields: Aye. Opposed? Abstentions?

Ms. Kirkman: One.

*July 1, 2009*

Mr. Fields: Okay, July 1<sup>st</sup>. Motion for approval?

Mr. Di Peppe: So moved.

Mr. Howard: Second.

Mr. Fields: Second. All those in favor.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Abstentions?

Ms. Kirkman: One.

Mr. Fields: Alright. Okay, very good. Unless there is anything we are missing we will adjourn to the September 16<sup>th</sup>.

**ADJOURNMENT**

With no further business, the meeting was adjourned 8:43 p.m.

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Peter Fields, Chairman  
Planning Commission