

STAFFORD COUNTY PLANNING COMMISSION
September 16, 2009

The work session of the Stafford County Planning Commission of Wednesday, September 16, 2009, was called to order at 5:38 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Nugent, Stinnette, Baker, and Stepowany

DECLARATIONS OF DISQUALIFICATION

Mr. Fields: Are there any declarations of disqualification? Hearing none we will move on to review of proposed ordinances. Amend Definition of Subdivision Signs in the Zoning Ordinance.

REVIEW OF PROPOSED ORDINANCES

1. Amend Definition of Subdivision Sign in the Zoning Ordinance (Referred to Planning Commission by Board of Supervisors) (**Time Limit: November 17, 2009**) (**Deferred at September 2, 2009 Work Session to September 16, 2009 Work Session**)

Mr. Stepowany: Thank you Mr. Chairman and members of the Planning Commission. To update the Planning Commission, we have a memo that we have updated. This is for proposed ordinance O09-53 which would require that the name of the subdivisions on the signs would be the name approved and recorded on the plat. On August 18, 2009 the Board of Supervisors requested that the Planning Commission consider an amendment to the Zoning Ordinance to consider proposed ordinance O09-53. Staff notes that the amendment would make it very difficult to post another name to the sign. A variance of the Zoning Ordinance definitions would be required. Additionally an amendment would restrict the contents of such a sign. Staff has concerns that regulating the content of a sign may be subject to legal challenge. Staff has been working on an amendment to the Subdivision Ordinance as an alternate to the proposed ordinance. The proposed ordinance is again just to amend Section 28-25, Definitions of Specific Terms, where as the area identified as subdivision and located at the entrance of the subdivision with the name as found on the recorded plat. Said sign shall be no greater in height than six feet and shall be set back from any right-of-way for proper sight distance. Any change of sign copy will require a sign permit. That is the proposed ordinance. What staff is presenting and we are getting into discussions with Mr. Harvey and Mr. Nugent on how we would go through with this procedure, not to put Mr. Nugent on such a spot, but staff would recommend an alternative ordinance. We would have to figure out the timeline and the alternative ordinance, you should have just received page...Stacie were you able to get these out? Okay, with the number one on top of it where we...a separate definition change to definition of specific terms for subdivision sign. Again it is by the name found on the recorded plat for such subdivision and located on the subdivision site at one or more of the entrances. Such subdivision and said sign shall be no greater than six feet in height above ground level and shall be set back for any right-of-way to allow for an un-obstructive motorist view. That definition would be duplicated in the Subdivision Ordinance and in the Subdivision Ordinance in Section 22-46, where we have the assignment of subdivision names , in part B it says the name of a new section of a subdivision that was not shown on an approved preliminary plan shall be accepted with the approval of a final plat provided a technical change to the approved preliminary plan per

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Section 22-67 of this chapter, has been approved and provided the section number has not already been assigned and a new section is adjacent to the subdivision that has the name it is using, it should be noted that A and C and everything else is already existing about the naming of a subdivision. D would add which is a change of the name of a subdivision after the approval of the final plat, minor subdivision plat or family subdivision plat shall require a vacation of the plat pursuant to article 4 of this chapter. Then in Section 22-134, which is the section on required amenities we are basically including a subdivision sign as an amenity of subdivision and say the subdivision sign shall contain the name of the subdivision approved per Section 22-46 of this chapter and feel that it is better to control the content of the sign in the Subdivision Ordinance. I will have Mr. Nugent explain that better, but there is concern about requiring the content of the sign to be the name in the Zoning Ordinance which is why staff recommends it to be geared towards the Subdivision Ordinance and not the Zoning Ordinance.

Mr. Fields: Can you refresh my memory, why is this considered an issue? Why do we need to be doing this?

Mr. Stepowany: This was brought to us by the Board of Supervisors.

Mr. Fields: Okay, I understand that, but prior to that what is initiating...what is the emphasis for this?

Mr. Stepowany: I believe what has happened there has been a subdivision that has been approved as one name and they have put up the subdivision sign and they are identifying themselves as another name, which is at least a similar name or name being used with another subdivision after all the plats and plans have all been approved and they are saying, this is the name of our subdivision now.

Mr. Fields: And that is a problem because?

Mr. Stepowany: It is a very similar name to an existing subdivision.

Ms. Kirkman: Mr. Chair.

Mr. Fields: Just a second Ms. Kirkman, I am sorry. It is a similar name so the similarity to another subdivision...

Mr. Stepowany: Right and it was done after any plans review or plats review. In which part of the plat which 22-46 talks about how the name of the subdivision is accepted because the department has policies on when we accept subdivision names. It cannot be very similar, you can not have two subdivisions with the same name on two complete opposite sides of the County and stuff like that.

Mr. Di Peppe: Is that a safety issue?

Mr. Fields: Ms. Kirkman, you had a response from the BZA?

Ms. Kirkman: Not representing the BZA.

Mr. Fields: I understand that.

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Ms. Kirkman: I believe that representatives of the BZA brought this matter to the Board because of clarification that was needed in the statute because of a case that they heard. Does that sound familiar, Mr. Harvey?

Mr. Harvey: There is a case scheduled for the 22nd regarding that matter.

Mr. Fields: Where...

Mr. Harvey: Dealing with a subdivision changing it's name.

Mr. Howard: It is over in Rock Hill.

Mr. Harvey: How the sign is regulated.

Mr. Fields: And the feeling was that the changing of the name created a primarily an emergency response problem or was an unfair attempt to misidentify the subdivision or...I am not really critical of it, I just it seems like a big deal to go through unless there is a compelling reason. I am trying to figure out the compelling reason.

Mr. Harvey: There is the concern that there may be confusion for emergency response purposes, if you have subdivisions that have the same name or very similar names. The Board, in my recollection, did not have a lot of discussion or elaboration on all the details when they forwarded it.

Mr. Fields: It originated from the BZA as a request and the Board is sort of acting...

Mr. Harvey: I do not recall a request from the BZA, but there is a pending matter with the BZA.

Mr. Fields: Alright.

Mrs. Carlone: We have the same problem out in our area where we live. We bought one of the pieces of property there it is called Stafford Greens. We found out under Glazebrook, there is another Stafford Greens in Stafford, so something need to be looked at, that is all.

Mr. Fields: I can see...the similarity is already sometimes confusing. Part of it, I guess, in describing subdivisions there is sort of a limited world of names that kind of recur over and over again. I don't know how far a field you can start naming subdivisions to things that don't make sense. Mr. Nugent did you want to weigh in on this issue, the ability to regulate sign contents.

Mr. Nugent: Thank you Mr. Chairman. The Government has no business regulating sign content pursuant to the first amendment of the United States and State Constitutions. Whether that be in the Zoning Ordinance or the Subdivision Ordinance. In any event, in my professional opinion, that is not what this is doing. These ordinances are simply establishing for those subdivisions that wish to have signs and those subdivisions that wish to place a name on the sign of the subdivision then that name has to match the name on the recorded plat. That is primarily for purposes of being able to identify the subdivision for the benefit of public safety personnel in the event of an emergency and to avoid the confusion that necessarily results in having subdivisions named with similar names or identical names. I think we accomplish that, it is always difficult and challenging when you are attempting to walk around the first amendment, but I think we have done a pretty good job with this one.

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Mr. Fields: In the spirit of public interest and the protection of the citizens is why we are walking around the first amendment. Okay are there any other questions or comments for staff?

Ms. Kirkman: So this was...the change to the Zoning Ordinance was sent to us by the Board, so we have to hold a public hearing on that. We do not have authority to change that because of the way it was sent to us, but we can recommend an alternative. I am trying to understand the process.

Mr. Nugent: I am glad you brought that up because there seems to have been a bit of a misunderstanding with regard to the Planning Commission's function. The Planning Commission's function, with regard to ordinances, whether they are initiated by the Board or whether they are initiated by the Planning Commission go to the Board and come back to the Planning Commission. The Planning Commission's function is essentially one of recommendation, it is advisory in nature. Planning Commission, ideally under the State Code can look at something and if the Board is looking for the Planning Commission's recommendation, make the recommendation. That does not necessarily mean that the Commission has to recommend it as it was presented because they can in some instances and in many instances, look at something and as a result particularly if it is a matter of public hearing as a result of comments by other Commission members, make some determinations that maybe the intent...if this is clearly the intent this wording established that intent rather than some other wording. So this notion that I think the Commission has had before that you can't do anything that would be more restrictive, you can only do things that are less restrictive, that is really a regulation on the Board itself with regard to what it advertises and not necessarily one that applies to the Planning Commission with regard to the ultimate recommendations it wishes to make to the Board.

Ms. Kirkman: Got it.

Mr. Fields: Okay. So we need to...do we need to go to public hearing with the Board's issue or do we need to put all of this to a public hearing? All of these new recommended approaches?

Ms. Kirkman: That is why I was asking, because the Subdivision Ordinance...

Mr. Fields: What do we need to advertise and what do we need to...

Ms. Kirkman: Do we need to send that to the Board to initiate or can we advertise the Subdivision Ordinance change?

Mr. Fields: What we are saying is that we can't really do what is envisioned in the referred change to 28-25, we have to do 28-25, 22-24, 22-46 and 22-134 in the aggregate to accomplish the intent of what was sent here. So what do we advertise for public hearing?

Mr. Nugent: I think you would advertise the entirety of what is being proposed.

Mr. Fields: Okay, so we advertise the recommended changes 28-25 and we also advertise the staff/Planning Commission recommendations to 28-25, 22-24, 22-46 and 22-134?

Mr. Nugent: Yes.

Ms. Kirkman: At that point do we also need to have an initiation resolution from the Planning Commission regarding the changes to the Subdivision Ordinance? Because we want to make sure that piece is properly initiated.

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Mr. Nugent: My recollection is, and I would like to check this out, but my recollection is that applies to Zoning Ordinances, the initiation aspect initiated by motion or resolution of the Board or by the property owner regarding some rezoning. I think the initiation that came from...this 28-25 was initiated by the Board, was it not?

Ms. Kirkman: Yes.

Mr. Nugent: Okay. I think because, to be consistent and to accomplish the purpose of 28-25, the staff and if the Commission agrees, thinks that it has to be done consistently to maintain consistency with the Subdivision Ordinance, I think that there is probable not a requirement for initiation. If I find out differently, I will let you know.

Mr. Fields: Okay. So our next step is...are we ready to send this to public hearing as presented?

Mr. Di Peppe: Could I ask just a quick question?

Mr. Fields: Sure, you can ask as many questions as you like.

Mr. Di Peppe: Jamie, on the very last paragraph on the handout we got tonight, such amenities shall be completed prior to the approval of a final plat for the section of the subdivision, explain that to me what you...could you not put the sign up?

Mr. Stepowany: The discussion on the staff level was, could we require the sign to be constructed as part of the construction plan with the proper name of the sign as part of the construction plan. In reviewing the construction plan revisions it does not get into the specific contents that would allow such a...that type of feature to include in the construction plan with the roads and the public utilities and the stormwater, to include the signs. Staff recommends it as part of the amenities, that the sign would be part of the amenities and meet the same requirements as other amenities of the subdivision.

Mr. Di Peppe: So you are saying, it has to be in before...not the final house is built, but before the final section is...

Mr. Stepowany: The current requirement is that the amenities have to be in place before the plat is recorded. So if you have a tot lot or other approved amenities of a preliminary subdivision plan, those amenities are supposed to be in place before the plat is recorded. That would hold true for the subdivision entrance sign also.

Mr. Di Peppe: Thank you.

Ms. Kirkman: I have a question about that and you can provide me an answer later, but we heard a preliminary subdivision plan earlier that was being phased. It was those townhomes and the apartment building back behind Doc Stone, Woodstream.

Mr. Stepowany: Right.

Ms. Kirkman: And they had not built the pool, which was an issue. How is that...I mean if you could look into that because we were told that was okay and now I think I am hearing something different.

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Mr. Fields: Alright, so we need to request the Board the authorization to send this to public hearing? Is that the motion that we need?

Mr. Nugent: Yes.

Mr. Fields: Does anybody wish to make the motion?

Ms. Kirkman: Request to the Board?

Mr. Fields: Request to the Board of Supervisors, right...

Ms. Kirkman: No.

Mr. Fields: The authority to send this to public hearing. Don't we have to get their...

Mr. Nugent: Recommendation for public hearing, yes.

Mr. Di Peppe: So moved.

Mr. Rhodes: Second.

Mr. Fields: Just to be clear, the advertisement will contain textually all of these things, not only the draft of 09-53 but also the draft that we received here.

Mr. Nugent: That is correct.

Mr. Fields: The amendments to the Subdivision Ordinance as well as the Zoning Ordinance.

Mr. Nugent: Yes, Mr. Chairman.

Mr. Fields: The entirety of that is what we will be advertising and holding the public hearing on.

Mr. Nugent: You won't advertise the proposed ordinances themselves, you will advertise the nature, the general description...

Mr. Fields: I understand.

Mr. Nugent: Yes.

Mr. Fields: Of all of theses?

Mr. Nugent: Of all of them. Correct.

Mr. Fields: Alright, does everybody understand what we have on the table?

Mr. Rhodes: Yes sir.

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

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Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Howard: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright, very good. Good work on that guys; I know that was kind of a tricky one. Thanks for clarifying that. I just wanted to be sure why we had to do that. Alright, number 2, Medical and Dental Clinic in Commercial Districts.

2. Medical and Dental Clinics in Commercial Districts (Referred to Planning Commission by Board of Supervisors) **(Time Limit: November 17, 2009) (Deferred at September 2, 2009 Work Session to September 16, 2009 Work Session)**

Mr. Stepowany: Again, thank you Mr. Chairman and members of the Planning Commission, I will try to update you on this proposed ordinance. As discussed at the last meeting it amends the Zoning Ordinance to permit medical and dental clinics as a by-right use in B-1, B-2, B-3, RC, SC, and PD-1 Zoning Districts. Staff was asked to research and report additional information as related to a certificate of need. Specifically if and how other jurisdictions apply provisions of the certification and local regulations. In addition staff was asked to research State Code for the authority to legislate a certificate of need. As a brief follow up I did talk to Mr. Peter Boswell from the Virginia Department of Health in Richmond. His information was that certificate of public need does not apply to medical clinics, doctors office or dental office. It only applies to facilities that provide...that do surgical procedures and in patient care.

Mr. Fields: Okay.

Mr. Stepowany: That is the only thing. We did get in touch with Arlington and Fairfax so far and we have not found any provisions for a separate process for a certificate of need, lets say if it is part of the occupancy permit or part of a conditional use permit or part of a special exception permit. But he have not been able to see in their Zoning Ordinance where they would require such a procedure called a certificate of need for medical or dental clinics or offices. So unless the Planning Commission would like additional research, that is where we are at this point.

Mr. Fields: Okay. Any questions for staff? Alright. We need to move this to public hearing as well?

Ms. Kirkman: We have already held the public hearing.

Mr. Stepowany: No.

Mr. Harvey: Not yet.

Mr. Stepowany: This needs to go to public hearing. It was sent to the Planning Commission...

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Mr. Fields: Referred by the Board, so we don't need the Board's referral, so...

Mr. Di Peppe: I would like to move ordinance 09-50.

Mr. Rhodes: Second, to the public hearing.

Mr. Di Peppe: Any discussion? Alright, all those in favor of moving 09-50 to public hearing signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Howard: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright, that moves to public hearing. That was easy. Thank you for looking into that, I appreciate it.

Mr. Stepowany: Thank you.

Mr. Fields: Okay, now number 3.

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

Mr. Harvey: Mr. Chairman...

Mr. Fields: No we are still working on that.

Mr. Harvey: Yes, slowly but surely we are making some progress. We have a meeting scheduled with VDOT officials for Monday the 28th.

Mr. Fields: Okay.

Mr. Harvey: It took a little while to try to coordinate schedules. But we have identified the appropriate people and are moving forward.

Mr. Fields: We still...if memory serves me correct we decided the whole process hinges on the fact that the new VDOT subdivision regulations may preempt any attempt on our part to accomplish what we are trying to do.

Mr. Harvey: Yes, we will see if the subdivision street acceptance requirements affects the process.

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Mr. Fields: Right, very good, okay. Alright we are still on hold on the Rappahannock River. So number 5, reclassification North Stafford Center for Business and Technology.

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

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) (Deferred at September 2, 2009 Work Session to September 16, 2009 Work Session)**

Kathy Baker: Good evening Mr. Chairman and members of the Planning Commission. Item 5 is a reclassification for North Stafford Center for Business and Technology, The Shoppes of North Stafford. This was a proposed reclassification from B-3 to B-2 and this was discussed at your September 2nd meeting and was deferred primarily for further discussion on transportation issues. The applicant has submitted information which is in your package and they are here with their traffic engineer if you have specific questions that you would like to follow up. The other issue which was raised, Mrs. Carlone had brought up an issue about child care centers and the applicant has submitted new proffers which would strike out child care as a by-right use. If you have any questions of me or the applicant and their engineer.

Mr. Fields: Do we have any questions of staff?

Ms, Kirkman: I do of the engineer.

Mr. Fields: Or the engineer or the applicant. We do not need to be that formal here, we are working through this stuff.

John Riley: Good evening, I am John Riley out of Kimley Horn out of Richmond Virginia. I am happy to address any questions that you might have.

Ms. Kirkman: Sure. Where in your memo do you have the definition of specialty retail?

Mr. Riley: There is a series of tables, the memo goes to five pages, the sixth page is a table, the seventh page is another table. And I believe that seventh page, the largest column is called ITE description, specialty retail is right in the middle.

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Mr. Fields: Where is that?

Mr. Riley: It is a landscape oriented page, code 814, specialty retail. That is out of the ITE manual that we use to do trip generations.

Ms. Kirkman: Right. And I had asked and I don't know if the applicant did this, you may or may not have been a part of this, but to match up these uses that are listed...okay wait...so this...

Mr. Riley: It is subdivided, the ones they specifically list, but it is not an exclusive list. It is a sample list of types of retail uses that might occur in a specialty center. So I think it is fair to say it is a broader variety, but that...

Ms. Kirkman: But this zoning district, if we lift these restrictions does more than the nine uses listed here under Zoning Ordinance, correct?

Mr. Riley: I believe so, yes.

Ms. Kirkman: Because that was my concern that in your analysis, except for some of the fast food stuff, you had only used the specialty retail center, rather than a variety of uses that could actually be put in there. Could you please explain?

Mr. Riley: Typically we only use specialty retail unless we know there are going to be specific end users in the multi-tenant facilities. The specialty retail data is an aggregate of a wide variety of uses. It could be nail salon, it could be a small fast food restaurant, it could be a barber shop. So it already includes a mix of higher and lower and middle intensity types of uses. What we have done to try to be conservative is break out some of the square footage using that conglomerate rate and then another portion of that square footage using higher rate restaurants. There are three specific restaurants that are called out. So that would be, that was our approach, to be conservative. Adding to that, we have deducted zero trips for pass by which in all reality for restaurant uses, if they do end of being restaurants uses, there likely would be some pass by traffic. And we have taken zero internal capture reduction which...

Ms. Kirkman: But my concern is some of the...the specialty retail center is only forty-four trips, right? But then you have got some of these other uses that could fit in this, such as this coffee/doughnut shop without a drive through, four hundred trips. So those particularly his use...I know you pulled out some of the fast food, but those actually have lower uses that some of these really high uses like convenience market, drug store. There are some with some pretty high uses here that aren't pulled out, so how does that fit?

Mr. Riley: Well is it rare that we choose the highest and we...

Ms. Kirkman: I know. That is why Garrisonville Road is the way it is now.

Mr. Riley: We never try to choose the lowest, but we try to choose a reasonable sampling that could be expected. I think also included in this attachment is a list of other multi-tenant retail facilities in the county, I think that are actually on the corridor, page four of the analysis. 32 Doc Stone Road, 70 Doc Stone Road and you will notice there is a mix. I do believe the highest use in the table you referred to the coffee/doughnut shop, I think there is a very, very limited amount of data for that study but it is published. I mean we can go through every use if you would like to elaborate on why they have higher

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rates etcetera. I think that is why we tried to choose fairly high rates add the layer of conservatism of no pass by and no internal capture and then on top of that I think the projected build out says that the signal, which is really the subject of the analysis, the signalized intersection operates at a level C for both am and pm. So there is actually some buffer, more traffic could be added it in fact the center has some higher intensity uses before you trip to D. I don't know, in my opinion this is a very conservative approach and probably a higher level of conservatism than we typically would apply.

Mr. Fields: Did that answer your question?

Ms. Kirkman: It did answer the question, the answer seems to be they use a figure but the highest uses...we have to figure that piece out.

Mr. Riley: You have to bear in mind, all of the data and trip generation is an aggregate of higher and lower uses. You could pick individual uses, shopping centers, banks etcetera. If you actually look at the breakdown of data, individual use will be above and below the line. But it is the aggregate that gets you the agreed upon rates that we use in the studies in the first place. It would be speculative to guarantee certain uses unless we know there is a signed lease and we want to proffer that is what it is going to be. I think we have proffered out some of the uses that you all did not want to see. We proffered out day care, which is actually a higher use because I believe there was a concern that there was no outdoor play space. So I am not sure what else I can offer. We have done, in my professional opinion, what is at or better than the professional standard of care to be conservative and make sure the levels of service C that we did report are very likely to be the result.

Mr. Fields: Have you ever had the opportunity to sort of benchmark the ITE numbers against the reality on the ground in different communities?

Mr. Riley: I personally have not, there are studies that have been done by our firm and by other firms that attempt to do that. The ITE is also updated every several years, with new information as land uses change over time. Banks, for example, through the years have become more drive through oriented. Different uses have actually changed in terms of the types of traffic that they generate even if the square footage stays the same. Is there a follow up question to that?

Mr. Fields: I just... in many issues I have always been concerned as we look at these things. I understand, not really being critical of you, I know that is how the work is done and the standard. But I think if you can also understand, in my understanding the ITE of course is a broad average across the entire county, across all time. You know...when we really get down to trying to figure out whether this works for this community in this location, more specific data always seems to me to be...I wish I had more specific data. The ITE is a good broad generalization, but it is always a little...I often wonder if it is really applicable all the time.

Mr. Riley: Sure.

Mr. Fields: Sometimes you hit numbers that just, and I don't want to...I am certainly always a firm believer in empirical analysis, but I mean sometimes you hit numbers that experience would tell you just observing this on the ground in your own community seem out of...seem disproportionate. So I am just trying...just wondering when...if people have that and you have done studies in the past where you have tried to match up local against ITE, do the ITE number just in general hold up real well or have they shown themselves to be moderately reliable, extremely reliable or completely unreliable?

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Mr. Riley: Not having done any myself personally, I don't want to volunteer an answer. Because I don't have specifics examples to back that up.

Mr. Fields: Okay.

Mr. Riley: But as we talk through this, I was at the site yesterday again reviewing information, watching traffic during the pm peak hour. This is at sort of far western edge of developed commercial part of this corridor. This is intended to be more of a neighborhood scale use, not a regional shopping destination, if you will. So I think it is fair to say that traffic generated by the uses would be on the moderate to middle to middle higher levels. I do not think we are at an extreme necessarily. I think the other point I want to point out to Ms. Kirkmans' question is as I think about it. A use like the doughnut or coffee shop is probably almost, I don't want to say exclusively, but extremely high pass by. So while you would have a lot of turning movement in and out of this site, for the number of uses and types of uses in ITE that is probably one of the highest pass by uses that is reported on. When you look at net new trips on the roadway, while it generates a lot of traffic the net new trips would probably be back in line with some of these other moderate to higher level uses that we did analyze, the restaurants and so forth.

Mr. Fields: By pass by do you mean a use that is primarily people are going to utilize it if it happens to be on their path anyway.

Mr. Riley: Sure.

Mr. Fields: As opposed to a destination, something that generates traffic out of nowhere.

Mr. Riley: Yes. Folks don't usually drive to far out of their way for a Starbucks or coffee type shop. They are going to drive into the one that they are passing by already. Make a turn in, make a turn out. While it is technically traffic into and out of the site, they are just moving into different lanes and using different parts of the road.

Mr. Fields: Generally that type of use is not going to add to the overall volume on the main artery.

Mr. Riley: That is correct.

Mr. Fields: Okay. Are there any other questions? Then all of our questions have been answered. That may be a first.

Mr. Riley: Thank you.

Mr. Fields: Thank you very much.

Mr. Howard: It is in Rock Hill so I will make a motion. I make a motion that RC29000128, the reclassification at the Shoppes at North Stafford be moved to our evening session.

Mr. Mitchell: Second.

Mr. Fields: Okay. I think we are just going kind of straight through now. Gordon, if you want to move it, move it.

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Mr. Howard: That is fine.

Mr. Fields: You can move to recommend approval.

Mr. Howard: So when we have the evening session will we actually...

Mr. Fields: We don't need to bring it up again.

Mr. Howard: But will we convene again as a group? And will you go through the disqualifications and the normal questions that you ask?

Mr. Fields: Yes.

Mr. Howard: Okay.

Ms. Kirkman: But he doesn't understand.

Mr. Howard: No, Ms. Kirkman, thank you very much for speak in front of me. That is not necessary. I am speaking to the Chairman and I will continue that.

Mr. Fields: Okay.

Mr. Howard: I clearly understand what you are saying, I am asking for a completely different reason. There is an issue on the agenda I will have to rescues myself for later in the evening. So if we are going to move from the session that we are in now, I should have announced that earlier. I did not.

Mr. Fields: Okay.

Mr. Howard: I do not want to be out of order.

Mr. Fields: I think it would be perfectly fine if you have a declaration of disqualification on this specific item?

Mr. Howard: No.

Mr. Fields: Okay.

Mr. Howard: On an issue that will come before us later this evening.

Mr. Fields: We still always ask for declarations when we reconvene.

Mr. Howard: Okay, that is all I was questioning.

Mr. Fields: Okay, I did not quite understand.

Mr. Howard: I understood what you said. It is not necessary to make a motion to move this forward because we are doing the meeting as one. My question for clarification was, there is an item on this agenda I will have to recues myself for.

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Mr. Fields: Okay.

Mr. Howard: And if that is the case, should I have announced that earlier. I did not expect to have announced it earlier.

Mr. Fields: That is fine. I think we still have that as a feature of both. Since we reconvene and have and invocation etcetera, etcetera in the evening session.

Mr. Howard: Excellent.

Mr. Fields: So your motion is to recommend approval of this item.

Mr. Howard: Yes, if we want to do it now.

Mr. Fields: Yes.

Mr. Howard: Okay, so let me change my wording then. I recommend approval for RC29000128 reclassification, the Shoppes at North Stafford.

Mr. Fields: Second. Moved and seconded. Any discussion? Alright, all those in favor of recommending approval to the Board of Supervisors, signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Howard: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright, thank you very much. Okay number 6, are we there yet? Lets see. Yes that is a public hearing. Are we done that far in advance. Good lord, what are we going to do? Lets go play basketball, go for a walk.

Ms. Kirkman: Yes, lets do whatever we can that is not a public hearing.

Mr. Fields: I understand. I am sorry. I am being facetious here. Let's see... other unfinished business, that is the north center, we have the Cranewood. Debrarae are you ready to do Cranewood or are your people coming in the evening?

Ms. Karnes: My person is coming this evening.

Mr. Fields: Okay.

Ms. Karnes: He would be very disappointed.

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Mr. Fields: I know, here is this big window of opportunity. It just goes to show you should always sit through these meetings, no matter how long and boring they are. Because you never know when an opportunity may arise. Alright, the rest...we did the unfinished business. The new business is not ready, public hearings have to be done then so, we have the planning director's report.

REVIEW OF PENDING SUBDIVISION PLANS

None

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

None

OTHER UNFINISHED BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Yes Mr. Chairman. Yesterday at the Board of Supervisors meeting they approved the South Campus rezoning. They also approved a modified application for the SPCA. The modified application was to allow phase one development. Phase one development is generally using the existing building and allowing a dog park and I believe there was one other outbuilding for parking and storage of vehicles. They limited the number of animals that would be allowed to fifteen dogs and forty cats. The remainder of the conditions specifying compliance with the other standards were kept in the resolution. The Board also made a motion to request staff to get back to them with potential properties to locate future phases of the SPCA on... County properties, that is. Also, we wanted to point out that in your handouts we have information that we provided to Mr. Howard at his request regarding past public hearings and when they had been advertised. Also, just a reminder to the Commission... we have the joint public hearing with the Board of Supervisors on October 6th. That is regarding the Comprehensive Plan. The meeting starts at 7:00 p.m. which I know is different than the Commission so, just as a reminder, you need to be here a half hour earlier than your normal evening start time.

Mr. Fields: Okay. Is that the first and only thing on the docket for that evening?

Mr. Harvey: There are several items on the docket but it is my understanding, as of now, it will be the first public hearing.

Mr. Fields: Alright. We convene each body independently and but we are hearing the public hearing together and then the process will be that as we come out of public hearing then the Planning Commission actually has to make a decision and vote for whatever outcome, and then the Board is able to take up the matter. Is that correct?

Mr. Harvey: That is my understanding, as you outlined and also the Board and Commission will be placed at the dais during the public hearing.

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Mr. Fields: During the presentation...this maybe just things I need to work out with the Chairman of the Board. During the presentation, when we have the questions for staff etcetera, etcetera, will that be a situation where, I hate to even say this out loud, where all fourteen of us are able to interact with staff on a questions basis. Will...I know we have done this before and I don't remember when I was on the Board exactly how it worked. It was a little bit less significant, this is a bigger deal I think than some of those. Are both myself and Mr. Schwartz presiding over the meeting or do Mr. Schwartz and I decide between us who is actually the single presiding individual?

Mr. Harvey: It may be a combination of both, because at certain points in time the Commission will do its deliberations and motions and questions and the Board will do it's as well, as part of the public hearing process. But there may be times where both bodies will be asking questions simultaneously. I am not sure again that is something I think that both Chairs would need to work out.

Mr. Fields: Okay. Mr. Nugent, I would on behalf of the Commission, if I am not out of line. I think it might be helpful if you have a moment to sort of give us a little, maybe just a little sort of bullet points on some of those things, like you kind of see how the process works and maybe pass that to the Board too. And I will ask Mr. Schwartz to pass that on to members of the Board of Supervisors so we don't have...you know the outcome is the outcome. My concern is obviously that we have a procedurally smooth and efficient meeting with having done, and this is with no disrespect, having done joint work sessions and Mr. Mitchell will attest to this with the School Board, that when you get fourteen people on an issue and everybody speak for five minutes, you have just killed an hour and a half. You know, it can...and with all due respect, I am not saying there is anything wrong with it, I am just saying once fourteen people are on something it can take...if you don't have your procedures and process kind of, everybody sort of working together on some kind of a consensus, it can pretty chaotic pretty fast, even with the best...like I say even if everybody is trying to do the right thing. So, that is my...I don't want to harp on this but that is my concern. I want us to...it is obviously going to be a fairly complex public hearing, the presentation, the entire comprehensive plan. The staff presentation alone is going to be fairly complex and intricate and I want us to make sure that we get at least...I have no influence on the Board of Supervisors. But as long, from our standpoint, I hope that I want us to be efficient and thorough and fair and all of that kind of stuff. So if you have any notes that you think from past experiences or things you can see coming up where...some things that might be a point of confusion where all of us, and particularly I think Mr. Schwartz and I will need to have, I think it is probably prudent if we have a little conference before hand to make sure we have our ducks in a row.

Mr. Howard: Something simple like where do we sit.

Mr. Fields: Yeah.

Mr. Harvey: Yes...

Mr. Fields: Usually in the past we have had, we sit beside your Supervisor.

Mr. Di Peppe: They just bring double chairs.

Mr. Harvey: It is my understanding that the County Attorney, Joseph Howard, is working with the Chairman on a protocol and step by step on how we will be working.

Mr. Fields: Okay.

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Mr. Nugent: Mr. Chairman, excuse me. Essentially the parliamentary procedures are the same. But you and the Chairman of the Board have the opportunity to divide up those responsibilities each step of the way.

Mr. Field: Okay. So there is no specific hierarchy involved here where the Board is presumed to have preemptive authority over the operations of the Planning Commission. When we are in joint session, are we on a level footing at that point?

Mr. Nugent: I would like to examine that question in the context of the circumstances as they arise. I think it is unwise to give a blanket recommendation or opinion in that regard. That is all I will say at this time.

Mr. Fields: Okay, that might be a question though, if you can think about it. I am not saying that I want to start anything, I just want to make sure that if we all are on a level playing field if we are in joint session or is there a presumed...is there a point of deference that statute, probably statute that the Planning Commission gives to the...

Mr. Nugent: Well Mr. Chairman. Understand that the Planning Commission has it's own responsibilities in this joint hearing following the public hearing.

Mr. Fields: Right.

Mr. Nugent: There has to be some deliberation and recommendation made. Once that is done, and that is exclusively the province of the Commission. Then the Board has it's own responsibilities thereafter.

Mr. Fields: Correct. I fully understand that point. I just want to make sure, like I said.

Ms. Kirkman: Could I just clarify, we actually...my understanding is there is a range of motions that the Planning Commission can make ranging from recommendation, or we also have the opportunity to defer if we choose.

Mr. Nugent: Excuse Mr. Chairman, Ms. Kirkman. I thought that issue had been addresses previously. Let me look at 22-29.

Mr. Harvey: While Mr. Nugent is looking at that, Mr. Chairman, from the staff's perspective of presenting a report what we had envisioned was having one report. That would be the Board of Supervisors report and we would forward that on to the Commission. With your indulgence, we would prefer to prepare just one report rather than two.

Mr. Fields: I think, yeah that makes sense. That is the whole idea of a joint public hearing, as we open the hearing we are there somewhat to hear the same material and talk about the same thing.

Mr. Harvey: We had also anticipated not providing additional copies of the plan since we provided copies previously.

Mr. Fields: Yes, just to save time and money.

Mr. Harvey: Yes.

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Mr. Fields: Yes, that is a lot of paper. I sure have mine. I read it every night. I have memorized it.

Mr. Harvey: Also, I failed to mention something else the Board discussed. It came up as an item that was added on for discussion in the afternoon. It had to deal with item 2 on our work session agenda. The Board had some concerns about the question about the certificate of public need with regard to the medical and dental clinics. So they made a motion and had a vote to request the Commission to not consider that as an add on to the ordinance.

Mr. Fields: The certificate of public need?

Mr. Harvey: Yes.

Mr. Fields: Okay.

Ms. Kirkman: Well, we have no statutory...I mean I pulled the act. The only body that has any regulatory authority regarding certificates of public need is the Commissioner of Public Health. So even if we wanted to, we can't.

Mr. Fields: Okay.

Mr. Harvey: That concludes my report

COUNTY ATTORNEY'S REPORT

Mr. Fields: Mr. Attorney, do you have...I know you are working on something else right now.

Ms. Kirkman: You can get an answer...I think it would be helpful just to know the range of motions including whether or not we can amend, that sort of thing.

Mr. Field: I think that is important, before we get...if we can anticipate what could or could not be done before we get on the floor. I really don't want to be having that discussion on the floor of a joint public hearing like that, if possible.

Mr. Nugent: Okay.

Mr. Fields: That is a personal preference, I am not telling people what to do and not do.

Mr. Nugent: I will look into it.

Mr. Fields: I appreciate that. Mr. Secretary.

SECRETARY'S REPORT

Mr. Mitchell: No report Mr. Chairman.

COMMITTEE REPORTS

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Mr. Fields: Thank you sir. I don't believe we have any subcommittee reports. We have no minute approvals, do we have work session minutes? Nope. We have an hour before we go back to work. Thank you.

Mr. Howard: I have other business Mr. Chair.

Mr. Fields: Yes sir.

Mr. Howard: If you are recognizing me I will accept that recognition.

Mr. Fields: I recognize you Mr. Howard.

Mr. Howard: Okay. I think as we all recall last meeting one of the Planning Commissioners made an accusation about the Planning Director and the planning staff, which is why I asked for those spread sheets to be created, so I could have a full understanding of what exactly was occurring, what was not occurring. During that meeting the Planning Commissioner quoted and said "she does not take lightly the steps she was about to take" and she wanted to discuss the merits of the staff and that is why she wanted to go into a closed session. She also in quotes, there is a quotation "there is a problem with this County on how planning gets done". And then she further went on to say I want to point out on multiple occasions simple clerical issues have caused numerous problems, she cited the drainfield ordinance and "how many times did that thing have to be heard", was a direct quote. So I went back to the beginning of 2007. In 2007 the Planning Commission held or scheduled ninety-two public hearings. Six were postponed or delayed in total. One by the applicant, one because of a clerical issue and four had to come back on the agenda because the Planning Commission needed a motion of resolution. In other words it was not clear what the resolution was on those particular motions. In 2008 the Planning Commission held or scheduled fifty-nine public hearings, two were postponed or delayed in total, one by the applicant and one because of a clerical issue. To date in 2009 the Planning Commission has held or scheduled twenty-seven public hearings excluding this evening. Three were postponed or delayed in total. One by the Planning Commission, that was the clubs and lodges and that was earlier in the year, two became postponed because of clerical issues, which are the most recent. There is no drainfield issue that I could find going back to 2007 on public hearings. So really in the last two and three quarter years at the Planning Commission we have not had that issue. You have to go back to, really it is January of 2006 but in February of 2006 there was a public hearing scheduled, and yes there is a history of that issue, there were two times where that hearing, the public hearing had to be scheduled and that was due to the attorney deciding to hold a second public hearing because the attorneys believed a wording change was required. And if you, some of you were here you might recall it referenced a septic drainfield and they changed the wording to an onsite sewage disposal system. Clearly these facts indicate that the planning director and his staff function at a very high level of performance and they are also very effective in their job and carry out their responsibilities in a trusting and very effective manner. Merriam Webster defines the word multiple as frequent, often and several and also uses the word numerous to define multiple. Those would be the synonyms. For the word numerous the synonyms are frequent, abundant and plentiful and interestingly enough both words have the same antonym, which is few, which means a small number or a small amount of. Our By-laws for the Planning Commission require that all Commissioners keep communication constructive and germane. They further refer to Robert's Rules of Order for following the other protocol. Specifically, Robert's Rules of Order, Chapter 20, outlines disciplinary procedures when all else has failed. I believe the Commissioner did take her comments lightly and did not take the proper steps to voice her concerns nor did she have the facts to support her outrageous claims on September 2, 2009. I am simply asking this, for an apology. I feel that the reputation of the Planning Department,

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Mr. Harvey himself, has been unjustly damaged and this would be a good time to remedy the damage that I believe has incurred.

Mr. Fields: Alright, thank you Mr. Howard. I appreciate you taking the time to look into that in detail. Mr. Howard has requested and you have, of course, the option to do as you please. You can apologize or not, he is making that request which is reasonable, as your right to make your statements, are also reasonable. We all have a right to express our views and feelings and the responses to those.

Ms. Kirkman: Mr. Chair, I believe it was determined at the last meeting that we don't have the authority to go into closed session regarding personnel matters, and that it would be inappropriate to discuss personnel performance in a public forum. So I am not going to go into those details. I am not going to apologize. I believe we have a responsibility to speak up when we think the process is not working for the citizens, which is who we are here to represent. Thank you, Mr. Chair.

Mr. Fields: Okay. Alright.

Mr. Howard: Mr. Chair?

Mr. Fields: Yes sir.

Mr. Howard: I make a motion to censure Ms. Cecelia Kirkman on the Planning Commission.

Mr. Fields: I don't think we have that authority Mr...do we under the by-laws? You are going to have to convince me that there is a process to this. I understand you are upset and you are very...you are perfectly entitled to be upset and feel that Ms. Kirkman spoke unfairly. However Ms. Kirkman also has a right...

Mr. Howard: We could have the attorney look it up. I have two books that I read through very thoroughly.

Mr. Fields: I don't plan on going down that path.

Mr. Mitchell: Second the motion.

Mr. Fields: If you have the right to do that, if we can do that, then I will let you make the motion...

Ms. Kirkman: Mr. Chair, as a point of order, to add an item to the agenda you need the quorum to agree to that...a majority to agree to that. We all in...out of a graciousness to the Commissioner from Rock Hill allowed him to do that without going through the formal procedure. If he wants to get technical about Roberts Rules of Orders, we need to start with that.

Mr. Fields: I suppose we do. I am not sure, do our by-laws provide for a motion for censure or...

Mr. Nugent: Mr. Chair, I am reviewing them at the moment. I may need a minute or two.

Mr. Fields: Alright. I understand people's frustrations; we have been through this on the Board of Supervisors. You know this is the complexity of a body like this, where you have seven members that are all equal and all have their opinions and their constituencies. I know, I am sure Mr. Mitchell can relate many instances as well. There were certainly many times when I was beyond furious at my

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fellow members of the Board of Supervisors, and I felt many times that people overstepped the bounds. There are probably many times when they felt I did as well. I think that sometimes happens in the process of everybody expressing their opinions and their feelings. We have all come sometimes from very divergent places, very divergent views and places and philosophies and very divergent places, and so strong response to someone else's comments is going to happen. I really hope we don't have to go down this path, because I don't think it is very constructive in the long run. With all due respect to your concerns Mr. Howard, I hope you understand that I have infinite respect for your concerns and your right to express those concerns.

Mr. Howard: Absolutely. By the way, that is a last resort. I have no desire to go down this path and I would easily not go down this path if Ms. Kirkman would just apologize for the way that she has been treating staff. I would absolutely appreciate that and I think the staff would and I would back away from this in a heartbeat. It is not to force Ms. Kirkman to do something that she does not want to do either. For me this is a matter of principal. So I respect your opinion, I respect her opinion and I am stating my opinion and how I feel.

Mr. Fields: Okay. We will research the motion and see if the motion is valid.

Mr. Nugent: I have read, Mr. Chair excuse me, I have reviewed the Commission's by-laws. I see no option in the by-laws for censure. I would like a minute to review Robert's Rules of Order as well.

Mr. Howard: Mr. Chair.

Mr. Fields: Yes sir.

Mr. Howard: I would just ask that Mr. Nugent look in the by-laws, it does refer to Robert's Rules of Order for when there are gaps in things that are not explicitly explained. Thank you.

Mr. Nugent: Yes, thank you Mr. Howard.

Mr. Howard: It is going to take you a while to look that up by the way. I am okay with coming back to this is we want.

Mr. Nugent: Alright. Thank you very much.

ADJOURNMENT

Mr. Fields: Alright, with that we will adjourn and have dinner.

The meeting was adjourned at 6:34 p. m.

End of Work Session Agenda

7:30 P.M. REGULAR MEETING

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The regular meeting of the Stafford County Planning Commission of Wednesday, September 16, 2009, was called to order at 7:30 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Nugent, Stinnette, Baker, Stepowany, Hess and Ennis

DECLARATIONS OF DISQUALIFICATION

Mr. Fields: At this time are there any declarations of disqualification?

Mr. Howard: Mr. Chair, when public hearing RC2900007, Reclassification of Onville Retain Center, comes up, I will recuse myself from the dais. I will stay in the room. The property owner is seeking some relief from a piece of property that I have responsibility for.

Mr. Fields: Thank you Mr. Howard. And believe me, I do not impune your understanding. That means, of course, that you cannot speak or address on the issue.

Mr. Howard: Absolutely.

Mr. Fields: Okay, understood. I appreciate your honesty and your forthrightness on that.

PUBLIC PRESENTATIONS

Mr. Fields: At this time, we have presentations by the public. And I see we have a lot of people here, maybe some for the first time. This is not where you speak on an item that is up for public hearing. So if you are here on one of the items scheduled for public hearing, the Reservoir Protection, Onville Retail Center, Stafford Community Church and subdivision ordinances, items 6 through 10, this is not the time when you speak. However, if you have something that you would like to bring to the attention of the Planning Commission, any member of the public has three minutes to do so during this period. If you want to speak, you come forward to the microphone, you state your name and address for the record, the light system which is also the same for the public hearings, is when your time starts the green light goes, when the yellow light comes on you have one minute, and when the red light comes on you are out of time and appreciate you coming to a rapid close. I know everybody has a lot to say quite often in these issues and is very passionate about it. Please do not be in any way offended if I fairly firmly call time limits because if anybody gets to speak more than three minutes then everybody should have to and before you know it we are here for several days. So, we appreciate everybody's consideration and, again, I will be fairly strict about that but trust me, it is only in the interest of fairness to all that we get to hear all of the opinions. Everybody that wishes to speak will certainly have an opportunity to do so. At that point, that being said, is there anyone that wishes to make a public presentation on an item not up for public hearing at this time? Alright, we will close the public presentations. With that in mind, we will move to the first public hearing, item number 6.

PUBLIC HEARINGS:

6. 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. **(Time Limit: September 16, 2009)**

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Mr. Harvey: Mr. Chairman, please recognize Jamie Stepowany for the presentation.

Mr. Fields: Alright, Mr. Stepowany.

Mr. Stepowany: Thank you Mr. Chairman, members of the Planning Commission. Item number 6 is proposed Ordinance O09-39 pertaining to the Reservoir Protection Overlay District. Computer please. Proposed Ordinance O09-39, the purpose of it is the Planning Commission is to consider a proposed amendment to Section 28-61, Reservoir Protection Overlay District (RPOD) of the Zoning Ordinance and Section 22-87, Content of the Subdivision Ordinance. This was authorized for public hearing by the Board of Supervisors per Resolution R09-250 which authorized a time limit of tonight, September 16, 2009, for recommendation by the Planning Commission. The ordinance establishes standards for the purpose of protecting and promoting the public health, safety and welfare through the preservation of existing and future public drinking water supply reservoir sites and protecting them from the danger of water pollution. The Comprehensive Plan recommends the establishment of the RPOD in an effort to protect drinking water, performance standards for erosion and sediment control, nonpoint source pollution, minimization of mass earthwork, and excavation and disposition of materials in watercourses, re-vegetation of lands immediately upstream, and restrict intensive land use. The Comprehensive Plan also recommends establish a buffer zone adjacent to the water supply impoundment and those tributaries draining directly to the impoundment. Buffers should have a width (possibly varying) large enough to provide protection of the water supply impoundment. And the storage of applications of hazardous wastes and toxins, as well as the location of drainfields, should be prohibited in the buffer areas. Some background; in 2006, the Planning Commission formed a subcommittee consisting of Supervisor Brito, Planning Commissioners Carlone and Di Peppe, Utilities Commissioner Kurpiel, and Mr. Allen of the Utilities Department. It was the subcommittee that developed this proposed Ordinance O09-39. It was modeled the majority from the Spotsylvania Zoning Ordinance; one small difference is this proposed amendment does provide a fourth zone, a watershed zone. And I will get to that more in the presentation. On June 16, 2009, again, the Board approved Resolution R09-250. The Planning Commission did advertise a public hearing for September 2, 2009. In response to questions raised by the public, the hearing was postponed to tonight to correct the map showing the boundaries of the RPOD and to make further modifications as a result of the questions that were asked at that time. The extent of the RPOD applies to the Smith Lake Reservoir, Abel Lake Reservoir and the Rocky Pen Run Reservoir. Each reservoir consists of four district zones. There is the reservoir zone itself which is the water, there is a two hundred foot Buffer Zone along the edge of the water that is 200 foot wide, then starting at the two hundred foot buffer zone there is what is called an eighteen hundred foot Proximity Zone that does not include a buffer zone, and then the remaining portion of the land that is in the watershed of that reservoir is in the Watershed Zone. And we have gotten a lot of questions about what the watershed is and for the public who is here and watching, it is basically if your water drains off your land and goes into a stream or tributary that ends up in that reservoir, your property is in that watershed. That is why it is recognized as part of this overlay. Proposed Ordinance O09-39 and Section 28-61 has a list of uses prohibited in all the zones, and that is storage or production of hazardous waste as defined in the following: the Superfund Amendment and Reauthorization Act of 1986 and/or Identification and Listing of Hazardous Wastes which is 40 C.F.R. 261 (1987). Feed lots, again that was one of the changes made from the last meeting. The original advertisement had feed lots for more than fifty animals with the definition of feed lots getting into two hundred to three hundred to five hundred types of animals and up to two thousand fowl and this was not consistent with the definition. So, that was modified to just feed lots. If it meets the definition, it is prohibited in those zones. Disposal of hazardous material; disposal of garbage and/or refuse, not including individual on-site sewage disposal systems in zones

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where permitted. Again, that was modified because that was disposal of solid waste and now it is just disposal of garbage and/or refuse. And then dry-cleaning, dyeing, printing, photo processing and any business that stores, uses or disposes of hazardous material, unless all facilities and equipment are designed and operated to contain and prevent the release or discharge of hazardous material. To clarify, these five types of uses are prohibited in all four zones, the Reservoir, the Buffer, the Proximity and the Watershed. The Proximity Zone, which is from two hundred feet to two thousand out, that eighteen hundred foot wide buffer zone, prohibits the bulk storage of petroleum or asphalt products; sanitary landfills; the storage or production of hazardous materials as defined by applicable state or federal regulations, except (1) storage of those materials typically associated with residential use (for example, fuel oil, gasoline, yard and garden fertilizer), and (2) storage of those materials typically associated with agricultural or forestry operations, provided that the storage of materials in bulk greater than five hundred gallons shall be surrounded by a spill containment structure adequate to retain the entire contents being stored. Prohibits individual sewage pumping or low pressure systems, unless the system provides an alarm notification system, back-up power sufficient for two hours of intermittent operation, and a containment structure large enough to contain forty-eight hours of average sewage flow. Prohibits public sewage pumping stations except for the replacement or relocation of an existing County sewage pumping station; prohibits transmission pipelines for liquefied natural gas, liquid petroleum products, slurry coal, or any other solids or liquids, except water lines, sewer lines and storm sewers; and prohibits land application of bio-solids as defined in 9 VAC 25-32-310 A, and that was another modification made on this from the last public hearing. We said we better define what bio-solids are and if we need to I will be more than happy to answer more on that afterwards. In the Buffer Zone which is the two hundred feet from the edge of the water, the following uses are prohibited: Construction of any buildings or structures including gazebos, picnic shelters or similar structures, picnic tables are allowed; the use of dumpsters; sewer transmission lines and sewage pumping stations; onsite sewage disposal system and reserve areas, including trash tanks, sewage treatment plants, chlorinator or chlorine contact chamber; provided, however, such systems and reserves for lots approved prior to the enactment of this legislation, shall be permitted within the buffer area to the minimum extent necessary as determined by the Virginia Department of Health. No surface discharge or land application. Prohibits any cutting of trees or the removing of vegetative ground cover except for the sole purpose of (d) above, and for clarification, there have been some questions about what if a tree is dead or if a tree falls down. That is just obvious; we are going to have to allow people to remove dead trees or trees that have fallen under that provision. Fuel storage; and the use of fertilizer, herbicides, and pesticides; and commercial or industrial activities. The uses prohibited in the Reservoir Zone itself: the subdivision of land for residential purposes; any development requiring a land disturbing permit except for public works or public facilities; and any construction of buildings or structures except for public works or public facilities. The proposed Ordinance also modifies sections of the Zoning Ordinance and Subdivision Ordinance pertaining to subdivision plats. Section 28-61(j) of the Zoning Ordinance requires all final plats shall contain the location of the reservoir, buffer, proximity and watershed zones, the maximum pool level and the county acquisition line. And then the Ordinance also modifies Section 22-87 which is the content of a final plat in the Subdivision Ordinance and it is labeled Zoning Boundaries. The plat shall show all existing boundary lines of all zoning districts, overlay districts and buffers as required per Chapter 28, within the properties of the final plat. Additional regulations: lots contiguous to the outward boundary of the reservoir zone shall have a minimum width of two hundred feet; existing structures or activities that do not comply with the new rules would be considered to be nonconforming; they would be able to continue to exist as long as the use or activity is not discontinued for a period of more than two years; existing lots of record could continue to be built upon; additional care would be necessary for the placement of the on-site sewage disposal system. I also want to bring up before I get into the final recommendation, there were some questions about the testing and I know Mr. Critzer of the Utilities Department also did a

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presentation to the Planning Commission. But it was brought to Mr. Critzer's attention again and I was asked to read his response by email. And again, it was to the question about was there an issue with contamination in the waters before this was brought about or was that the purpose of bringing this about was a concern with the existing contaminations and the testing of the reservoirs. So Mr. Critzer response to the Planning Director was "Our testing of the Abel Lake and Smith Lake Reservoirs has not revealed contamination. We are just trying to keep it that way. Herbicides, pesticides, etcetera, do not show up in our testing but the potential is always there if their use is permitted in close proximity to the reservoirs. Normally, low levels of bacteria show up and are generally associated with the wildlife attracted to the reservoirs. When we have heavy rainfall we notice that turbidity of the reservoirs increases sometimes significantly due to sediment carry by runoff. The same has happened in the Rappahannock. We have been fortunate so far, but that increases and turbidity from runoff provides evidence that the same runoff could contain contaminates other than sediments if we were to allow their use in the watershed, especially close to the reservoir." And, again, that is a response from the Director. The attitude is so far it is not a problem, but they do not want a problem. And this is the justification for the Ordinance is to prevent any problems that may happen in the drinking supply water. And, therefore, staff recommends approval of the proposed Ordinance. Ordinance O09-39 addresses the recommendations in the Comprehensive Plan, and establishes buffers that provide protection to the water sources, and restricts the use of hazardous materials and drainfields within close proximity to the reservoir. Staff notes that the Planning Commission may want to discuss and consider modifications to Section 28-61(h) to further clarify what uses are prohibited. And I will be more than happy to answer any questions that the Planning Commission may have.

Mr. Fields: Are there any questions for clarification from Mr. Stepowany of the Ordinance as presented?

Mr. Rhodes: Yes, Mr. Chairman. Jamie, what is the total acreage in the watershed zone? Do you know approximate or total?

Mr. Stepowany: I would have to look; I do not know.

Mr. Rhodes: And I was just wondering in the aggregate, I was just trying to clarify that. Thank you.

Mr. Fields: Any other questions? Yes, Mr. Howard.

Mr. Howard: Mr. Stepowany, I received a lot of phone calls. I just want to make sure that this point is clear. What exactly is prohibited in the Watershed Zone? I think that is going to be on a lot of peoples' minds.

Mr. Stepowany: Can I have the computer please? The uses that are prohibited in all the zones on this slide are the uses that are prohibited in the watershed itself, which is the storage or production of hazardous waste as defined in the following Superfund Amendment and Reauthorization Act and Identification and Listing of Hazardous Wastes, feed lots, disposal of hazardous materials, disposal of garbage and/or refuse, not including individual on-site sewage disposal systems in zones where permitted, and then the dry-cleaning, dyeing, printing, photo processing and any business that stores, uses or disposes of hazardous material, unless all facilities and equipment are designed and operated to contain and prevent the release or discharge of hazardous material.

Mr. Howard: Thank you. So, that is (a) through (e) because I think everyone has this handout.

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Mr. Stepowany: Yes.

Mr. Howard: And, as you stated earlier, if something is existing today it is, for lack of a better term, grandfathered in...

Mr. Stepowany: Correct.

Mr. Howard: Unless two years elapses... you know, is not used for two years then obviously it would have to conform. Is that correct?

Mr. Stepowany: That is correct.

Mr. Howard: Thank you.

Mr. Fields: Can you re-address... I don't mean to just jump in... can you re-address the definition of feed lot?

Mr. Stepowany: Mr. Harvey, do you have the definition from the Zoning Ordinance? I did not bring one down with me.

Mr. Harvey: Mr. Chair, I do not have a copy with me but I can get one. It speaks to the number of animals in a confined area. Specifically, it cites numbers of animals by type of animal and, as Mr. Stepowany said in his presentation, it is several in the hundreds. I understand they are researching that now and have a copy.

Mr. Fields: I guess what I was getting at, the question I was getting at, and I do not know whether you know the answer to it, of the feed lots, the commercial agricultural feed lots that exist today in Stafford, irrespective of where they are in the County, would any of those end up being prohibited by this change in the Code? To the best of your knowledge; I am sorry to put you on the spot. I should have prepped you for that question.

Mr. Harvey: With this Ordinance, it would only affect anyone trying to establish a new one if you are in the watershed.

Mr. Fields: I just meant, for my own reference and scale, for example.

Mr. Stepowany: A feed lot is a lot, yard, structure, corral or other area in which livestock are confined primarily for the purpose of feeding, growing, raising, holding and birthing prior to slaughter or sale. Any enclosure, pen and/or building wherein three hundred veal animals, slaughter or feeder cows, two hundred mature dairy cattle, seven hundred fifty swine, one hundred fifty horses, five hundred sheep, lambs, goats or similar animals, five thousand fowl constitute a feed lot. This does not apply to areas upon which livestock are allowed to graze.

Mr. Fields: Okay, so but two hundred mature cattle...

Mr. Stepowany: Two hundred mature cattle. And for clarification, I got into discussion with a gentleman because he said does that count the cattle that are grazing and it does say "this does not apply to the areas upon which livestock are allowed to graze".

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Mr. Fields: Contained at any one time in a feed lot; you could have seven hundred head on your property if no more than two hundred were in the feed lot at one time, there would not be a violation. Is that correct?

Mr. Stepowany: I would double-check with Mr. Nugent but the way it says it is an area of confinement with those numbers.

Mr. Fields: Right. So, if they were grazing out over a thousand acres of pasture but only two hundred were in the feed lot you are just protecting the feed lot.

Mr. Stepowany: That is correct.

Mrs. Carlone: Jamie...

Mr. Fields: Mrs. Carlone?

Mrs. Carlone: In the Fort Worth/Dallas area, are feed lots were to market; they were penned in and I can see why there was a restriction in this on feed lots. But I do not think any of us are feeding for the sole purpose of slaughter, say two hundred or so. I did not quite get your numbers, but my concept from Texas is at the slaughterhouse is fattening up the beef and such. So I think this covers... I have an email I think we all received one, from a Mr. Adams that has a variety of... oh, we are supposed to be just asking questions, but I think this takes care of that.

Mr. Fields: Okay. Ms. Kirkman.

Ms. Kirkman: The numbers that you read off for the size of the feed lots, do we actually have any... I mean, I am running through you know a couple of the cow operations, I don't think we even have anything that size.

Mr. Fields: You do and I do; I live next to one. The Young's farm, Blythedale and probably the Silver's farm.

Ms. Kirkman: They have that many head?

Mr. Fields: Oh yeah. I would guess approximately. I know Jerry Silver at times runs four or five hundred head and they are all sometimes in the feed lot.

Ms. Kirkman: I was just curious how many operations...

Mrs. Carlone: Mr. Chair, I believe that Mr. Young's dairy is no longer; that was the biggest one, the dairy farm.

Mr. Fields: Well, it is not a dairy farm but it is now a cattle operation. I see them out my window; I know they are there.

Ms. Kirkman: I was just curious how many feed lots we actually had.

Mr. Stepowany: I would not be able to answer that.

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Mr. Di Peppe: And just a quick comment because I had gotten phone calls on this...

Mr. Fields: Is this a question?

Mr. Di Peppe: Okay, let me phrase it as a question. If I am not mistaken, the average person that would have called me and said I have fifteen cattle, is this going to be a problem; we are not talking about... somebody might have their land in land use and they have fifteen-twenty-thirty... none of that would be affected by that.

Mr. Stepowany: No, it would not be.

Mr. Di Peppe: Okay, thank you.

Mr. Fields: Moving on to questions, further questions. Are there any further questions for staff? I understand; we are just trying to clarify the issue. That's okay.

Mr. Di Peppe: Somebody might be really worried about that in the audience that they are not going to be able to do that so that is why I raised it.

Mr. Fields: Okay, if there are no further questions of staff then we will proceed to the public hearing. Again, for the many of you, I apologize, I do not want to insult anyone's intelligence. Many of you I have not seen before so I am assuming that maybe some people may be here for the first time. So, just to make everybody comfortable, you have three minutes to speak. You state your name and address for the record; when the green light goes on that is the beginning of your time, when the yellow light goes on you have one minute left, and when the red light goes on that is time to wrap it up right away. The request, of course, is that your comments, of course, are germane to the specific public hearing item, which is this ordinance. A lot of people have questions. We are here during the public hearing to ensure an orderly and efficient public hearing. We do not, staff nor the Commissioners, respond to questions directly from the public when they are being asked. So, I have noticed over the years sometimes people ask questions sort of expecting an answer then. However, we do note down every single question asked and I will endeavor, as will all of the Commissioners and staff, to remember and write down every question and make sure that every question raised during the public hearing receives an answer from the appropriate individual. So, if you have questions, please raise them, however, we will answer them collectively at one time. Also, we request that your comments during public hearing are addressed to the Commission. We request that you do not... sometimes people feel motivated to turn around and speak to the room. We are not addressing the audience, we are addressing the Planning. So, with that in mind, we have before us this issue. If any members of the public wish to speak for or against, please come forward, state your name and address and say your peace.

Patrick C. Regan: Good evening Mr. Fields and the rest of the Planning Commission. I own lots in the Bethany Way Subdivision. I have some concerns and certainly significant concerns with the wording of the proposed Ordinance. I am certainly aware of the challenges in protecting our environment and limiting growth where required, but based on what I have heard with the water quality, it is not an issue, it has not been an issue. Certainly there is a balance among what we would like to do with future developments, certainly, and I would ask the Planning Commission to address that separately. If there are concerns with future developments I would ask that we address that separately. Right now, with the proposed Ordinance, clearly I oppose it as written. It is thin on reason, thin on technical merits, and does not consider the unique circumstances of residents that currently own property that are significant taxpayers in this County, have lived here for quite a while, and have

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been very good stewards of the land certainly. And I am speaking directly related to Abel Lake. There is not a water quality concern. Certainly there has to be future concerns but I think most of that is addressed through proper planning and zoning. I do have some specific questions. The way the proposed Ordinance is, as I read it, certainly there is a concern with bulk or hazardous materials. Let me give you an example; propane is typically the largest, at least in this area. Buried propane tanks; typically a buried propane tank can range from three hundred gallons to one thousand gallons. Technically it is not possible to build containment structures for propane, and I am not sure, based on the wording, whether even propane is addressed. But if it hasn't, it is certainly an oversight. I have one minute here and I will certainly keep that limited here. Individual sewage pumping stations, by code, there are certainly concerns with back-up notification. Back-up notification is a code requirement but the way it is worded I am not sure whether, in fact, it is the audible alarm or whether there is other systems that the Planning Department is looking at. Back-up power, it is not currently a requirement. Is there a requirement for taxpayers to invest in generator systems and battery systems to power large sewage pumps typically in use in residential? Perhaps the most significant item is removing vegetative ground cover. That is probably the most egregious here. We certainly do not propose clearing large tracts but if it access to a property owner's property, certainly I would ask the Planning Commission to look at that. What do we actually mean, not removing any vegetative cover? The trees was addressed but clearly not stated. Thank you.

Mr. Fields: Thank you sir. You don't have to but you all are welcome to line up down the isle if you want just to sort of save time. And we are not calling on people by individual names.

Gregory Gray: My family owns approximately one hundred forty-five acres near Lake Abel which is bounded by a County road to the north and actually consists of forty-five acres underneath Lake Abel. So, over the years, we have diligently paid our taxes to the County both for the land adjacent to the lake and we have paid our taxes on the forty-five acres underwater. The first time I have ever had to pay for something I can't use like that but, once again. Our concerns are in three different areas. First, the issue of the text of the proposed Ordinance vice the actual graphics that have been provided. It is a little difficult to actually tell where these various zones are unless you get out there with a tape measure or you have a surveyor run the lines to tell you exactly where the two hundred foot boundary is or the eighteen hundred foot boundary is and the actual impact upon the land that you own. And, in some cases when you look at the graphics and you see intermittent streams, you have both a two hundred foot boundary where most activities are prohibited and you have the eighteen hundred foot boundary where many activities are once again either controlled or prohibited. For our particular case, that includes almost all of the property that we own. Approximately one hundred forty-five acres is now effectively either in a zone that is prohibited for any type of development or we are limited in the future to what we can do there. The other issue is the broad phrases and terminology that are used in here as far as the construction of public facilities in and around the reservoirs, the County has authorized the construction of public facilities whereas the landowners themselves, in many cases especially within that two hundred foot area immediately adjacent to the reservoir, are prohibited from any type of construction or activity. And what is to prevent the County from perhaps doing some construction in that area that would be the same thing that a landowner would like to do. Last but not least, we would really like to see some accurate graphics so, once again, we can go to the property that we own, look at it and see the impact of these zoning ordinances. Sir, that is all that I have.

Mr. Fields: Thank you sir.

Paul Waldowski: I received the corrected notice that affected property owners and I thought I would bring you the subdivision of the condominium I own to bring it up to your attention the people that get

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affected with these ordinances. And one of the things I got out of the briefing, and the reason I did not do this in the public hearing aspect was I wanted to hear what was done in 2006 where we had the two Commissioners and there was someone on the Utilities staff in regards to this. And one of the things I want to bring to your attention when you are doing an ordinance in this aspect is this whole subdivision, Stafford Meadows, this is the type of water bill we get today. We don't get this water bill. So, my question to you is why am I still getting this water bill through some HOA and I think you need to keep track of that aspect when you are looking into repairing some of the, you know, I guess the best way to say it is mistakes that were made in the past and this is a chance to correct those aspects. Now, what I am really interested in is the property owners that are in the four major buildings there where the condos are. I am looking out for the widower, I am looking out for the school teacher, I am looking out for the single mom who is starting over, the guy who fixes the heat pumps; I rent the properties but I still want to take care of my renter in those regards. So, I don't want to take any more of your time but I do want to make you well aware. I have gone to the Board of Supervisors about this same entity and I just saw this when this came in the mail, I just think you need to see that we do read these notices and I pay my taxes and I am just looking for fairness, not favoritism. Thank you sir.

Mr. Fields: Thank you sir.

Ed Decker: My first question regards the letter that you all sent to us. On page two it talks about, at the top, it talks about prohibits the following use within the reservoir, buffer, proximity and watershed zones. Item D says disposal of garbage and/or refuse, not including individual onsite sewage disposal systems in zones where permitted. I live on a small farm and we have a few horses. And in the summertime they fertilize the fields but in the wintertime they fertilize the barn, which is a problem. So, we end up taking piles out into the yard and I know there are farms around me that are actually bigger than mine and they actually use tractors and they make big piles of manure. And so, the question is this wording doesn't really, to me, address whether that is going to be considered refuse that is going to be run-off into these reservoirs and is there going to be some kind of prohibitive ness to continuing those farms. I did hear it mentioned that the grandfather clause kicks in. So, my second question is, there is an abandoned farm down the road from me; what happens if five years from now somebody buys that farm and wants to fix it up and start having horses there as well. Would they be prohibited because they came in after this issue, this ordinance was put into place and then they could not do what people that had the grandfather clause could do. Okay? Thank you.

Mr. Fields: Thank you sir.

Richard Dunn: Good evening Mr. Chairman, ladies and gentlemen of the Commission. We have a reservoir easement on our property. We actually own the property on which part of the reservoir is located. I would like to establish my bona fides. I am a graduate civil engineer; I am a retired Colonel from the Army Corps of Engineers; I am also a Boy Scout leader. Let me address four technical concerns that I have with the wording of the proposal as it stands today that I would like to encourage the Commission to address in further deliberations. The first of these is the prohibition within the proximity zone of individual sewage pumping or low pressure systems. Unless the system provides an alarm notification system, back-up power is sufficient for two hours and so on and so forth and particularly a containment structure large enough to contain forty-eight hours of average sewage flow. The concern is this; now I understand you grandfathered or the proposal would grandfather most existing structures as long as they are occupied within the or for a contiguous two years. But if you have a drainage field around your home and you don't have a generator, you would have to install one at significant expense because I don't believe most battery-powered back-up pumps would have sufficient horsepower or stored energy to meet the demands of a sewage system. Also, a containment

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structure normally refers to an impermeable earth berm that would be contiguous to impermeable bedrock which, in our particular case, would require a grout curtain because the bedrock is hardly fractured limestone in that particular area which would be absolutely prohibited for any existing home to put in or even a new existing home to consider as a requirement for the construction. The other concern I have is with the construction of buildings or structures within the buffer zone. This, as stated right now, does not consider the type of material which the structure might be built of. Almost any modern building material to include pressure treated wood. There is no scientific evidence that I am aware of that leaching it to a body of water is any area of concern. We have seen no area of concerns right now in any of the existing reservoirs. Arsenic has not been used within the last decade or so to manufacture pressure treated wood in this Country. The last concern I have is the prohibition on the removal of trees or vegetative ground cover. This would absolutely prohibit the practice of proper forestry techniques which would eliminate or mitigate the fire danger which would be, in my estimation, the biggest concern of the reservoir because that would allow sedimentation and ash and so forth to get in the system, perhaps for months. Thank you very much for your consideration.

Mr. Field: Thank you sir.

David Mancini: My home might be entirely in the buffer zone. First comment is, when I look at the map, it is off by one hundred percent at least. I used a scale of my property as two hundred foot wide and in some places it is showing the buffer zone as four hundred feet. So, I am guessing all of it is wrong. So, that needs to be corrected. I have a swimming pool, I have plantings around it; according to this ordinance I would not be able to, if I wanted to, remove one of the Japanese maples and replace it with another one which I did a couple years ago. I would not be able to do that. I would not be able to use fertilizers. We live in a temperate rainforest; basically it is going to revert back to a forest unless we do something. And, unless I am allowed to cut things, trim and so forth, eventually my property won't be mostly usable. I don't see how, by putting a gazebo up on my property, will affect the water quality. There is absolutely no reason why that would affect the water quality. Trees, you don't define the size of a tree. I chose to have a mostly wood lot. I have a gravel driveway and a lot of times I have to cut little trees. I have to trim them back from the driveway. I bush hog, I'm cutting trees; you should put the size of the tree. They won't even be able to cut the trees and stuff back from Rocky Run Road the way this ordinance is written. So, I think you should consider some of these things. I think it is much too restrictive. You are almost making the two hundred foot zone unusable without compensating the people for it. And looking at the map, there are lots of lots that are almost going to be unusable now with that big zone. I don't think you need a zone that wide; maybe twenty-five feet and maybe you should buy that twenty-five feet and then you can do what you want with it. Thank you.

Mr. Fields: Thank you sir.

Mr. Perry: We have two lots. One is already existing with a structure; the other one is buildable. Both of them are three acres plus. A lot of what the gentleman said before dictates a lot of what the issues that we would have. The first one is about seventy-five percent of the property is going to be considered waterfront. According to where the boundaries are now a lot of those issues come into play. And the drainfield being the biggest one and the existing property, we need clarification of what is going to happen. This grandfathered in is one thing but, according to the property lines, the drainfield is bumped directly up to your one hundred year flood line, I do believe it is. This two hundred foot buffer line will be completely over the house and every structure in the property on one piece of property and would all but make the other property totally unbuildable. Clarification on the two year, I guess grandfather clause that we are looking at, is that based on the approval or the passing

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of this bill or the reservoir itself being built and complete. If we have two years to complete the structure or build the house on this buildable lot, when the water comes are there going to be issues or are there things that we are going to have to address? The biggest thing with the property line being up to the water, it is going to eliminate everything that we need to do. Like this gentleman said before, our driveway, our right of passage is going to be waterfront. Trimming trees and doing work to the driveway itself, it's about a half mile long; it's a lot of maintaining that needs to be done on this driveway and if there is nothing we can do, you know, it is going to affect how we control and how we upkeep on our property. Thank you.

Mr. Fields: Thank you sir.

Dr. Burns, III: I am the President of the Abel Lake Forest Property Owners Association. I will keep this short. Essentially why I am here is I have looked at our property; we have thirteen acres, most of which are basically in the woods and there is a little finger that goes out towards the lake and that is where our home is. And the 200 foot buffer zone with encompass our entire home and basically our front yard, our swimming pool, our deck, and I am just concerned about the language that would grandfather us. As I understand it, the existing structure was fine but when we bought the property six years ago with an already existing home there are things that need to be repaired or modified. And, what I want to know is I would like to have the ability to at some time modify or expand our deck or do something to the house and it looks like I won't be able to the way that it is currently worded. And that is basically it. Thank you.

Mr. Fields: Okay, thank you sir.

Sandy Pezzillo: I live less than two hundred feet from the maximum pool level of Abel Lake Reservoir. I have a lot of concerns about the RPOD proposal as it is written. The first is just that some of the language just is not specific enough. When I read the Question and Answer put out by the Commission, one thing that was addressed was that grass cutting was permitted. And, if it is not expressly stated, then I am not sure that that is really something that is protected or not. So, I think some of that language needs to be cleaned up. If the water quality coming from Abel Lake Reservoir is good right now, then I think that attests to how some of the residents of Abel Lake have been good stewards thus far and it leads me to believe that our future decisions will also be good for the reservoir. And I do not know why I would not be able to have, like someone else stated, a gazebo on my property, especially since my entire house is within that two hundred foot buffer zone. And then the third thing that I have a question about is why is any of this proposal necessary? I look at the plans for the Staffordshire Golf Course property subdivision that is going to be going in across from Abel Lake. And when I look how the houses are going to be built on that property, they are all greater than two hundred feet from the maximum pool line and in some cases it looks like six hundred feet. It looks to me like the current County, Federal and State laws have made it so that when property is zoned and planned and approved, a lot of these things that you pointed out in this proposal have already been addressed. So, if you already have the power to protect Abel Lake as you have done with Staffordshire subdivision, then why can't you just continue to use the power that you already have and limit your proposal to protection that is not already existing? Thank you.

Mr. Fields: Thank you Ma'am.

Ian Hogg: Some of the questions I would like to get answered have already been asked. But there are one or two other points. There is a two hundred foot buffer zone. Historically, I think there has been something, maybe it has not been called a buffer zone but it is a hundred foot. So, why would there be

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this increase from the zone? What distance where the houses could be built or anything built, why has it been changed to two hundred? A lot of the questions are associated with things within the one hundred or two hundred feet level. And my particular drainfield is within that two hundred feet. And what would happen if we had to re-dig the drainfield because it got blocked for some reason? Or for that matter, the actual sewage system, if we had to replace that, are we allowed to replace it? Another question there. I noticed that the fertilizer part is excluded from the watershed, but I could imagine that the fertilizer is going to be one of the main problems for causing water impurity. So, why is the fertilizer, the know use of fertilizer, not included in the watershed? The other thing which I would like for myself to understand is because we are having this discussion at all, the value of our properties in all these areas has gone down. Is it feasible for us to actually apply now to the appropriate department and request that the value of our properties is reviewed to reduce our property taxes?

Gail Clark: My husband and I farm his mother's farm which is in the watershed zone, albeit a long way from any reservoir. I am sure that it has not escaped the Board and the Planning Commission that it is very ironic that many of us who are being charged with keeping the reservoirs pristine will not be able to utilize the water since, of course, we are not on County water and sewer. We have always been able to keep our own well water supplies fit for drinking but now we need to be regulated to keep your water clean? It seems a little unfair and burdensome. Today, though, I am more concerned about the limits of agriculture which are being imposed on the A-1 lands of the watershed zone. Item B is a prohibition on feed lots; this is the welcome change of the prohibition of feed lots of fifty animals but I worry a little bit about what can happen in the future. Many folks have flocks of chickens, but since the county is overrun with predator wildlife, like hawks and foxes and owls, it is hard to keep free range chickens because they get eaten, so most chickens are kept in pens. I am concerned that Stafford officials may one day equate a chicken pen with a feedlot, talk to Charlie Williams it is not that out of reach. Chickens should be allowed in all A-1 areas of the county. Likewise some folks still keep sows, unless they are kept in total confinement which is not good for hogs. Hogs are kept in lots, might this be construed to be a feedlot. Hogs should be allowed in all A-1 land. And finally a modest heard of cows can result in many animals of calves, yearlings and bulls in Stafford. These cow/calf operations are usually kept on pasture, but I am concerned that Stafford officials may one day equate pasture and feed lot. Cows kept up in a barn lot in the winter may be construed as feedlot. We need to be sure that cattle are always allowed on A-1 land. We need to be sure that actions will be consistent with your published definition of feedlot. And frankly there is probably a niche for medium sized feedlots in Stafford. I am opposed to regulations which would limit farm animals on A-1 land. Secondly concerning item D, is manure considered refuge? All over the designated watershed area, horse, cow, chicken manure is spread on fields, pastures and gardens is considered a good thing to add organic matter back to fields and this practice reduces the need for commercial fertilizer. I continue to be opposed to regulations which limit sound agricultural practices in A-1 zones. Considering the type of agriculture characteristic of the western part of the County, cow/calf operations, hay and pasture, farm land is much better for your watersheds than anything else and unregulated farm land would be most appreciated. Thank you.

Mr. Fields: Thank you ma'am.

Betina McWhirt: Good evening Mr. Fields.

Mr. Fields: Good evening Ms. McWhirt, how are you?

Ms. McWhirt: Fine thank you. My family and I are lifelong farmers in the County, I also agree with a lot of the comments my neighbor, Mrs. Clark, just said regarding the cow/calf operations and the

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farming operations. In principal my family and I agree about the watershed protection to this county. But the county already has sound Federal, State, County Ordinances in place to protect the watersheds. Instead of implementing another rule, just have consistent and thorough enforcement of current rules and buffers. We don't need another rule. This proposed ordinance is causing erosion and damage to something that is just as important as protecting the watershed, it is causing the erosion of personal property rights in this county and it blatantly takes away property rights of the land owner. This ordinance has a list of things that can and can't be done, however I have not heard anything about remuneration to the property owner for the devaluation of their land. This ordinance is taking away land and use of land and land owners should be justly compensated. I also believe this ordinance is a piece mill step and a cover up for a no growth tactic. Again, vote no for this ordinance. Thank you.

Mr. Fields: Thank you.

Virginia Adams: Good evening. Our property is located in the proposed watershed zone for Abel Lake. I have some concerns. It took us a while to get some answers, so I am going to get right to the meat of my question here. As an example, since your proposal does not tie animal units to property size, an example would be a homeowner with a three acre parcel, a house and a four stall barn. The homeowner has four horses and two acres of pasture. The pasture is over grazed due to overstocking and now is mostly dirt. The grass crop is so close as to be nonexistent, there are weeds and manure piles. He keeps fertilizing it to try to get grass to grow and putting down herbicides to kill the weeds. The owner lets the horses drink from the creek because it is easier and does not hurt anything, right? When it rains the water runs across the pasture through the manure piles into the creek causing erosion, depositing soils, manure, chemicals and other run off materials into the creek. Not a problem because he only has four animals, right? I on the other hand have two oxen, three horses, seventy-five sheep, two goats, three bucks and ninety-three chickens at last count. We understand animal units and stocking rights. We rotational graze, we keep ground cover on the pastures all year, we manage the manure through multi-species grazing, established riparian buffers to keep the livestock out of the ponds and creeks and in general watch out for the health of our land. Weed control is called goats and sheep, fertilizer is called organic matter. No herbicides or chemicals are used. When it rains the water runs through the grasses and is filtered or absorbed, keeping erosion in check. Manure has been distributed, it is not a runoff issue, the taller grasses and growth around the ponds and streams further filter the rain keeping the runoff as clean as possible. Under heavy downpour conditions, watch our pond and you know where the runoff is from, it is not from our pastures, it if from upstream. Under this ordinance, I am at fault and should not be allowed to continue my farming operation and I am perceived as the culprit and polluter of the reservoir, this is based on the fifty animal feedlot. I am not a polluter, I care about the health of the earth and our farming practices support our concerns to the health of the land. You allow people to swim in the lake, and I have seen them. Goodness knows what they add to the water. You allow people to put their boats in without first inspecting them for possible contamination from other places they have been. Now you want to limit any farmer upstream from your drinking water, talk about fair. I clean the water and you want me to pay more to clean it further. I have no public water, I have no public sewer, I pay taxes and you want me to clean your water. Thank you.

Mr. Fields: Thank you ma'am.

David Higgins: Good evening ladies and gentlemen. I apologize, I have nothing prepared, I found out about this meeting from my wife at about six thirty this morning. I currently live in Mandeville, Louisiana. I own five and a half acres off of Hassle Lane which is up against Rocky Pen Reservoir. I bought the land about four years ago will full intention to come back here when I leave the Marine

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Corp and retire. We intend to build a house or we intended to build a house and possibly put horses on that property put a drainfield in, possibly a swimming pool at some time and maybe even a gazebo. Right now, I ask you before you pass this proposal, could somebody please let me know what that does to that dream for myself and my family. Thank you that is all I have.

Mr. Fields: Thank you sir.

Aria Orris: We used to have a hundred and five acres of property. However the county did a quick take on forty-four acres of that. We now have left sixty-one acres, 12.7 on one side of the reservoir and the forty some other on the second side of the reservoir. When you start to do a two hundred foot setback, and I have property on both sides, I figured out not knowing exactly where the shore line is because that gets extremely complicated, that you are going to be taking with the one hundred foot, seven to eight acres of my land, that I can't use anymore. With the two hundred foot you just doubled that. We have intermittent streams, we have setbacks from that. So I had a one time a hundred and five acre farm that had some value. After you all taking forty four acres, telling me I can't use two hundred foot I have to have in addition for any lots that are built, a two hundred foot width for the lot. What I see in the county, and I am a lifelong resident in Stafford. I challenge any of you to say that you have been here much longer than I have. I wonder first of all how many people on the Planning Commission are actually affected by this, because for those of us who are it is a very, very deep concern. It seems to me and I agree with Ms. McWhirt, it is all about the loss of property rights, I feel like I don't have any. You all tell me what we are going to do with our land, you give me no compensation for it. I can't even go swimming on it, I used to think oh I am going to have a beautiful view of the reservoir, but oh no any weeds that grow up have to stay there. So my house sitting and facing the reservoir, I can't go swimming, I can't build a dock, I can't build a gazebo, I can't cut down a tree however if a dead one falls I have to remove it, the county does not come in and remove it I bet. So I have property, but what value is it when you put the number of restriction on that you are putting on it? I would like you to take a very, very long look at his proposal and the setbacks that you are proposing. There appears to be no need for it, the county water thus far has been clean. I agree with Ms. McWhirt, it is an attempt to decrease the value or the buildable lot sizes that are left. Please think hard about this, pretend that you are me, put yourself in my position, put yourself in the position of the people that have been talking tonight so when you make a decision remember it affects us deeply. Thank you very much.

Mr. Fields: Thank you ma'am.

Mike Clark: These are hard acts to follow. Like Gail said a while ago, we farm my mother's farm, we farm across the road and we farm an absentee landowner up off of Poplar Road. We are the furthest away. We live in the watershed zone. I am sixty-two years old and my son wants to farm. He has a full time job somewhere else and I am having a real problem with encouraging him to keep buying machinery to keep wanting to go and do, I have had it. We buy young calves in the fall and put them in a pasture situation, but we do have to keep them up close to the barn until they get used to us and we can give them shots and then we can take them to the big boy's field. That concerns me somewhat, I am concerned that one day somebody may complain for whatever reason it is, there will be somebody from the county sitting there going, by the way I know you are grandfathered, we are not going to have five hundred animals no, we might have fifty to seventy five at the most at any one time. Gail sells pastured beef, we sell hay to the horse people and we sell vegetables at the farm to our people on our road and a lot of them are in subdivisions. I love people coming in because they are helping me stay here and still make a living. I think like Betina said that if this gets passed it will come back and will be layered with another layer and another layer until the best thing we can do is just say goodbye and

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we can give up farming and the people that are buying local from us will just have to go to the big grocery stores and box stores and buy there. Thank you very much.

Mr. Fields: Thank you Mr. Clark.

Jeff Adams: A couple of bullet points. At least when I deal with the NRCS and I give them a thirty, fifty or hundred foot buffer they pay me. They don't take it, they pay me to do the work and preserve accordingly. Secondly when you put water restrictions on during times of drought you can't stop people from watering the lawn, they know at midnight or one or two o'clock in the morning. The same thing is going to happen with fertilizer, you could not stop me if you wanted to. Feedlots, if you read part of it, or other area in which livestock are confined. If I have a farm, I have a perimeter fence, therefore my livestock are confined. I have got a handout for you here, I just kind of put it together. In the Code you have got the number of animals allowed. You can go up to five thousand chickens, which would produce three hundred seventy-four tons of manure a year whereas two hundred beef cattle would only produce thirty-five hundred tons of manure a year. You need to forget about feedlots and totally redo it, tie it to animal units, animal units per acre because it does not even say limited to. So I could have one hundred ninety-nine dairy cattle, two hundred ninety-nine beef cattle, produce well in excess of fifty tons of manure a year and I am within the ordinance. Thank you.

Mr. Fields: Thank you sir. Did you want to share that with us? If you can give it to the clerk and we will pass it around.

Mr. Adams: Yes.

Terry Perry: I actually have two lots, I live on one. The two hundred foot buffer zone is going to completely cover that house. So you are telling me, or the ordinance is telling me that if I want to build a garage on my property, I won't be able to. A gazebo would be nice but I would like to have a garage and according to this ordinance I would not be able to have one. As far as the other lot, it is a three acre lot that is plenty big enough for a house. I intend to let my son build a house there, but the way this sounds he is going to have to build in two years. I don't think that is fair because financially he is not able to do that right now. So in other words if he does not build a house in two years the land is worthless and he will never be able to build on it, so I would like to see those things addressed. Thank you.

Mr. Fields: Thank you ma'am.

Arthur Hart: Good evening Chairman Fields, members of the Commission and staff. I am in the Abel Lake watershed. The first letter I got from the government said greeting, report to and they kept me for two years. When I got the second letter from Mr. Harvey I decided I better come over here and give this some study. So I have studied it. At a previous job I reviewed, tried to refine and improve proposed legislation and regulations. This needs some work. Feedlots hit me right off and I know I have seen Mrs. Carlone's chicken lot and that is a feedlot and if people don't like your rooster crowing they are going to be after you. Except I did learn after coming here tonight, there is a definition of feedlot that seems a little unbalanced somehow. We need to cite it here, feedlots as shown in Section so and so would save the staff a lot of time explaining. The same with hazardous materials, there is a hazardous materials definition in the State Code, use it if that is what you are talking about. Then when you get to garbage and refuse, two days a week I keep a garbage can by my mailbox just to help throw the mail away because it is garbage and you get garbage on your computer. What is garbage? I could not find a definition of garbage. Refuse, is that manure? Is that what the kids throw out along

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the side of the road, cigarette butts and whatever? What are you talking about? Define that. When you come into the proximity zone you are talking about a third of a mile, so anybody that lives within a third of a mile and you go in here and you say except for storage of those materials for residential use, you don't name pesticides. Pesticides include pool chemicals and surface disinfectants, if you don't know that, so you may want to take a look at that. On the buffer zones down here, if you are in that you are up a creek. You can't clear your honeysuckle, your kudzu, your poison ivy and then again it addresses pesticides and I am running out of time, but I think some of that needs to be cleaned up. I would not vote for it exactly like it is because it needs some work. Thank you.

Mr. Fields: Thank you Mr. Hart.

Debrae Karnes: Good evening Mr. Chairman. First of all Art is a really hard act to follow. The ordinance is complex and perhaps difficult for a lay person to analyze. We have gotten a number of calls at my office from people worrying if they are affected. Even in fact a developer with a vested plan, vested to the Zoning Ordinance. I would ask you to identify how this ordinance affects, if at all, development that remains valid, remains with a valid plan that is vested to the Zoning Ordinance. That is all, thank you.

William Klima: I live on a ten acre lot off of Abel Lake. I bought the lot in 1995 and spent a lot of time developing the lot. I actually did the work, developed the lot. Lots of bulldozers, cut the road, cut the site, so I was very intimately involved in it. At that point it was a hundred foot buffer zone because of the Chesapeake Bay Act. I wanted to put my house as close to the lake as possible but I wanted to leave enough space behind the house so that I could put decks on the house or possibly add a pool or some other out structures. My house I set back another ninety foot or a hundred foot from the existing one hundred foot buffer for the Chesapeake Bay Act. So this proposal would directly affect me where I could probably not put, for example, decks on my house that are not existing today. I have a reserve drainfield that is actually in the hundred foot to two hundred foot range that would be in the new buffer zone. So there are a lot of things that directly impact, if I wanted to add an addition that I have thought about for quite a while, to the back of the house that would probably be impossible. My questions are, can I keep my reserve drainfield that is in the new proposed buffer zone? Secondly, can I add decks to my house with this new proposal? Thirdly, can I add a pool to my property with this new proposal? I am very in favor of protecting the water at the reservoir. I think it is a great idea. I think maybe this is a little bit misdirected, the existing homes that are there, even if you put homes on ten acre sites around the lake, which I understood was the requirement for having any type of lot on the lake. Those houses at a hundred foot buffer with the Chesapeake Bay Act are well protected and would never damage that lake. The big concerns are any developments that are being proposed. The runoff from those developments would be literally a thousand times the impact. So you have to look where the impact is going to be. It is going to be in the future development, of large developments, within six hundred foot of the lake or whatever. Those already properly handled through the Zoning/Building Department should not be an impact if they are properly designed and managed. Thank you.

Mr. Fields: Thank you sir.

Bill Johnson: Good evening, I am actually Bill's neighbor. We bought our house in 1998 and it seems to me that my house is completely within the two hundred...the new buffer zone. So I actually initially did not think it was such a big deal because I assumed you would have some kind of grandfathering clause. But as I think about it, with everything that has been said today, if a tree bursts its way through my driveway and it is just in front of my house I am not going to be able to take it down, I

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am not going to be able to move it. There is a lot of concern with suddenly going from one hundred feet then to one hundred and thirty-five and now two hundred feet as a buffer zone. I think what you really need to do is you need to look at what actually is going to happen. Directly across the lake from us there is an approved plan to put a golf course in. If you talk about destruction of the water, of the habitat of everything else, there is nothing that any of the existing houses are going to do to damage the water that will even come close to compare to what is going to happen when you put a golf course across there, all the pesticides that are used, all the fertilizers that are used on a golf course. It is my understanding that the Planning Commission actually has the ability to get rid of that golf course. The developer has actually said he does not want to do it. Secondly, the developer is also going to put in thousand foot wells. That is going to drain and cause problems with everybody's water that is around there. We live on that lake, but the water comes from within the ground and if somebody is allowed to drive multiple thousand foot wells across the lake, that is definitely going to affect my property. I guess the other thing that really struck me was all of a sudden they are calling it non-conforming. I am well aware of what non-conforming is because we are one of the properties that has a dock. I know a lot of people were not happy that we got it, but we do and so when that dock goes when it breaks down then it is gone. Well if my roof collapses, the corner house from me was knocked down by a tornado last summer, if that happened to me does that mean that I can not live where I do anymore? Is that the end of my life there? I don't think that is a very good solution, I think you really need to reconsider this. Thank you.

Mr. Fields: Thank you sir.

Lynn Eastland: I live off of the Abel Reservoir. Signaling out properties around and near the lakes to be responsible for the entire Stafford County voluntary efforts at Chesapeake Bay Act is incredibly unfair. Even if it could be shown that there were some measurable minimal benefit to the proposed restrictions on properties near the lake, why wouldn't the same restrictions be placed on all county properties, as no property can be shown to contribute any more runoff than the ones near the lake. Thank you.

Mr. Fields: Thank you ma'am.

Scott Murray: Good evening I am Scott Murray. I live outside the county but I am here representing Woodside Communities. That is the company I work for and we own approximately eighty-five acre piece of property on Rocky Run Road. We had a preliminary plat for twenty-three lots that was approved a couple of years back and we also have an approved construction plan. Because of the economy we decided not to move forward with the development. I certainly see the value in protecting the reservoir, I am concerned about that as well. However the loss to our property with the rights that we have would be a multi-million dollar loss when more than half of the lots that we were going to potentially build perhaps now we would not be able to. It is a significant amount of money. I don't know if there are opportunities as some other folks have talked about as far as compensation for the loss or maybe something that is easier as just proposing that we are able to use the usable portion of our property, maybe have the density of the zoning increased a little bit to allow us to be able to use that a little better. Certainly I am very concerned and our company is very concerned about what an approved lot is. Like I said we have an approved preliminary plat, but what does that mean about our rights. Again being that it is a multi-million dollar loss is something that we are greatly concerned about. Thanks a lot.

Mr. Fields: Thank you sir. Okay is there anybody else that wishes to speak?

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Donna Dawkins: I don't know if I can speak on this. It had something to do with the new county comprehensive plan.

Mr. Fields: Not...unless this applies directly to the reservoir protection zone.

Ms. Dawkins: That is why I was curious.

Mr. Fields: We can't really have...

Ms. Dawkins: After listening to what an A-1 is allowed to have as far as feedlots and everything else and since I am in a residential area, rural residential. I am concerned that you still have me marked as...you are going to be changing it to A-1 agricultural, so my neighbor can now have pigs, cows, chickens everything else on that, so I was just wondering when can I talk about that?

Mr. Fields: Probably at other times, but I appreciate your concerns.

Mr. Di Peppe: But she can at anytime call your Planning Commissioner or...I would say call whoever your Planning Commissioner is...it is on...you can contact through staff and get your questions answered.

Mr. Fields: Okay. Alright anyone else wishing to speak on this public hearing item?

Bernard Sandy: Good evening and thank you for this opportunity. I live on Abel Reservoir. I moved here last November and certainly was not aware that this was going to be taking place any time soon. I have spent twenty-two years in the Coast Guard and I have been a steward of environment and I can proudly say that for my entire career. I currently work at DHS and I work in critical infrastructure key resources, which includes our water supplies. I just want to say that I am opposed to this. So many other people have said this very eloquently and basically stole all my thunder. I am opposed to it, it seems arbitrary the distances included. It seems to have little technical merit and basing it on the Spotsylvania model, the first I was aware of it there, I suggested maybe you should look at Fairfax, they have a lot of good provisions for existing homeowners and protecting their rights. As I see it, it is a land grab. You are taking a hundred feet out of my backyard and that is the way I see it. Thank you.

Mr. Fields: Thank you sir. Alright, is there anyone else who wishes to speak for or against the ordinance? Or express a question or ask a question that we can answer? If not I will close the public hearing. Alright, well I have an entire page full of questions.

Mr. Di Peppe: I have two pages.

Mr. Fields: First of all I would like to thank everybody for taking the time to be here and express your concerns. It has been...with eight years on the Board and two years on the Planning Commission. I have been at a lot of public hearings and sat here and listened to a lot of people speak on a lot of topics. I would like to really say that this is an incredible display of constructive questions and constructive criticism and constructive seeking to do something good. I really applaud you all for a very, very intelligent and well thought out set of comments and questions. At this point we need to start going down the list of questions, since we all individually have lists I suspect some of them are duplicative. Does anybody...I guess we can go down the line with getting each Commissioners questions...or making sure the questions raised by the public are addressed. I don't know...

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Mr. Di Peppe: Can we take them one at a time? I listed them by name of the person and I tried...some of you might have caught something I did not catch.

Mr. Fields: We all have a list.

Mr. Di Peppe: But to try to add...because there is a lot of specific questions that I think...I agree with Mr. Fields, I think you did a great job. I think it is exactly what a public hearing is supposed to be. I know there is a real reason to distrust your local government. I have it okay, but if you give us a fair chance, I think we will try to answer every single question that you asked. We may not get you to agree with all of our answers, but I think they are terrific questions that need to be addressed. And then this whole discussion goes into what we recommend to the Board and we only recommend. What has been proposed and what your reaction is then goes into our recommendation of what the Board does...they can do anything that they want, but that is the process.

Mr. Fields: I think what we will do if that is okay, I think we all probably have...I essentially jotted down the questions, so...I don't really have a plan other than that everybody...I guarantee every Commissioner will have an opportunity to make sure that every question that they feel was raised is answered. As Chair I guess I will just go first if that is okay and let the Vice Chair go next and on down the line if there are things that we missed or duplication or amplifications, if that is okay with everybody as long as everybody sees that as fair. I suspect that we will probably get most...our lists, I would assume are probably pretty similar, but that way we can get started on this and have some semblance of order. So generally, I guess Mr. Harvey and Mr. Nugent, primarily Mr. Harvey, my questions I will address to you if you wish to defer and question to staff that is okay. I think for the sake of efficiency, if that is okay if it is Commissioner to Director of Planning and then you can defer questions as you see appropriate. Is that okay with you?

Mr. Harvey: Yes.

Mr. Fields: So we had... the first question I had was the fuel storage as related to propane tanks, the size and containment of propane being somewhat different than liquid fuels etcetera, etcetera. Do you have a response or analysis on that?

Mr. Harvey: Yes, the provisions that affect the proximity zone would allow propane tanks for residential activities that would not be regulated. If it was a propane tank for some other function that is where we may have to take a look at it further and I am not certain if propane is a hazardous material or not. I would have to consult with the Fire Marshall.

Mr. Fields: Okay, so you think there might be something to look at then if...so if you have a thousand gallon propane tank and there was not a...I don't know like how he said, I don't know how you would build a containment structure for that, that does not look like three mile island. But if it is for a residence even if it was a thousand gallons or whatever, it would not be regulated under this.

Mr. Harvey: Correct.

Mr. Fields: Any follow up questions:

Ms. Kirkman: Mr. Chair, I just wanted to point out our deadline is for tonight, we have to make a recommendation for tonight, so what I was going to suggest for those questions that we can not get

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definitive answers to tonight, that staff work on answering those and forward that with our recommendation to the Board of Supervisors.

Mr. Fields: Alright. Mr. Di Peppe.

Mr. Di Peppe: If you read in the ordinance and we are going to go through some more technical things, the intent was not to stop the average homeowner. Like when we got into hazardous waste and things. It specifically said this is not to include that you can not store bags of fertilizer, that you can not have gasoline for your lawn mower, that you can not have home...

Mr. Fields: I hate to do this, but if we get into this with every question...

Mr. Di Peppe: Alright.

Mr. Fields: We will be here to long. I appreciate, I know this comes from you good heart, Mr. Di Peppe. For the sake of efficiency, I want to try to get Commission questions to staff for answers. When there is a motion on the floor, we will all have as much time as we can stand to discuss this.

Mr. Di Peppe: Okay.

Mr. Fields: The second question I had was sewage pumping and it was specifically...well there were a couple of questions about sewage pumping. I thought and I will sort of combine those. One was the type of notification I think that...the method of notification one person had a question of how that was supposed to work with an audible alarm or other types of notification. And then there were a couple that I thought very, very germane technical questions regarded to the requirement of a generator back up and the concept of containment requiring a very extensive type of structure, both of which were at least expressed to be on if not beyond the means of the average homeowner or certainly highly punitive to a homeowner and I just wanted to get your take on that.

Mr. Harvey: With regard to the ordinance it does not specifically address the type of alarm system for notification. That would be up to the homeowner, but it would be required that they have one so they will know if there is a malfunction with the pump. Specifically about requiring if the pump is of such a nature for that duration of the time it needs to have some alternate energy source other than a battery, that would be required for the new construction of a home or if there was a...have to rebuild an existing septic system with a new pump, that would be when the new requirement would be applicable.

Mr. Fields: For the back up power system?

Mr. Harvey: Yes.

Mr. Fields: And was it anticipated in the formation of this owner, what the scale of that backup system was in terms of power output?

Mr. Harvey: I am not aware of the specifics. I think it would depend on the size of the pump, how much effluent is being discharged, what type of system it is.

Mr. Fields: And the containment structure? Did we have a...was there an operating concept of what that would be like or look like?

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Mr. Harvey: My familiarity is dealing with county sewer pump stations where they have what they call a wet well, which is essentially plastic or some other type of concrete material that is in the ground that allows the sewage to be deposited there until it floats up to a certain level and the pump kicks in.

Mr. Fields: Okay.

Mr. Harvey: It may depend on the type of material and design based on capacity of the pump and also the capacity of the sewage effluent.

Mr. Fields: Okay. Another whole category of questions, I think I probably have this written down a couple or three times, that were raised is the exact nature and scope of clearing vegetation on the properties, particularly in the buffer zone. What defines cutting a tree, what levels of clearing of encroachment of woods and underbrush are there? What ability to clear underbrush for fire maintenance, these are all different versions of the same question that I had. Do you have a response to those questions?

Mr. Harvey: Well certainly the ordinance is not very clear in that regard. From the practical aspect from staff's perspective we would be looking at allowing people to continue to maintain their properties as they presently do. The issue would be if they were disturbing the land to remove tree stumps, to cut down large swath area of trees. We realize people have to be able to maintain their properties. Maybe that is an area where we can have some more discussion.

Mr. Fields: This sort of boundaries between what would qualify as negative land disturbance and maintenance, we have not quite circumscribed that yet, it what I am getting?

Mr. Harvey: Yes.

Mr. Fields: Okay.

Ms. Kirkman: Mr. Chair, could I ask a follow up question?

Mr. Fields: Yes ma'am.

Ms. Kirkman: Mr. Harvey wouldn't that be addressed through our requirements around site land disturbance. Don't we have definitions in that, the twenty-five hundred square feet and that sort of thing?

Mr. Harvey: Yes, the County Ordinance specifies if you are grading the land or removing the vegetation from the land in excess of twenty-five hundred square feet, you are required to get a land disturbance permit which requires plan review and erosion and sediment control measures.

Ms. Kirkman: I asked, so we do have some definitions in other parts of the ordinance...of our ordinance.

Mr. Harvey: Yes, as far as land disturbance.

Ms. Kirkman: Okay, thank you.

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Mr. Fields: There was a question about the map and the accuracy of the map and the ability to determine one zone relationship given the scale on the sizing of the map. I am sure you heard that question. Did you have a staff response?

Mr. Harvey: Yes, I know the maps are really hard to read based on the one map trying to get all three watersheds on it. We do have larger scale maps that we can make available and we can put on line in PDF format so people can get a better view of their properties in relationship to the buffer.

Mr. Fields: So if any citizen requests and actually as a matter of process we will try to progressively make it available, so people can determine exactly the relationship of the zones to their property lines.

Mr. Harvey: Certainly. If the graphic is not one hundred percent accurate, the text of the ordinance would be overriding.

Mr. Fields: So the text of the ordinance, so in other words even if the map...if someone looks at their property and looks at the color lines on the map and it seems to be incorrect the interpretation is that the map is for reference the text still is the fundamental legal principal there.

Mr. Harvey: The text is the law.

Mr. Fields: So when you go out and measure two hundred feet, even of the map shows something different, when you physically measure the two hundred feet on your property, that is the law.

Mr. Harvey: Yes.

Mr. Fields: Or whatever that footage is, okay. I am not sure I understood. There was a question with Stafford Meadows about the water bill.

Mr. Harvey: Yes, I know that has been an issue that has been raised with the Board of Supervisors. Apparently that neighborhood has a system where the Homeowners Association pays the water bill and they bill the individual property owners separately, so they don't receive a County bill. Which I imagine it probably is higher than the county billing rate because the Homeowners Association probable has a service charge on top of that. I know that has been a question raised to the Board of Supervisors.

Mr. Fields: Okay.

Mr. Di Peppe: Can I ask a question? That is the first time I heard that. Is that the only place in the county that does that, because that is news to me.

Mr. Harvey: Often times you will find that in the situation with multi-family homes and/or trailer park situations where they may have what is called a gang meter, which is a meter that serves multiple structures. Often times you will have a property management company that will regulate those. It is not very prolific in the county because most of our development has been on individual lots for individual homes.

Mr. Fields: There was a question about small horse farms, which also relates to over intensive development. Which I know has been a concern expressed to me over the years about manure disposal

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of a small horse farm where the situation is such that you going to require that the manure be disposed of. It is not naturally being dealt with.

Mr. Harvey: Trying to address two of those questions. The one issue that was raised several times was whether the manure was considered to be garbage or refuse. It is not, it does not meet the definition in our Chapter 21, the solid waste of the County Code.

Mr. Fields: So its disposal would or would not be regulated under...

Mr. Harvey: Excuse me, Mr. Nugent is correcting me in the definition of garbage it says readily putrescible, excuse me on that one, discarded material composed of animal vegetable or other organic matter. So I guess the question is are these discarded materials being disposed of or are they being used for some other purpose like fertilizer. In my mind if it is being used as fertilizer it is not being discarded, it is not...

Mr. Fields: Right, but if it is not being used as fertilizer right now it would be under the category of solid waste?

Mr. Harvey: Garbage.

Mr. Nugent: Excuse me it is garbage. There is in the State Code a definition that relates to disposal and we can research that to see if that definition solves the property owners concerns.

Mr. Fields: Okay. I am assuming...this again is somewhat interpretive. I know another question was the ability to rehabilitate an abandoned farm if it happened to be in the buffer proximity or even in the watershed zone. If you...it is not an existing farm but it was a farm, it has the structures that could easily be rehabilitated into an operational farm. How would that work under these different zones?

Mr. Harvey: I guess the question we would have to look at is, where in the different zones are we concerned with. Generally in the watershed zone, unless there is a feedlot there would not be any real restrictions as far as re-establishing the farm. If there is some activities within the proximity or buffer zones we may have some questions about any new structures being built or other types of situations where it may not comply with the ordinance.

Mr. Fields: Okay.

Mr. Howard: Mr. Chair?

Mr. Fields: Yes sir.

Mr. Howard: As a follow up to that, I think there were some other similar question around if there was a catastrophic issue or some act of nature that came through and either disabled the home or changed something dramatically about some of the structures. Could they rebuild the structure the way it was or could they do any rebuilding at all.

Mr. Harvey: There is a State Code provision that talks about non-conforming structures and essentially acts of God with major storms that allows you to rebuild, so that is a provision that is permitted. In general with non-conformities the idea is to try to bring them into conformance. So if

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there was some other issue where they wanted to expand the building, they would only be able to expand to the extent that the new expansion is conforming with the ordinance.

Mr. Howard: But they could at least go back to the existing foot print prior to that issue.

Mr. Harvey: Yes.

Mr. Howard: Thank you.

Mr. Fields: Follow up question?

Mr. Di Peppe: Yes, lets suppose a person now has a home within the two hundred foot buffer and he or she wants to put a deck on the back.

Mr. Harvey: Based on the way the ordinance is written that would be prohibited unless they were able to get a variance from the Board of Zoning Appeals. The process for a variance would require a public hearing and a finding by the Board of Zoning Appeals that there is a hardship associated with the request.

Mr. Di Peppe: Is that also say for a garage or any other kind.

Mr. Harvey: Yes, it would be for any other structure.

Mr. Fields: Alright, moving on I think there was a question about the application of fertilizer in the watershed zone.

Mr. Di Peppe: Can I address that because we just had that.

Mr. Fields: Right now I am getting staff.

Mr. Di Peppe: Alright.

Mr. Fields: Trying to follow the process. The application of fertilizer in the watershed zone?

Mr. Nugent: Mr. Chairman, I can address that. The county can not address the application or use or storage of fertilizer through a Zoning Ordinance. It has to be done, pursuant to a recent opinion by the Virginia Attorney General. It has to be done through a stormwater management ordinance. This is not such an ordinance and beyond that, if in fact the Commission is inclined to recommend such an ordinance they could only do so after performing their own local studies or relying on a regional study that affects the watersheds.

Mr. Fields: So in other words you are saying that the authority to do so requires a fairly serious test of applicability and public necessity.

Mr. Nugent: Yes.

Mr. Fields: Okay.

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Mr. Nugent: Yes and we can't do it with this ordinance so fertilizers regardless of what other considerations there may be, the whole issue with regard to fertilizers that is addressed in this ordinance is going to have to be removed.

Mr. Fields: That is off the table.

Mr. Di Peppe: Could I...sorry. If you wonder why it was in the ordinance if it can't be, there was a determination by the Attorney General, was it September 10th?

Mr. Nugent: Excuse me Mr. Di Peppe, September 1st.

Mr. Di Peppe: Okay, September 1st. So this...there was an ordinance that the Attorney General commented on from York County who made a determination and that was very recent, so that is...

Mr. Fields: That is how it got in...

Mr. Di Peppe: That is how it got in and it is not going to be there.

Mr. Nugent: Mr. Chairman?

Mr. Fields: Yes.

Mr. Nugent: One other thing on that subject. The authority to regulate pesticides and herbicides lies exclusively with the State Pesticide Control Board. Governing bodies and localities have no authority to so regulate.

Mr. Fields: Got it.

Mr. Nugent: So that would have to be removed from the ordinance as well.

Mr. Fields: Alright. There was a very, I thought, informative question raised about...assuming, you know, back to the feedlot issue and even though large feedlots may not seem to be a common feature in Stafford, they do exist. What about the calculations...did you understand the question about animal units per acre verses the current sort of arbitrary number and how different numbers could produce some unusual results...how the application of the numbers as existed could still produce negative results without getting to the core of what the distinction we were trying to make.

Mr. Harvey: Yes sir and that is probably a more fair and effective way of looking at how animals are allocated on a piece of property. I know other counties have done that in the context of their animal control ordinances. In Stafford, we do not have that at the present time.

Mr. Fields: So animal units per acre is a commonly accepted and utilized practice, we just don't have that in Stafford at this point.

Mr. Harvey: Correct.

Mr. Fields: Okay.

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Ms. Kirkman: Mr. Harvey didn't...in fact wasn't there an attempt within the last several years to do something like that through the animal control ordinance?

Mr. Harvey: Yes there was.

Ms. Kirkman: And then we may need to look at doing an ordinance, but I know through the land use through the Commissioner of Revenue, they do have guidelines about animals per acre for agricultural and other uses.

Mr. Fields: There was a question about how does this effects development vested to the Zoning Ordinance?

Mr. Nugent: Mr. Chair, pursuant to the State Code, if there is an approved preliminary plan that under the State Code is a significant affirmative governmental act. And as long as that plan remains valid then the property is vested as against and subsequent Zoning Ordinance. But it is only vested as to the development project that was approved. If the project changes or the vesting is lost then the Zoning Ordinance, this Zoning Ordinance if it is ultimately passed would apply to the property. But under the current circumstance for the gentleman who has a preliminary plan or spoke about a preliminary plan that was approved for a particular development, this Zoning Ordinance could not have, under State law, any application.

Mrs. Carlone: That was Eastman, Woodside that is what we are talking about. Pete could I just...

Mr. Fields: You have a follow up question to that?

Mrs. Carlone: Yes, well...

Mr. Fields: We are not doing comments now.

Mrs. Carlone: Okay.

Mr. Fields: Just questions. I am going down my list and we each will have a chance to go down our list.

Ms. Kirkman: Could I...I have a follow up question to that. So the statement that was made that the gentleman who had the approved preliminary subdivision plan that with this ordinance he would lose half of his lots. That is incorrect as long as he maintains his vesting or the approved plan.

Mr. Nugent: As long as the plan remains valid, he is vested with regard to the approved development project and the subdivided lots are going to stay as they are as long as the project remains the same and the plan remains valid.

Ms. Kirkman: Okay.

Mrs. Carlone: Mr. Chair?

Mr. Fields: Mrs. Carlone, yeah.

Mrs. Carlone: In the same vein...

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Mr. Fields: Thank you.

Mrs. Carlone: Someone mentioned Staffordshire with it's golf course...okay I will wait.

Mr. Fields: If you could hold it for just a second.

Mrs. Carlone: Yes.

Mr. Fields: They are having a consultation.

Mr. Nugent: I am sorry, is there a question?

Mr. Fields: Yes, Mrs. Carlone had a question.

Mrs. Carlone: Yes, someone mentioned Staffordshire and that was...they did have a golf course and I think about one hundred thirty-five houses. Now I believe that is still active, the Staffordshire. It had a two hundred foot buffer for the golf course which is not adequate because of the...now. Is that...how is that covered by this zoning now? Would it be affected?

Mr. Harvey: Mrs. Carlone, that project has approximately three hundred and fifty homes that are subject to a rezoning as well as an approved preliminary plan, so that project as Mr. Nugent described would be considered to be vested and be protected from these standards.

Mrs. Carlone: Okay.

Mr. Fields: Alright, that kind of pretty much covers...that covers all the questions that I had and I don't mean that to be comprehensive. So Mr. Vice Chair, Mr. Di Peppe.

Mr. Di Peppe: I will try to be brief, because I know...

Mr. Fields: Questions.

Mr. Di Peppe: Questions, I thought you wanted me to ask the questions that I...

Mr. Fields: Ask the questions that you have that have not already been asked.

Mr. Di Peppe: Okay. Real quick, about that sewage pump...one of the very first, I think it was Mr. Regan asked this question. I think it was the first speaker. If I am not mistaken that whole idea with the sewage pump, I thought a lot of that had to do with or at least part of that had to do with people that had pumps that were pumping sewage into our septic system. Remember the discussion we had the other day about that there were some people that maintain...because you had to maintain pressure in the pipes and that there was a concern that there needed to be a backup warning system because if there wasn't then a whole lot of sewage could then backup and then be a problem.

Mr. Harvey: There are two types of pump situations we typically see. One is for a drainfield situation where the drainfield is at a higher elevation than the basement or the first floor of the house where they are pumping up the hill so to speak and we also have a situation similarly with homes that are on county sewer where you may have what they call a low pressure sewer system where the number of

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homes have pumps and the combined homes form a pressure in the line which moves the sewage down the line. The code speaks to the low pressure systems as well as individual pumps. That may be one area where the Commission may want to consider if they should be treated differently. Pumps with individual on site sewage disposal systems verses pumps with county sewer.

Mr. Di Peppe: Do you know right now which one is the greater threat to reservoir? Are we more likely to get sewage, you know, on a system that is maintaining pressure on a county sewer line or is the threat bigger with individual septic tanks?

Mr. Harvey: I can not speak for the Utilities Department, but my recollection was their concern was all pumps at some point in time will fail, so it is a matter of maintenance and response. So from their perspective they are looking at it sort of equally.

Mr. Di Peppe: Alright. I am going to keep moving.

Mr. Nugent: Mr. Di Peppe your instincts are on target here. On paragraph H 2 as it is, written...as the ordinance is currently written, H 2 (d) talks about the sewage pumping and low pressure systems with the back ups and the containment structures. But there is a separate provision in paragraph H 3 (d) which talks about the on site sewage disposal system. So that indicates to me that there was a clear intent to separate the two and treat the two differently for different purposes. But to the extent that the Commission decides that the issue needs to be more specifically addressed in a more limited fashion, that can be done.

Mr. Di Peppe: Okay. One person, Mr. Grey, the second speaker asked why do public facilities get a pass? I guess I try to have to think of an example. Lets suppose, I am making this up out of pure cloth, but lets suppose you have a reservoir system and you are afraid that somebody, some terrorist organization was going to try to poison your reservoir and you wanted to put up some sort of monitoring system to watch for it. It would be a public facility, they would have to have the right to do that. We can't tie a future Boards hands to say well nobody can do...no government can do something that might be in the public good. And sometimes your government has to do things and I believe, I wanted to address that because he said why do you get a pass. I think it is a fair question. Lets see we handled the garbage, and I think here again they are trying not to bury garbage on the land, you know you...

Mr. Fields: Mr. Di Peppe you have got to ask questions. We are asking question of staff not interpreting...

Mr. Di Peppe: Right, okay, but for example the person that brought up the issue that I have a trash can by my mailbox, can I do that? Well yeah you can because it says in the ordinance normal things for household are perfectly acceptable. I think these are questions we need to answer these are the things that people say, can I do this? I know one question I would like to direct to staff. The sixteenth speaker, Mr. Higgins, I believe he is in the Marine Corp. He said look, I don't live here now, but I can't remember if it was three and a half or five and a half acres. I have this dream of coming back and building this house you know and doing all the things everybody normally does when they have a piece of land, how would...is this going to say I am sorry you bought that land and you can't build on it?

Mr. Harvey: Generally this ordinance can not prohibit people from building on their property because that would be a regulatory taking and that is something that is not permitted. In the case of someone's

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lot we would have to look at how is the lot configured, where is the drainfield allowed, because the ordinance allows for existing lots to locate drainfields. We would also have to look at where the house would be sighted. Again as I mentioned where there is an encroachment into the buffer for a structure we may have to look at a variance from the Board of Zoning Appeals. If there was a situation where the structures could not be built anywhere but within the buffer zone, then they have a clear argument for a hardship.

Mr. Rhodes: Mr. Chairman, as a follow up to that.

Mr. Fields: Yes sir.

Mr. Rhodes: Just to clarify the two questions that were related like that, one said what can I do if I am not ready to do anything now, and I just got an existing vacant lot and nothing else has been planned for yet. After two years and there was the comment that Mr. Di Peppe mentioned that if I come back here in five years, what can I do on my property? So part of the clear answer to that is that all the limitations associated with this ordinance were to pass, would impact those properties, would be applied to those properties.

Mr. Nugent: Excuse me if I may Mr. Harvey.

Mr. Harvey: Please.

Mr. Nugent: To be quite candid and I think we owe that obligation to the public, this ordinance as written would impact those properties. Those property owners would not be able to build. What Mr. Harvey was talking about is these property owners then could at that point when told that they could not build on their vacant lots to the extent prohibited by this ordinance as proposed might have an opportunity at that point to challenge the application or the restriction as an unconstitutional taking under the Fifth Amendment to the United States Constitution. But that is the process that would have to be followed unless the local government decided to either grant a variance or take some other procedures that were allowable under law to get around these restrictions. But as this ordinance is written that Marine and that other property owner would not be able to realize the dream that they spoke of.

Mr. Di Peppe: So you are saying that is a BZA thing that they would have to go through? Is that what you are saying.

Mr. Nugent: Well the variance is probably one route that they could take, but that is not the only route that they would have, not the only avenue they would have for some relief. But I just think to be fair to the public we have got to tell them that it is not going to happen based on the wording of this ordinance.

Ms. Kirkman: Mr. Chair.

Mr. Fields: Ms. Kirkman.

Ms. Kirkman: I just want to make sure I am understanding what you are saying. You are saying that they would not be able to build only if on say the five acre lot that was given, there was no way to build anywhere on that five acre lot and not meet all the requirements. So if they...you are not saying

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that every lot can not be built on it is only if they can not meet the requirements and at that point if they can't use the lot they would probably clearly qualify for a variance.

Mr. Nugent: Well for example, and you are absolutely right, my comments only related to the extent prohibited by the ordinance as currently written. But if you look at paragraph 4 c that prohibits construction in the reservoir zone that should not be an issue, but then you add paragraph 3 a that prohibits construction in the reservoir and buffer zones. As I understood the questions, the homes or the lots were entirely within those zones. So if the lots are entirely within those zones and you can't build in those zones they are out of luck.

Ms. Kirkman: Except for that is a clear qualification for a variance.

Mr. Nugent: It should be, but we can not guarantee that.

Ms. Kirkman: Right.

Mr. Di Peppe: Let me ask this question. The financial burden of making the applications to the BZA is what? Is that fifteen hundred dollars, it that five thousand...when you go before the BZA...

Ms. Kirkman: When I was on the Board of Zoning Appeals for residential property, the fee was five hundred dollars.

Mr. Fields: Alright, further question?

Mr. Di Peppe: Yes, can we answer Mrs. Pezzillo's question about grass cutting. It may have been slightly addressed before. There was some question about can I cut grass?

Mr. Nugent: This ordinance as written basically outlines a list of prohibitions. If what you want to do is not listed in this list of prohibitions, that means you can do it. Cutting grass is not listed in this list of prohibitions.

Mr. Fields: Okay.

Mr. Di Peppe: Okay. Just another minute, I just don't want to miss somebody's question.

Mr. Fields: Sure.

Mr. Di Peppe: Can I address one thing. You said ask a question, but I think Mrs. Adams...well it is just...I think it goes to the heart of what we are trying to attempt. She gave an excellent scenario because she talks about, please bear...I will try to make this short but this is very important. She raised an excellent point. She goes look we are farming on this land we have been farming on this land for years. We are not doing anything to pollute why are you putting this extra burden on us? And then she gave this excellent example, she said but by the way there are people down the road or next door or wherever, it doesn't matter, who have too many horses who eat the grass all the way gone. It is mud there, there is manure there. Every time it rains it runs in, but they are okay. I think it points to our...as a Commission to make recommendation, I hope you understand that we really believe that it is incumbent upon the county to protect its water supply. To everybody who drinks it, whether you get it or not in your own...through your own system, through a well not the county. We have to protect one

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hundred and twenty thousand people's water supply. We also have to be fair and reasonable. But I mean people are saying why are you doing this, why don't you wait until the water is a problem. No.

Mr. Fields: Is this a question?

Mr. Di Peppe: The question is, I think that she raises is what about those people that are doing all these things verses her. I say we are trying to be fair and we are trying with some of these regulations to address that, what about the people that aren't good stewards. One other quick thing, all about property right and you know...

Mr. Fields: Mr. Di Peppe, how is this a question for staff that was raised by the public?

Mr. Di Peppe: Well these were questions and comments raised by these people and I think they need to be addressed. When a person says to me how come you are doing this and violating my property rights then the next person gets up and says the guy next to me wants to build thousand foot wells you should not let him do that. He would look at you and go that is my property right.

Mr. Fields: This is...we are not debating property rights.

Mr. Di Peppe: Alright.

Mr. Fields: We have really got to stay on track.

Mr. Di Peppe: Alright. I just think it is...

Mr. Fields: We will never get though this.

Mr. Di Peppe: Let me look through this, I think that is it.

Mr. Fields: Chair and Vice Chair have had their crack at it. We will go down the line, Mrs. Carlone. Is there anything that we have not covered yet?

Mrs. Carlone: I am trying to read my writing. Something that one of the speakers had mentioned, Sam this has to do with something perhaps that can be rectified. Part of their total property, and this is a question. If they have five acres, back in 1965 or maybe 1964 they started building Abel Lake. Potomac creek was in the bottom through the middle. The properties on both sides went down to the creek. That property is now underwater, so I am wondering is that property underwater part of the total acreage that they would have and I wonder how that would affect their ability to maybe build. I think it is wrong, I think it needs to be changed so you don't pay taxes.

Mr. Nugent: My understanding and much of this work was done before I arrived. But my understanding is, as the one lady mentioned that there was a quick take. My understanding was that the county went around and acquired the properties that it needed in order to develop and create the lake. If that is the case, then I don't understand how the forty-five acres is still underwater would not now be owned by the county. I just simply don't have enough information to answer your question intelligently. Perhaps Mr. Harvey does.

Mr. Harvey: I know that parts of Abel Lake, as you said Mrs. Carlone, are in an easement rather than fee simple ownership. And for what ever reason that is why they acquired the rights for the reservoir

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back in those days. But the Commissioner of Revenue, they are going to tax you on how much land you own. I don't know how they do it with regard to land that is underwater. As far as the effect of this ordinance, the area that is within the maximum pool of the reservoir is in the reservoir zone, so it would be regulated based on the reservoir zone requirements.

Mrs. Carlone: Okay, I am going to check that out, because I think there is something wrong here. By the way Mr. Hart, I have four old hens and three old roosters. Alright, that is it.

Mr. Fields: Mr. Rhodes.

Mr. Rhodes: Yes Mr. Chairman, I just had one other item that I think could be worthy of a comment. Can you refresh in a concise fashion just how we got to two hundred feet verses what we do around other water areas with one hundred feet. How we came up with the two hundred feet.

Mr. Harvey: It has been my understanding that was something that the Utilities Department staff felt was important. Jamie may have some more background on that.

Mr. Stepowany: Thank you Mr. Chairman and Mr. Rhodes. One of the things in the staff report we tried to compare, we reference Spotsylvania's ordinance. Spotsylvania was actually one hundred and fifty feet from the mean high water line. And my understanding was it was the consensus of the sub-committee that felt the two hundred feet was the appropriate distance.

Mr. Fields: Alright, Mr. Rhodes, Ms. Kirkman.

Ms. Kirkman: Yes, I just have one question and that is the issue about the thousand foot wells. I just wanted to check in with staff, so in 2005 the Board passed a policy...a resolution to implement a ground water management policy and the second step was to draft the ordinance and in fact the consultant that the county had hired at that time, and I think you were even on the Board...

Mr. Fields: Absolutely. Draper Aden did the study.

Ms. Kirkman: Yeah, the Draper Aden report even had model language for what the ground water management ordinance might look like and that was four years ago and I just wanted to see where we are in developing that ordinance.

Mr. Harvey: Mr. Chairman, Ms. Kirkman, to date that ordinance has not gone forward.

Mr. Fields: Alright, is that all Ms. Kirkman?

Ms. Kirkman: Yes.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: Mr. Chairman, the questions that I wrote down have already been answered by county staff, both legal and planning. So I appreciate their interpretations and I think it helps the people here have a better understanding of what we are doing.

Mr. Fields: Thank you sir. Mr. Howard.

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Mr. Howard: Yes, there were two that I do not think were completely answered yet. One is the replace of failing or existing septic or drainfields. So if your drainfield is within that two hundred foot buffer and all of a sudden there is an issue with it and it fails or needs replacement, what happens? That was a question that was asked.

Mr. Harvey: Certainly, the ordinance say that if you have an existing lot prior to this ordinance being enacted, that you are able to install a new drainfield or replace an existing drainfield within that two hundred foot buffer, but you are encouraged to site it so you would minimize your impacts within the buffer.

Mr. Howard: Thank you. And the second one was, and this was...Mr. Stepowany read this, but that there was nothing found in the water. I thought there was a contaminate or two found in the water when it was tested. That is not true?

Mr. Harvey: Yes Mr. Critzer's statement said that at times there is an issue with fecal coliform, but that is associated with wildlife.

Mr. Howard: Typically wildlife that resides around the reservoir?

Mr. Harvey: Yes.

Mr. Howard: Okay, thank you.

Mr. Fields: Alright, that is all your questions? Alright is there anything we missed? Any last questions for staff to help or questions that we feel were raised during the public hearing that need clarification? Alright, with that then...it is before us, our time we...like it or not. Yes ma'am.

Ms. Kirkman: We had gotten some correspondence from the Attorney about some changes that might be needed to the proposed ordinance. Perhaps we should hear from our Attorney about that.

Mr. Nugent: The only correspondence was related to the Attorney General's opinion.

Ms. Kirkman: Olay.

Mr. Nugent: I did discuss the matter with Mr. Di Peppe with regard to some issues and I think Mr. Di Peppe addressed many of them but there may be some others that he wishes to address with regard to some recommendations that he might be willing to make.

Mr. Fields: That is the question I am asking, are we ready to put a motion on the table? Do we need to have something...do we need to make sure we are codified all of the changes and all of the modifications? And do we need...I don't want to take up excess time but it sounds like there are certain...even as advertised there are parts of this that will have to be struck because of the Attorney General's ...

Mr. Di Peppe: Because of the recent AG's ruling. For example the fertilizer and the...

Mrs. Carlone: Mr. Chair.

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Mr. Fields: Could we recommend bringing this back with...I just feel that we need to incorporate some changes and I think one of them was to change that, take out that numeric number...the fifty acres out of the feedlot for one and there were some other questions that...do you feel that we are at the point that we could request an extension to this date...

Ms. Kirkman: We can't.

Mrs. Carlone: To review some of these. We can't?

Mr. Fields: We can't request an extension from the Board of Supervisors?

Ms. Kirkman: Because the deadline is tonight, so if we don't act tonight it is...

Mr. Fields: It simply goes forward to them with no recommendation.

Ms. Kirkman: Well, no it actually, I think the way the statute reads is if we don't act tonight it is presumed that we have approved it.

Mrs. Carlone: Okay.

Mr. Fields: Right.

Mr. Di Peppe: See I have a problem with that because here is the night of the public hearing and we get all the questions and comments from the public and they say but you have got to vote on it tonight and they are all sitting there going why did I come down here and talk.

Mr. Fields: No, that is very...

Mr. Di Peppe: Well, but I am saying whatever it is to say to us tonight, you vote tonight on this...you better be willing to stay here for a while tonight because here is a question I need to ask legal. We sat down, we had a number of comments and questions and sat down and I have some, just for the most part and I want to do this in front of everybody, some minor technical changes, some changes in words, putting the in. We found certain things that were repetitive and should have been in a different part of the ordinance. It does not change the ordinance, brings it up and says okay we are going to put it this section instead of that section and then that caused renumbering for the other section. But having sat down with the County Attorney for a couple of hours, we went through it with a pretty fine tooth comb trying to find that and I want to do that in front of people so that nobody goes what is that all about. So that anybody sitting here can know exactly what we are talking about. But I still feel when somebody sends it to us, gives us the night of the public hearing and says make a decision, that is just bad government.

Ms. Kirkman: But we have had this for a while and we have already gotten one extension I believe.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Mr. Mitchell.

Mr. Mitchell: Mr. Chairman, I firmly believe that we should vote it up or vote it down tonight. These people came here tonight and this is the biggest room I have seen of people in...

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Mr. Fields: Quite some time.

Mr. Mitchell: Quite some time. I think we need to vote it up or vote it down. A lot of these people need to go to work in the morning and they will get up. I get up at 4:20 every morning, but I will stay as long as we need to stay. But I think we owe these people something for this many people to come out and sit and listen through this entire scenario. We should vote it up or vote it down and then they can leave here tonight knowing what we have. Tonight is the deadline, we need to take action or it is like we took no action and it is like these people's comments maybe did not mean anything. I think they meant a tremendous amount so we need to vote it up or vote it down.

Mr. Fields: I think we are required to do that at this point.

Mrs. Carlone: Excuse me Mr. Chair. Their comments are very important to us and that is why I would like to see and apparently we can not do it, but I would like to see some of these changes made. If we can do it, send it forward with proposed changes, but I don't think we have really discussed some of the issues that were brought up that we had not really looked at and especially the duplication.

Mr. Howard: Mr. Chair.

Mr. Fields: Just a second Mr. Howard.

Mr. Howard: Thank you.

Mrs. Carlone: I have really mixed emotions here. You are talking about denying it or voting it up or down one way or another. There are some changes here that I really think from the comments that were made that could be made to this. Now how can we handle that? I still have a problem...

Mr. Fields: Let me get Mr. Howard's question.

Mr. Howard: I was going to try to help Mrs. Carlone. I was going to call a point of order and ask the parliamentarian to answer the question officially. Is this a Virginia State Code that we are required to operate under in other words because the Board of Supervisors gave this to us and there is a certain number of days that requires us to respond. So could you just clear that up so that everyone understand that.

Mr. Nugent: If I recollect correctly, unless there is an extension I think the time limit is ninety days to act from the time of the referral. Now I don't have the calendar with me and I don't remember the history of this because this history has been...this ordinance has been around a whole lot longer than I have with regard to my responsibilities here.

Mrs. Carlone: Three years.

Mr. Nugent: So I can not tell whether or not this is the deadline, I just know that the State Code allows for ninety days in circumstances not dissimilar to this one.

Mr. Howard: Thank you and the second follow up to the point of order, now this could very well go to the Supervisors, up or down and they could send it back for revisions and we could go through the process and get it right.

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Mr. Nugent: Yes.

Mr. Howard: Right, so I just wanted everyone to understand the process.

Mr. Nugent: The important thing is, if in fact the Commission's intent is to do something different than what this ordinance shows now, you are going to need to allow for some process or time for that to happen and it is not going to be done tonight.

Mr. Howard: Right. Okay, thank you.

Ms. Kirkman: Mr. Chair.

Mr. Fields: Mr. Stepowany had something I think he wanted to add. I believe he wanted to refer...can I hold your question for just a second, he had a comment he wanted to...

Mr. Stepowany: There was a Resolution approved by the Board, the Planning Commission asked for an extension and the resolution specifically stated that the recommendation had to be made by tonight.

Mr. Fields: Okay, so this date is date specific from the Board of Supervisors Resolution.

Mr. Stepowany: Correct.

Mr. Fields: Yes Ms. Kirkman.

Ms. Kirkman: Just to try to get moving here given that we still have a number of items remaining. What I would suggest is that Mr. Di Peppe make a motion with the amendments that he has worked out with the Attorney, if those amendments do not cover all the other issues, then people can make specific, if there is a second to Mr. Di Peppe's motion, then people can also make a motion for other specific amendments. We do need to have a process to get this decision done and that is how I would suggest how we go about doing it.

Mr. Fields: Well there is a large scope of amendments, but I certainly think it is time to have a motion on the floor. I think the discussion here has been good because we are trying to get to a process but at a certain point I think we need to have a motion either for approval or denial that will move us forward I think. Ultimately we have to have a motion and I think it is pretty clear that there is more work that has to be done. I think we all can see that. So at this point procedurally we just need a motion to move this to the Board.

Mr. Rhodes: Mr. Chairman.

Mr. Fields: Yes sir.

Mr. Rhodes: I make a motion to recommend disapproval and with a strong caveat qualifying that they refer it back to Planning Commission again for continued work.

Mr. Mitchell: Second.

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Mr. Fields: Okay. Motion by Mr. Rhodes to recommend denial with a request to re-refer this issue to the Planning Commission for further work. Seconded by Mr. Mitchell. Is there discussion on the motion?

Mr. Di Peppe: I have serious concerns with not only the technical, and there is a list of technical things here, but if the public hearing is to mean anything at all, to finish and get certain answers for everybody so at least they understand in a readable way what it is that we are attempting to do so I have real trouble as much as I believe in protecting the water voting for approval of something that is not finished. And I am sorry it happened this way and they gave it to us this night. I don't like doing government that way.

Mr. Fields: I understand. We are all a little frustrated. Yes Mrs. Carlone.

Mrs. Carlone: Are we taking the vote?

Mr. Fields: Well we are having discussion. Yes Mr. Mitchell.

Mr. Mitchell: A comment sir. Each one of us has a placard with our name on it. On that placard is the representation of the district that we represent. You can go on the internet and see your Supervisor if you live in that district. Please call your supervisor and let your opinion be know. If we deny it will go to the Board, it will be sent back and we will do more work on it. But all Supervisors, all seven need to be aware of your comments and what you said tonight. Thank you sir.

Mr. Fields: That is a good point. I feel that...like I said I think this has been...I hope everybody understands, I understand that everybody has fears and concerns and frustrations but I think all in all this has been by far one of the very most constructive public hearings that I have ever had the honor to attend and be part of. I think every...people have worked on this ordinance a long time. I think it is understandable, I think most people...though people have varying degrees of philosophy on it, it think most people would understand that protecting the drinking water supply of not all the residents but two thirds of the residents of the county is obviously something that we take very seriously as a public responsibility. That being said, I think we all see that part of the process and I think that you should feel encouraged tonight a very constructive part of the process no matter how hard you try to think through these problems and I think you have to understand everybody that worked on this. This has been a lot of people working on it for a long time, was working from a sincere point of view to try to do the very best for the county. That there were many things that...many unintended circumstances, many novel sets of interpretations that had not been thought of is exactly why we have public hearings and exactly why you all came tonight and I would like to think it is exactly why all of your comments tonight have probably have completely changed maybe the outcome from what people thought it might be and is influencing directly the outcome of how we proceed tonight. Understand that our requirement to vote tonight is a procedural legal requirement, we don't have an option. I think all of us see that all of your concerns were many, many valid concerns raised. They all have to be incorporated and the document has to be reinterpreted and reexamined in the light of that. I think you should understand that sometimes we take votes and it is not always clear, I think you should understand that the vote we are taking tonight, the motion that is on the table is to recommend denial with an immediate re-referral is the most affirming response to you alls comments tonight that could be made. It is literally saying that everything that was said tonight is of such compelling value and changes everybody's perspective here that we have to look at it again. So I thank you all for your time and attention. I think you have had a very constructive affect on the process. I know that certainly a lot of these are very serious concerns, obviously the taking of property, my own personally strongest

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concern, well they are all valid concerns. I have a deep and abiding concern for the effect for the practice of agriculture particularly in the watershed areas. Localized agriculture and fostering and expanding local agriculture is along with local employment is the two keys to creating a sustainable future for Stafford. So I would be...it would be...I could never support something that was counter productive to the expansion, to the continuance of local agriculture. With that being said if there is any further comments, all those in favor of the motion signify by saying aye.

Mr. Howard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Motion passes 7 to 0. Thank you all very, very much for your time and we will keep working on it. Thank you.

Ms. Kirkman: Mr. Chair.

Mr. Fields: Yes ma'am.

Ms. Kirkman: There were two areas that came up that I would like to request staff to begin work on. One is looking at which part of the ordinance would be appropriate for addressing this issue of animals per acre.

Mr. Fields: Hold on a second I think...excuse me folks I appreciate that we all have been sitting still for a long time. If you could give us, just sort of file out quietly we are trying to do a couple of housekeeping items to finish this up and then we are going to take a break. If you want to just sort of sit we are going to take a break in about three or four minutes and then you can all leave. Or if you want to leave now you can, just remain quiet. Thank you.

Ms. Kirkman: Yes Mr. Chair. I was saying there were two issues that came up regarding some existing structural problems or deficits in our current ordinance and I was wondering...I would like staff to look at first off, what is the appropriate section of our County Code to address the animals per acre issue. I know that in particular has been an issue where you have non-conforming A-1 lots where you have got like one and two acre lots, but it is certainly was raised in the context of the conforming three acre lot. So I don't know what is the appropriate part of the code to deal with that, but if staff could come back us with some recommendations regarding that and if also staff could bring to us a groundwater management ordinance within the foreseeable future.

Mr. Fields: Alright, are there any other questions for staff before we take a short recess here?

Mr. Di Peppe: I am assuming that these technical things will be addressed if and when the ordinance comes back to us.

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Mr. Nugent: Certainly they should be. Mr. Chairman, I have a question.

Mr. Fields: Yes.

Mr. Nugent: As a follow up with Ms. Kirkman. The groundwater ordinance, you were talking about the Stormwater Management Ordinance relating to fertilizer?

Ms. Kirkman: That actually is the third one...that would be a third one. The ground management, and this was before Mr. Nugent you were a part of the county staff. In 1995 the Board passed a resolution approving a groundwater management policy and it required certain things like a study of the existing hydrology if the project was going to take more than a certain gallons per day out of the recharge area and the consultant recommended...provided model ordinance language and for whatever reason here we are four years later and we still don't have that, so it was that. But you are correct that is the third area which is to address the application of fertilizers, we need to have something in the Stormwater Management Ordinance, although I don't believe that is the purview of the Planning Commission.

Mr. Fields: The Groundwater Management Ordinance was certainly under my tenure. That was...the study was Draper Aden and I am sure Mr. Harvey is very familiar with it. It is very exhaustive and it has to do with two really key components. One is protecting the recharge area of the Potomac aquifer, which is the fall line...occurring along the fall line and then beginning the very long and arduous process of identifying the water supply in the fracture Piedmont zone, which is a much different thing. But of course as Ms. Kirkman very rightly points out there were some...they gave us a leg up, they did not sort of cast us adrift. They gave us some help in getting that done. Alright we are going to recess for about ten minutes and then try to move quickly through everything else. Thank you.

The Commission reconvened at 10:05 p.m.

7. RC2900007; Reclassification - Onville Retail Center - A proposed reclassification from R-1, Suburban Residential Zoning District to B-2, Urban Commercial Zoning District to allow, with proffered conditions, future retail development on Assessor's Parcels 20-84 and 20-85 consisting of 2.05 acres, located on the west side of Onville Road approximately 300 feet north of Garrisonville Road within the Griffis-Widewater Election District. The applicant has proffered conditions pertaining to land use, signage, site development, transportation, and the demolition of existing buildings on the site. The Comprehensive Plan recommends the property for Urban Commercial and Urban Residential land uses. The Urban Commercial land use designation would allow development of commercial, retail and office uses. The Urban Residential land use designation would allow development of a variety of residential housing types at a density of up to fifteen (15) dwelling units per acre. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the B-2 Zoning District. **(Time Limit: December 15, 2009)**

Mr. Fields: The reclassification for Onville Retail Center.

Mr. Harvey: Mr. Chairman, please recognize Joey Hess for the presentation.

Mr. Fields: Mr. Hess.

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Mr. Hess: Thank you Mr. Chairman, Planning Commissioners. Staff brings to you tonight, item number 7. It is a reclassification case. The case number is RC2900007, it is the Onville Retail Center. The property owners are Chung Hee Le and Paul Tavara. The subject properties of the reclassification are Assessor's Parcels 20-84 and 20-85. Both of these properties consist of approximately 2.05 acres. The request is to rezone from A-1, Suburban Residential to B-2, Urban Commercial. The existing use if vacant, there are two abandoned homes that have been identified, one on each property. The location is approximately three hundred feet north of the Garrisonville Road/Onville Road intersection. The subject properties are located to the west of Onville Road. Here is a picture of the zoning map. As you can see the two featured properties are in the middle in yellow they are as I mentioned before suburban residential, there is to the north more suburban residential that is undeveloped, this property right above. We have commercial on the east, the south and the west side of the property with various different commercial retail and office buildings. We also have a condominium community to the northwest in orange. The Land Use Plan calls for uses to be of Urban Commercial in nature. We believe this is along the lines of the HCOD, the Highway Corridor Overlay District. And of course some of the property falls within Urban Residential Land Uses or recommends Urban Residential. Here is a picture of the aerial photograph. The area as you can see there is an abandoned home right here and an abandoned home right there a 7-Eleven, a CVS, Doc Stone Professional Offices in this area and more retail commercial along here and the condominium community to the northwest. Here are some aerial shots, one taken directly across the street you have Onville in the foreground, in the background you have the first abandoned house. This is on Assessor's Parcel 20-84 and then Assessor's Parcel 20-85, as you can see the abandoned home. It is kind of hard to see with all the vegetation growing up all around it. Here is a picture facing...going northbound along Onville Road. As you might see on you Generalized Development Plan, this is a dedicated right turn lane coming up from the intersection of Onville Road and Garrisonville Road. It ends at Worth Avenue which is right around this area. After that Onville Road is a two lane road all the way up to the Quantico Military Base. Here is a picture of it going southbound, the subject properties are right here located with all the vegetation. Doc Stone here on you left and in the background this is CVS right here with the monument sign and of course the intersection with Garrisonville Road. Here is a shot taken directly across from...the subject properties are behind me, taking a picture across to where Worth Avenue comes into play, as you can see it has a right turn lane and a left turn lane and then of course traffic can go the opposite direction into Doc Stone commercial development. The proposal, as mentioned earlier, it to rezone the two properties from R-1 to B-2 to allow for future retail development. The GDP shows a one story, eighty-four hundred square foot building with approximately seven store fronts. It also has a height limitation of thirty feet on it. There is a proposed commercial entrance that would align with Worth Avenue, so it is pretty much...right now it is a T intersection with Worth Avenue coming in to Onville Road so this would make it a cross intersection. They are also proposing a parcel connection that would help give a better flow of traffic within these commercial developments. Ultimately the build out may vary from what is shown on the GDP because the GDP is not being proffered but staff says that with the overall size of the properties, any variation would not be significant from what is already being shown on the GDP, because the properties are so small. Here is a picture of that Generalized Development Plan, the biggest focus here was Onville Road, there is in the works and in some plans in the draft Transportation Plan and in the Environmental Impact Statement, from the Marine Corp Military Base about a four land expansion of Onville Road. So staff's objective was to get most of the property in the future development back away so that there was enough right-of-way dedication to allow for the future expansion that is mentioned in those documents that is talked about. As you can tell the building here sits in the back, your loading area with your dumpster, they have identified where they are going to put their stormwater approximately. There is a transitional buffer to buffer away from the R-1 property that is zoned to the north. There is also screening to the south at CVS and the street buffers here. Just to kind of give you a general idea where

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things are laid out. This was the architectural rendering that the applicant had submitted. It is predominately brick; staff did have some concerns with it. I think the expectation was they were looking for a little more architectural design, maybe a few more windows to cause a break in the brick. I don't think this is what the applicant was shooting for but this was what was submitted. Ultimately what goal is subjected here is to, since we don't have any idea what could be potentially be built here, was to make something fit within the surroundings. With the CVS and the Doc Stone Professional Office and the 7-Eleven that are in the adjacent area of this proposal. The transportation impact study that was submitted by the applicant, evaluated the proposed site entrance on the Onville Road. Once again this is the one that is going to align with Worth Avenue, the study finds that the proposal is going to generate approximately a little over eight hundred vehicle trips per day, with one hundred and forty vehicle trips per hour at its max. So this does not meet the threshold of 527. The findings also stated that the construction of a dedicated right turn lane in front of this property would mitigate its impacts. If you look at the GDP, to the south the CVS already has a dedicated right turn lane, so this would be a continuation of that going north away from the intersection of Onville and Garrisonville Road. Staff also notes that for future traffic flow there are future inter-parcel connections that are proposed that connect with the property to the west and the property to the north. Once again, these are all anticipated to help with increased traffic flows in the future coming down the pipe line. They also are proposing to proffer fifty-five feet of right-of-way dedication from the center line of Onville Road. Some other information, the site is to be served county water and sewer. There is an existing twelve inch water line and an eight inch gravity sewer line that is in the proximity of the property. There were no cultural resources identified so therefore no Phase I was recommended, no Phase I study was recommended excuse me. An architectural survey was conducted by staff and members of the Historic Committee. There were no environmental features identified such as RPA, wetlands or perennial streams. Some of the proffers outlined, some of the major proffers were there were by-right and conditional uses that were stricken out, they were prohibited, they were proffered out. The max height of the principle building, and I guess any other buildings, was put a max at thirty feet. Locations of the commercial entrance, loading spaces and the dumpster were proffered to substantial conformance. There was a proffer in there for the construction of inter-parcel connection up to the site's property line, so it would be a stub-out. That was in regards to connecting with CVS. There was, once again, the right-of-way dedication for the future expansion which was fifty-five feet from centerline. Within their proposed transitional buffer that I pointed out that was along the northern end, the northern boundary of the property, they have proffered to plant approximately twenty-five percent of those required plant units as evergreens. Staff did have some concerns with some of the proffers from their September 4th Proffer Statement which is in your packages. If you look, there was also a handout that was given to you tonight that is a revised Proffer Statement. It is dated September 11th so we received it on Friday. If you just grab that for a second, I was going to go through and highlight some of the proffers that staff had some concern with. In particular, the first one was the construction of the dedicated right turn lane as shown on the GDP. There was no language in the Proffer Statement that spoke to that, so the applicant went back with their attorney and added that proffer statement in there. That happens to be proffer 4.F. I won't go through and read them. I was going to go through and read them but since it is getting kind of late. Proffer 4.F. addresses this concern. There was also another concern, as I just mentioned, on the previous slide that they were going to stub-out their connection with CVS but not actually punch through to actually connect pavement to pavement with CVS. So staff recommended that they put some language in there that at least shows that they are going to try to make the attempt to obtain permission and get the easements granted from CVS to get that connection to happen all the way through and then how they work out their costs, their share of that, that is between the two of them. But we at least want to see that we are going to get that inter-parcel connection. We also talked about preserving vegetation along the northern boundary. Oh, I am sorry... that proffer that deals with the good faith attempt was proffer 4.A. The preservation of

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vegetation along the northern boundary was a suggestion that came up with other staff members and it seemed like a good one. As you saw in those aerials, there was a lot of good vegetation there. So we try to want to put our best attempt up there to try to keep the vegetation and, of course, letting the applicant know that there are credits involved when you preserve existing trees. And we also felt with the property to the north being zoned R-1, the condominium, the community to the northwest, and there is actually, you could not see it, but there is a townhouse community above the undeveloped R-1 property, we thought this would be a good screen to screen out any light or noise or what have you. So we will try to put in there to make a best attempt effort to preserve the existing trees on that northern boundary. So, that was proffer F-3 on that September 11th proffer sheet. And then the last one was exterior building materials. Once again, the goal was to try to get this building to at least get an idea of how this building was going to fit in its surroundings, so they put in a proffer which is proffer 5.D. As you see, there are other minor changes as well that were discussed, especially under 4.E., the proffering of the right-of-way dedication. There were some concerns from the transportation staff since the four land expansion of Onville Road might be happening very close to this approval or potential approval maybe, that the right-of-way dedication be in place by the time VDOT has designed the final plan for how that road is going to be expanded. As it is right now, the right-of-way dedication would not happen until a site plan is approved. Positive features. We said that the plan was consistent with the current land use plan and it is consistent with the established commercial development pattern of the area. As we said, the proffers mitigate the negative impacts on the surrounding residential areas and with the inter-parcel connections we see that the traffic flow is going to be better. The potential negative impact is going to be the visual impacts on the existing residential development and potential future residential development. And with that, staff recommends approval of this application understanding that with a majority of the proffers as proposed.

Mr. Fields: Any questions for staff?

Mrs. Carlone: Yes. Joey, I have a couple of questions. I am concerned about the Worth Avenue and their entrance/exit. That is a bear trying to get out of CVS onto Onville. That is not far enough down. VDOT usually wants about 200 feet between signals, is that right?

Mr. Hess: Are you talking about the right in/right out that CVS has onto Onville Road?

Mr. Rhodes: That is not Worth, that is up here.

Mrs. Carlone: Oh no, I am not talking about across here; they are going to have an entrance to go across so I am talking here about the signal. There is not enough distance, is that correct? Or is there enough distance to have the signal going into Worth Avenue?

Mr. Hess: I believe there is enough distance if you are talking about where their commercial entrance is going to align with Worth Avenue and its distance where Onville and Garrisonville, their section down there. I believe there is enough distance there. It does go outside the standards. I can't remember what the standards are off the top of my head.

Mrs. Carlone: You mentioned there was further past that going towards the base, did you say there was another piece of property going to be developed next to this?

Mr. Hess: No ma'am.

Mrs. Carlone: Okay.

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Mr. Hess: What I was saying is that there was property to the north of these two properties that was on the zoning map that is undeveloped right now and it is zoned R-1. The way staff is viewing this is a transitional area where commercial development on Garrisonville Road comes to an end and we start seeing more residential pattern type development after that. So there is a six acre property to the immediate north and that is why we are talking about doing the buffering and preserving the trees on the northern end.

Mrs. Carlone: That was another issue. The buffering, is it mostly deciduous or is it mixed?

Mr. Hess: I would not know.

Mrs. Carlone: Because I was going to say if possible... well, that will be for the applicant. Okay, so there might be a possibility of a signal. It is really bad there Joey, to go down Onville Road.

Mr. Hess: I don't think the development warrants a signal at that intersection.

Mrs. Carlone: The traffic volume not at this time. Anyway, it is really bad. The building exterior; did they mention... I mean, that is not exactly attractive if they are building. Did you discuss with them perhaps more embellishment on the building itself?

Mr. Hess: We did and they addressed it in the revised Proffer Statement which is a handout that was given you today so that is not part of your package. It is under miscellaneous. It is 5.D.

Mrs. Carlone: I have that and it says the building materials.

Mr. Hess: Right; exterior building materials.

Mrs. Carlone: But it does not say anything about the architecture itself. That is, I don't want to say the word not attractive, but it's not. And I think they can do a lot better than that warehouse look.

Mr. Hess: Sure. I think that is the intent of this proffer is to proffer out certain building materials to not be allowed.

Mrs. Carlone: Materials, but it does not do any architectural features.

Mr. Hess: Okay.

Mrs. Carlone: Okay, but I will talk with the applicant. Oh, the mixture... you are not sure about the mixture of the buffer, if it has a good mixture of evergreens, because during the winterscape for the people in that complex, all of a sudden they see this. Okay, thanks.

Mr. Rhodes: Mr. Chairman? Just to clarify a few items. Where we talk about exterior building materials on the modified Proffer Statement, paragraph 5.D., it doesn't even say that they are going to limit it or emphasize primarily like brick like they have on the little drawing thing there. Was there any discussion about getting some scoping or limitation to what those exterior materials would be?

Mr. Hess: From a staff perspective we did talk about trying to get the building more oriented towards how CVS is built, how the Doc Stone Professional Center is built, the 7-Eleven. We did not really get

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into the facades, the accents, we did not get into those specific details but we did say we want to look at something that will blend in with the character of the community.

Mr. Rhodes: It does not really say that though, it just says no unpainted cinderblock and no butler metal walls. And just to clarify, they are not willing to proffer the GDP or at least at this point in your discussion.

Mr. Hess: Right. They have not proffered the GDP. Originally staff gave them suggestions because this was submitted without a Proffer Statement, which is not a requirement but we did in our comment letter back to them suggest some proffers.

Mr. Rhodes: And what does fifty-five feet from the centerline take us to? Does that just allow for two lanes?

Mr. Hess: That is going to allow for the continuous right turn lane and then a potential other lane.

Mr. Rhodes: So, right now there is just a single lane and then when you get all the way up near CVS there is a turn lane. So this would allow for two lanes coming south plus a turn lane? Is that what fifty-five feet allows for?

Mr. Hess: I believe so because right now as you are coming down there is the through and then there is the continuous right turn and so...

Mr. Rhodes: But in front of their property right now there is just one lane.

Mr. Hess: Yes, it would add another lane.

Mr. Rhodes: So it would add another lane plus the ability for the turn?

Mr. Hess: Well, right now in front of there property there is just two lanes.

Mr. Rhodes: Right, one north and one south.

Mr. Hess: Right, and then as you get past it going towards the light there is a continuous right turn lane that comes in front of CVS. So they would continue that right turn lane and then there would be right-of-way dedication for a future lane.

Mr. Rhodes: Okay. That is all I had Mr. Chairman.

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

Mr. Di Peppe: Are they saying that they are not going to proffer a GDP because they do not know who their tenants are going to be? Because we all the time get GDPs proffered when they don't know who the tenants are. How would they possibly know in so many cases? Even though I am generally in favor of replacing residential with business because it pays the bills, with that architectural rendering I would never support this. We are going to see a much better one later on tonight.

Mr. Fields: What is the question?

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Mr. Di Peppe: Well, what I am questioning is when they came in and brought that design in, I don't think you are surprised at these reactions at what we are normally used to seeing.

Mr. Hess: We did suggest that they submit, and once again it is not a requirement to submit an architectural rendering, but we did suggest that they submit an architectural rendering. We did not really specify what it should look like, that is obviously at the applicant's discretion. I think we would say we were a little surprised by it too but for the time sake it was something that was just submitted recently. There was a comment that we want this to look more like its surrounding features; once again to blend in with the community.

Mr. Di Peppe: I will address the rest of my questions to the applicant. Thank you.

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

Ms. Kirkman: Yes, when a rezoning application is submitted you get some kind of verification from the Commissioner of Revenue about the property status. Is that correct?

Mr. Hess: Correct.

Ms. Kirkman: So, just to make sure I understand correctly, these properties are owned by a combination of individuals, not by LLCs or corporations?

Mr. Hess: That is correct.

Ms. Kirkman: So, the ownership affidavit is incomplete. It is missing an address for one of the individuals. And in addition to that I wanted to verify that you have the signed permission of all the individual owners for this rezoning application.

Mr. Hess: To answer your first question, there were two affidavits.

Ms. Kirkman: Right, there were two different properties. It is for address 17... I am guessing because that is what's circled... 17 Onville Road. There is no address listed for Merylyn Salas.

Mr. Hess: I believe when I went back and looked at this... I am going to botch this totally... Domingo, I believe they live at the same residence. I think that is something that can be addressed by the applicant or the applicants.

Ms. Kirkman: Do we have the written... I don't know what the appropriate form from Planning is, but we have had a problem before with the rezoning getting all the way to the Board of Supervisors and there was a problem of ownership and we had the same thing happen on the Board of Zoning Appeals. With this many individual owners, do you have the signed permission of all the individual owners for this rezoning?

Mr. Hess: I believe the application affidavit has an officer or someone who speaks on their behalf...

Ms. Kirkman: But that is why I asked if this was owned by a corporation because that is when you can have an officer do it on behalf. This is not owned by a corporation, it is owned by individual owners and do we have the written permission of all the individual owners for the rezoning?

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Mr. Hess: I would have to look at the case file but I don't believe so. I believe the two individuals I mentioned are acting on behalf of all the property owners.

Ms. Kirkman: Well, is there something in the file that says that... is there a notarized statement that they have the authority to, that they have power of attorney or whatever the appropriate legal vehicle is to act on behalf of those individual owners?

Mr. Hess: I would probably say not. No, I do not think so. I do not think I have owner consent.

Ms. Kirkman: Mr. Attorney, can we go any further with this?

Mr. Nugent: Not likely because I think the address is a requirement, is it not?

Ms. Kirkman: Yeah.

Mr. Nugent: And it certainly would be... it is up to the Commission. The Commission could decide to dispense with that at this particular point as long as it is going to get done before the Commission formally acts on what's before the Commission. But, if the Commission chooses not to because they want to be certain that the property owners authorized this particular consideration, then the Commission has that prerogative.

Ms. Kirkman: Do we have all the individual property owners here tonight?

Mr. Hess: I am not sure.

Ms. Kirkman: No? I just think we need to know that all the property owners have agreed to this rezoning application.

Mr. Fields: We will get a chance to talk to the applicant and I would suggest maybe we have conversation with the applicant before we act. That is an extremely good point. I appreciate you bringing it up.

Ms. Kirkman: And I just wanted to ask you a question about the proffer language. In 3.F., the staff recommendation was that the existing vegetation be preserved. The language in 3.F. is pretty weaselly language; it says every attempt will be made which, you know, means it may or may not happen. Is there any reason why that vegetation cannot be preserved?

Mr. Hess: I would defer that to the applicant. I think their engineers were going to address that.

Ms. Kirkman: Okay. But from your perspective as staff and what you know of the site and the proposed plan, is there any reason that it could not be preserved?

Mr. Hess: You know, there was discussion about some of the health of the trees. As is mentioned there, there are some things that when this statement was crafted that there was some concern that they would have to keep the dead trees because they could not remove them.

Ms. Kirkman: Where does it say they would have to keep the dead trees?

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Mr. Hess: Well, it doesn't but I think the caution was, and once again I am not writing these proffers, but at least the way it was explained to me through their attorney was that there was concern if some of the trees had to be kept they might have been sick or something like that and they would feel like they would be tied into that. So, that is why I believe the attorney phrased it the way that he did.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Okay, any further questions for the applicant... I mean for staff? Alright. Is the applicant here? Does he wish to speak? Obviously I think we have a couple questions.

Heather Jenkins: My name is Heather Jenkins. I work with the firm that prepared the GDP so if there are any questions that I can help answer.

Mr. Fields: What firm is that, Heather?

Ms. Jenkins: AlexCom and Associates.

Mr. Fields: Thank you very much.

Ms. Kirkman: Just real quick. You're not an attorney representing the applicant.

Ms. Jenkins: No. He is not here this evening.

Ms. Kirkman: (Inaudible).

Mr. Fields: I think the first question we really have is regarding this affidavit. Is one of the applicants'... would they be willing to address the Planning Commission on that issue? At this point it is not clear to us from the documentation about the address, the possible shared address of two applicants, and it is not clear that there is a clear line of authority and power of attorney to represent all of the property owners involved in this process.

Paul Tavara: I can talk to which one or the other property, the one on 17 Onville Road. We are basically five families involved. The owners are myself, Paul Tavara, my wife, Maria Tavara, and also my niece, Mery Salas and my niece's husband, Domingo Carranza and my sister, Rita Salas and my brother-in-law, Rolando Salas. Which they all agree to rezone this location.

Mr. Fields: Merylyn Salas and Domingo Carranza than both live 13204 Nicholson Drive, Woodbridge?

Mr. Tavara: That is correct. They are husband and wife.

Mr. Fields: Both of those individuals live at that one address?

Mr. Tavara: That is correct.

Mr. Fields: Do we have...so you are not...this group of families is not formally organized as a corporation or a LLC?

Mr. Tavara: No, we are not.

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Mr. Fields: Do you have any signed statements from all the individuals involved that...a, that they all agree to all of these? I think you understand our concern, we are not...we don't distrust you, but we have to be very, very clear that all of the owners of these properties are in complete agreement with all of the things presented here.

Mr. Tavara: I do not have it at this time, but I can provide it.

Mr. Fields: You can provide that, okay. Thank you, unless you want to answer any of the other questions?

Mr. Tavara: I guess.

Mr. Fields: Thank you sir, I appreciate it. Yes Ma'am would you like to address...I think we had the...I don't want to speak for everybody, but we had obviously a large issue with the architectural renderings. Can you amplify, do you have a response to that concern?

Heather Jenkins: The intention was to provide something very basic that did not lock them down into too much detail one way or the other. Because at this time they are not certain who or what type of businesses other than those that have been proffered out are going to be in those units. It could be a bank, it could be an individual or something like a restaurant. There could be a very wide variation of what the actual building would end up looking like.

Mrs. Carlone: Excuse Mr. Chair.

Mr. Fields: Yes Ma'am.

Mrs. Carlone: Excuse me, would your client be willing to do something about this facade? I think someone else...this is not acceptable, this architecture. This is...would the client be willing to do something different with this facade? The brick is fine, but do something to this building?

Heather Jenkins: I can discuss that with them.

Mr. Fields: Yes, Mr. Rhodes.

Mr. Rhodes: Mr. Chairman, I would just...my anticipation is that at most this is going to committee while we wait and clarify some of these points. I would highlight out for the consideration of the applicants, once they resolve their authorities among themselves. That certainly at minimum some of the proffering on the materials on the exterior will at least go some way along giving some degree of confidence in what the exterior might look like. Certainly a GDP that could be proffered, some exterior visuals that could be proffered, but certainly some greater limitation on the exterior surfaces that will be there would be a first step in the process.

Mr. Fields: I think that is important to communicate. Are there any other questions for the applicant or the applicant's representative?

Mr. Di Peppe: I don't know if this would be helpful to have staff show example of what we normally see. Just as an example, because they may not be aware of what we normally get and there are plenty

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of examples that staff has of what normally comes...because what we accept at the stewards is what the county looks like, so we are pretty particular.

Ms. Kirkman: AlexCom has prepared many plans for this county and I don't think I have ever seen a rendering coming from your firm that looks like this. The firm knows what to do.

Mr. Fields: It is all in the computer, you can generate those things and there are programs that have stuff ready to go at the push of a button. Mr. County Attorney, I do want to ask this question about proceeding with the public hearing, as obviously we can not dispose of the issue because we are pending the verification of ownership on these properties. Do we jeopardize the validity of the public hearing if we proceed with the public hearing now? Knowing that we obviously can not act on it tonight because of that, but because people...it is scheduled and people are here there is obviously a matter of convenience. I am kind of looking for your guidance a little bit on how we should proceed.

Mr. Nugent: My suggestion is that the public hearing address the matter that is going to actually be considered by the Commission. And if in fact the matter is going to be significantly or substantially different, in terms of architectural design and maybe other features, that it be reset for a different time.

Mr. Fields: So we should hold the public hearing on what is before us?

Mr. Nugent: Yes.

Mr. Fields: But the legal issue of the ownership is putting that in abeyance is not going to jeopardize the legal validity of the public hearing.

Mr. Nugent: It should not.

Mr. Fields: It should not, that is my technical question.

Ms. Kirkman: I just have a question about that. Mr. Harvey, don't we have something in our procedures to insure that all the property owners have approved the application or have consented to the application for the action on their land?

Mr. Harvey: Yes there is a required statement of understanding that is supposed to be filed with the application.

Ms. Kirkman: Was that filed with this application?

Mr. Hess: I am sorry, I did not hear the question.

Mr. Fields: Was the signed statement of agreement from of the property owners filed with this application?

Mr. Hess: I think what we had is...we had two property owners, one on one property and one on the other property. Since they put their names as the applicants and there was a...like I said the application affidavit does state that have the individuals listed on this affidavit been notified for the purpose of this application. It is checked off yes, since they are the owners of the property. Staff, and I hate to use the word assumption, made the assumption that they all were in agreement with this reclassification. What you are asking for is an owner consent letter which pretty much give the

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permission, so there was some confusion as far as the fact that we do have property owners that signed these affidavits, said they notified the other property owners on...that have an interest in the properties and that they have been notified and that they agree to this rezoning. That is simply put, usually when we get owner consent it is usually someone representing on behalf of the property owner.

Mr. Fields: Right.

Ms. Kirkman: But that is what we have here, you have two property owners who are representing multiple property owners. So the short answer is no, the consent was not obtained.

Mr. Fields: To its full extent.

Mr. Hess: To its full extent.

Mr. Fields: In the interest of time, we need to move on. We obviously have some unresolved issues with this but let's go ahead and open the public hearing on the issue as presented. Since it was scheduled and there are some people here. Is there anyone at this time who wishes to speak for or against this rezoning application...reclassification application? If not I will close the public hearing. This is in the Griffis-Widewater district.

Ms. Kirkman: No, I believe...would you double check that, I think...is it in the Rock Hill? That is the next one, okay.

Mr. Rhodes: Griffis-Widewater. Over 610 it is yours, under 610 it is mine.

Ms. Kirkman: Well you know there are some supervisors who claim like if there property...if their district touches the street it is theirs.

Mr. Rhodes: It does not.

Ms. Kirkman: Okay, I am going to propose that we defer any...I make a motion to defer action on this until ownership is established properly.

Mr. Di Peppe: Second.

Mr. Nugent: Mr. Chairman, excuse me, for the record did you want to acknowledge the absence of Mr. Howard pursuant to his recusal?

Mr. Fields: Oh, okay, sure we will officially acknowledge that in this vote the vote will tally...the total votes will tally six as Mr. Howard has recused himself from this issue. So we need...we really need two things. Obviously we need to move this to the next available work session. We need to schedule it for a work session as soon as we have the signed agreement of all the property owners. Until that is obtained there is no point in setting it up for a work session. When that is obtained then we will take it to the next work session. Obviously we have a lot of architectural and proffer...

Mr. Rhodes: The next earliest one is the 21st I think.

Mr. Fields: The next available one assuming we get those statements signed. So all in favor signify by saying aye.

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Mr. Di Peppe: Aye.

Mrs. Carlone: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Rhodes: Aye.

Mr. Fields: Aye. Opposed? Motion carries 6 to 0. Thank you. And next...I assume we can take 8 and 9 together, Stafford Crossing Community Church. Thank you all for waiting so patiently, I know this has been a long night.

8. RC2900184; Reclassification - Stafford Crossing Community Church - A proposed amendment to proffered conditions to allow a place of worship and related activities instead of residential development and to amend related proffered conditions, in an R-1, Suburban Residential Zoning District, on Assessor's Parcels 46-21, 46-26 and 46-27 consisting of 48.80 acres located on the east side of Forbes Street, 600 feet south of the Layhill Road/Forbes Street intersection, within the Falmouth Election District. The Comprehensive Plan recommends the property for Suburban Residential land use. The Suburban Residential land use designation would allow single-family residential development at a density of up to three (3) dwelling units per acre. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the R-1 Zoning District. **(Time Limit: December 15, 2009)**
9. CUP2900185; Conditional Use Permit - Stafford Crossing Community Church - A request for a Conditional Use Permit for a place of worship in an R-1, Suburban Residential Zoning District, on Assessor's Parcels 46-21, 46-24, 46-25, 46-26, 46-27 and 46-29A consisting of 54.78 acres located on the east side of Forbes Street, 600 feet south of the Layhill Road/Forbes Street intersection, within the Falmouth Election District. **(Time Limit: December 15, 2009)**

Mr. Harvey: Mr. Chairman, please recognize LeAnn Ennis for the presentation.

Mr. Fields: Mrs. Ennis. Ladies and gentlemen, Gordon Howard has returned to the dais.

Mrs. Ennis: Computer please. Items number 8 and 9 is a Reclassification and Conditional Use Permit for Stafford Crossing Community Church. The applicant is Clark Leming. The Assessor's parcels for the Reclassification are 46-21, 46-26 and 46-27. The Assessor's parcels for the Conditional Use Permit are 46-21, 46-24, 25, 26, 27 and 29A. The parcel size for the Reclassification is 48.8 acres and the Conditional Use Permit is 54.78 acres. The request is an amendment to proffered conditions on the property zoned R-1, Suburban Residential, and a Conditional Use Permit for a place of worship in an R-1, Suburban Residential District. The existing use is unoccupied residential dwellings and outbuildings. It is located on the east side of Forbes Street approximately 600 feet south of Layhill Road and Forbes Street intersection. This is the current zoning map and as you can see it is all Suburban Residential here, it was rezoned this, and we have townhouses over here. There are commercial areas up here on Route 1. The land use map shows this as Urban Residential and Suburban Residential. The orange area here is the Urban Residential area. This is the aerial photograph and what I pointed out here is because it is the two applications, these three parcels here

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are the reclassifications and then the whole... all these parcels in red are the Conditional Use Permit. The background on this, the history, is it was rezoned from A-1 to R-1 in 2006 and it was approved for 105 single-family detached homes with proffers. A preliminary plan was approved for the 105 single-family houses in 2007 and a construction plan was submitted in 2007 but it only had one review and it is not an approved plan. The proposal is to propose a church located on the southern portion of the property. Its access is off of Forbes Street. It will have a maximum of 18,500 square feet in the size of the building. The maximum seating is requested to be 550. The material used on the structure will be cast stone, block, stucco and glass. There will be three lanes at the entrance, two to come into the church and one to come out of the site. They are proposing ball fields and a multi-purpose court and there is a Civil War Campsite on the site and they will be providing five parking spaces and a walking trail access to it. This is the overall GDP here and then the next slides I have, this is the entrance. This is Forbes Street here and this is the entrance coming up into the site. This blow-up of it is the church site here. This is the Berry cemetery. If you look here you can see where some of the existing structures were that will be removed. And then north of the church, these are the ball fields where they are going to have two baseball fields and a multi-purpose court located here. They have an access easement, access road, that comes around from the church that goes to these ball fields. This is the Civil War Campsite here. These are preservation areas that they are proposing. This is the Civil War site and more preservation area here. This is the gravel access road that they are providing coming into these preservation areas. This is the architectural renderings that they are proposing; the materials that they are going to use. The transportation impact analysis was submitted in July of 2009. The study findings showed that 169 vehicles per day during the weekdays would occur. On Sunday during their peak hours they have showed that 347 vehicles per day would be for the church. There is no mitigation measures warranted for the traffic impact analysis. VDOT did suggest that through their study that a dedication of the right-of-way be provided, which is a requirement anyway of fifty-five feet of right-of-way, as well as the extension of Forbes Street where they would be required to have twenty-five feet of right-of-way dedicated. The right turn lane on Forbes Street and to the entrance was requested by VDOT and they had made a consideration for a left turn lane on Forbes Street into the entrance but after further study after they had made the initial letter to the County saying what they wanted they came back and said that after further study the entrance was not warranted. Other information that we have provided you is that they are to be served by public water and sewer. The wetlands were delineated and there is no RPA on this site and no additional environmental impacts. The cultural resources that they showed us on here were they completed a Phase 1 and a Phase 2 archaeological investigation. There were two dwellings and eleven outbuildings. There was a location of two family cemeteries which they found the names of the cemeteries. There was a Civil War encampment, a Civil War cemetery, forty-one hut depressions and thirteen grave depressions. The Historical Commission has recommended signage for the cemeteries, a thirty-five foot buffer around the cemeteries, fencing around the cemeteries including the buffer areas, and cemeteries placed in easements or separate parcels and conveyed to an entity for perpetual easement. The proffers that were submitted, what they did was they removed all the proffers dealing with the single-family dwellings, the original proffers including anything to do with the transportation or cash proffers that are associated with those single-family dwellings. And what they revised the proffers dealing with the transportation was is they were to construct the right turn lane at the site entrance on Forbes Street as shown on the GDP and the traffic signal modification when it is warranted. They also proffered to limit the use to a place of worship, they would limit the size and capacity of the church, they would restrict the building design and materials as shown on the GDP, they would require a heart defibrillator, they would convey the campsite and provide parking and access to that Civil War campsite, and they would provide preservation easements for the Civil War site and cemeteries. They also proffered to provide interpretive signage, they would provide measured drawings of the corn crib barn and the house, they would provide fencing for the cemeteries, the perimeter landscaping buffer

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would be as shown on the GDP, there would be an exhibit area placed in the church for all the artifacts and renderings that they find on the property, they are wanting an electronic sign and they are going to put in landscaping to minimize the impacts to the neighbors. The Conditional Use Permit conditions that staff requested was the building not to exceed thirty-five feet in height, they would limit the church to 18,500 square feet, they would limit the capacity of the church to 550 seats and architectural renderings and prohibit LED signage. I wanted to explain the LED signage that we are requesting was we did not want the flashing billboard type signage with the colored lights and the disruptive flashing lights. And what they are proposing is the reader-board that just has the red lines going across it. The evaluation, what we saw was the land use plan designation was Suburban Residential use. A church is an appropriate use under the land use designation. Other evaluations that we considered was that it was consistent with the existing development pattern of the area and that the site allows for great level of protection of natural and cultural resources. A church would reduce the demand on schools and recreational lands. Staff recommends approval of the proffer amendments and the Conditional Use Permit with the conditions recommended. Any questions?

Mr. Fields: Are there any questions for staff?

Mrs. Carlone: Yes. Could you go back to that slide that mentions the care of the cemeteries please?

Mrs. Ennis: Sure. Computer please. The family cemeteries?

Mrs. Carlone: Yes.

Mrs. Ennis: Okay, I will give you the overall. This is the Snellings cemetery and this is the Berry cemetery.

Mrs. Carlone: Okay. I talked with a couple of people on the care. They are doing fine about the setback from them, the thirty-five feet, the fencing and the signage, but because it is on church property I think in that proffer they should be providing the perpetual care which is weeding and maybe painting the fencing if needed. You had some verbiage... can you go up to that? You mentioned something about the care.

Mrs. Ennis: What I was talking about was the... you wanted to know who was going to take care of the two family cemeteries?

Mrs. Carlone: Yes. You had something up there about the perpetual care.

Mrs. Ennis: Yes, I think they stated in their proffers, the real term that they used was...

Mrs. Carlone: In perpetuity?

Mrs. Ennis: Yes. It says here in proffer 4c where they were talking about the preservation easements for the family cemeteries and they separated them c and d. And what they said was they would put a preservation area to prohibit any disturbance or anything like that and they said that the applicant would maintain the cemetery if the owner does not.

Mrs. Carlone: The applicant or... wait a minute, it's going to be owned by the church?

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Mrs. Ennis: Well, they were going to see if they could get family members to maintain it. That was what they were going to try to do and if they could not then the church would maintain it.

Mrs. Carlone: I would rather have it in here that the church, in the proffers, would.

Mrs. Ennis: I will let you address that to the applicant if you do not mind.

Mr. Fields: Any other questions for staff?

Ms. Kirkman: I had a couple. In several places you referenced that it is a rezoning to allow a place of worship and related activities and then another place you say associated activities. Do we have a definition in our Zoning Ordinance of what those activities include?

Mrs. Ennis: Can you tell me where you were talking about?

Ms. Kirkman: Well, on your very first comment on page 3, this application is a request to amend proffered conditions to allow for a place of worship and related activities.

Mrs. Ennis: The related activities that we were talking about were the recreational activities.

Ms. Kirkman: Is that what our Zoning Ordinance specifies? Do we have a definition?

Mr. Harvey: Mr. Chairman, Ms. Kirkman, the Zoning Ordinance would address that matter in the term of accessory uses or structures or ancillary uses and structures or activities.

Ms. Kirkman: And what are those for a church or a place of worship?

Mr. Harvey: Typically, by definition an accessory use is something that associated with the primary use of the property. It is subordinate to the primary use of the property. I could read the specific definition.

Ms. Kirkman: Yeah, I remember the definition. But there is no place in our Zoning Ordinance where it specifies what accessory or related uses specifically for a place of worship are?

Mr. Harvey: Correct. The definition is not use specific.

Ms. Kirkman: Okay. And then you showed a number of different parcels. Is there anything in the proffers about consolidating all of those... vacating all of those plat lines and consolidating into one parcel?

Mrs. Ennis: No, not in the proffers. But that would be a request for upon site plan review. I have talked to somebody and that is the long-term way they were going is to consolidate all of those parcels.

Ms. Kirkman: So, shouldn't we just put that in here if that is a proffer?

Mrs. Ennis: I thought that would be a site plan issue. I don't know. I will let you refer that.

Ms. Kirkman: I have some concerns about proffer number 7 which I would like staff to address with their expertise. My understanding is what proffers are what the applicant is offering to mitigate the

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impacts. But number 7 actually seems to be committing the County to do something which is allowing an electronic sign. And so why are we saying we are going to allow the sign?

Mrs. Ennis: Because we do not have an ordinance right now that says they could not have it.

Ms. Kirkman: But why are we offering something in the applicant's proffers?

Mrs. Ennis: I don't know.

Ms. Kirkman: Okay. Have you been on the property and verified that the placement of two leeland cypress evergreen trees will be sufficient to screen the nighttime lights from the adjacent properties?

Mrs. Ennis: Of the reader-board?

Ms. Kirkman: Mm-hmm.

Mrs. Ennis: Have I been on site? Yes I have been on site but there is nothing to compare it to now. So no, I don't know that it wouldn't.

Ms. Kirkman: Okay.

Mrs. Ennis: That two would be enough.

Ms. Kirkman: Alright. So, to ensure... we need to have some language in here that ensures that it adequately screens rather than saying there will be an evergreen on each side of the sign. Okay, thank you.

Mr. Fields: Any other... Mr. Di Peppe. Yes ma'am?

Mrs. Ennis: What adequate screen... probably something a little stronger than adequate too.

Ms. Kirkman: The language we found helpful in other proffer statements on this issue is shall be completely screened or shall not be visible from adjacent residential areas.

Mrs. Ennis: Okay, thank you.

Mr. Di Peppe: Real quick, I am trying to remember back four years but I thought there were significantly more than forty-one hut sites in the original Phase 2. There was a big discussion about it because in the Phase 1 they found very few and by the time they did Phase 2 and we also had the Friends of Civil War Sites, they delineated and I just wanted to make sure because I seem, and I could be mistaken, but I seem to remember that it was clearly delineated. There were quite a few hut sites. They may all be within that protected area and I want to make sure, because it seems that the church is bending over backwards to honor the original proffers that were... almost all the proffers... that were originally promised with the development. I just want to make sure that...

Mrs. Ennis: I will have to look in here because I got that from the Historical Commission.

Mr. Di Peppe: To make sure that there are not any of those left out.

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Mrs. Ennis: Okay.

Mr. Fields: Any other questions?

Ms. Kirkman: Yeah. I just want to confirm that the fire department was okay with just one access point into that property.

Mrs. Ennis: Yes.

Ms. Kirkman: Okay.

Mr. Di Peppe: One other quick question. About the cemeteries, don't we generally put the fence around the cemetery and then the buffers on the outside? I don't recall seeing that the buffer needed to be fenced. This might be a recommendation of the Historical Commission but I just cannot recall that.

Mrs. Ennis: She did recommend that it go around the buffer yard.

Mr. Di Peppe: In my recollections we usually have fences... I mean, I am all for maintaining the buffer but I have never seen the buffer fenced.

Mrs. Ennis: Yeah, that is the normal is that they fence it. But they are requesting that the buffer yard not be included into the fenced area.

Mr. Di Peppe: Thank you.

Mrs. Ennis: By the applicant.

Mrs. Carlone: LeAnn, do you know... or maybe it's for the applicant to answer, but the two ball fields, is this for the church use only or is it going to be...

Mrs. Ennis: That was my understanding but I would like for you to ask the applicant if you don't mind.

Mrs. Carlone: Okay.

Mr. Fields: I would like to ask, what was staff's thinking behind putting limitations to the size of the structure in the CUP?

Mrs. Ennis: It is R-1 and it has a thirty-five foot height restriction already and we just wanted to ensure that it did not exceed because of the steeple and all that.

Mr. Fields: Specifically because of it was R-1?

Mrs. Ennis: The capacity was limited to the transportation study.

Mr. Fields: So the transportation study by the applicant for the property was based on 550 capacity?

Mrs. Ennis: Yes.

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Mr. Fields: But not necessarily based on the square footage or the height?

Mrs. Ennis: Square footage.

Mr. Fields: Square footage ITE trip generation for churches based on per thousand square feet.

Mrs. Ennis: Yes, sorry.

Mr. Fields: Did the applicant choose the 550 number? You know I can ask the applicant.

Mrs. Ennis: Thank you.

Mr. Fields: They could apply to the BZA for a variance on the height, couldn't they?

Mrs. Ennis: Yes.

Mr. Fields: In the R-1?

Mr. Harvey: Actually, Mr. Chairman, the exception to the height requirements could fall under a Conditional Use Permit. The Ordinance, however, does allow church spires and belfries and similar things to exceed the height requirement in the standards for measurement in the County Code. So, normally those things would not be considered to be part of the building height.

Mr. Fields: I know the proffer the design, I just want to make sure that they weren't hoping to have a spire or a steeple and we are making them not put a spire or a steeple on their church with that. I can't imagine why we would want to do that. Okay, thanks. Alright, is the applicant here?

Mrs. Ennis: Yes. Thank you.

Debrarae Karnes: Good evening...

Mr. Fields: You are so patient Debrarae.

Ms. Karnes: I have been sitting for a long time so I have gotten stiff. My name is Debrarae Karnes for the record. I represent the Stafford Crossing Community Church. I want to answer just a few questions right off the bat. First of all, Mr. Chairman, the church building was designed to be specifically thirty-five feet and no more. The church is quite happy with the thirty-five foot limitation and does not intend to construct a steeple. As far as Commissioner Carlone's question, the proffers provide the will provide maintenance of the cemetery. And I will go into the idea of the preservation easement a little later. If we can't find a family member, which doesn't seem likely, it will be a preservation easement deeded to a trustee which in fact will be the church. Okay. Commissioner Kirkman's questions are a bit more complicated but I will get to them in the course of the presentation if you will bear with me. This is a proposal for a proffer amendment on some portions of the property and a Conditional Use Permit on the whole property to construct a church. We threw in the words related activities basically to cover the fact that there will be ball fields, playing fields, that serve the church's programs and the church's congregation and there will also be activity, you know, meeting rooms, etcetera, that goes beyond the celebration of Sunday service. That's all. We don't intend to do anything else there at the church. And I know the hour is late but the church pastor is here and he

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would like to spend about three minutes talking to you about the philosophy of the church before we go ahead and go into anymore details, if you think that meets your time constraints.

Mr. Fields: Of course, we would be delighted to hear from the pastor.

Ms. Karnes: This is Pastor Darryl Mosely.

Pastor Mosely: Thanks Debrarae. Thank you, Planning Commission, for your work tonight in the late hours and staff with their recommendation. And I will be brief in just talking about a little bit of the vision and the purpose of our church to give some clarity to the questions that you have raised tonight. First some history, our church started in September of 2002 so we are, this month, celebrating our seventh anniversary. And so it's intriguing that we are here and taking a step forward in our development on such a memorable time for us. We currently have about 300 members, about 400 in attendance. Our church's desire and passion is to engage our community and to be a resource and a help. I think that is significant that we are not just looking to do things for ourselves. I think that started when we began meeting at Stafford High School. I remember talking to now retired principal, Mr. Pugh, and saying, you know, we don't want to be a renter or a tenant but we want to be a partner in this community. And I think you have a letter in front of you from Mr. Wes Bergazzi who is assistant principal talking about how beneficial the partnership has been between us and Stafford High School. You will also notice that a big desire is for us to be involved in the community. Some of the things that we have currently been engaged in is every other Saturday there is a group from our church that goes to Old Forge and brings kids from Old Forge to our office complex and does activities. We have a group that is consistent in going to the homeless shelter and to the New Generation Feeding Program to feed the homeless. Another group that is involved in a twelve step program for those who have any hurt, habit or hang-up called Celebrate Recovery; it is open to anyone in our community. Currently we are negotiating with the Stafford County Regional Jail to take this ministry program into the jail. We are also currently in the process of planning a free health clinic this winter for under-resourced people in our community. As you noticed on the GDP, there are recreational fields. And those are not just for our church. Those are for, we hope, recreational teams, groups in our community. We are quite intent not serving just the needs of those inside our walls but also outside our walls. We want to be an asset to our community. I think you will also note that the location of this property is strategic. We think it is a God thing from our vantage point that it's in an area of our county that can use a great amount of support and help and we think that we can be a resource and even a refuge for some folks. There are a few people from our congregation tonight who have stayed who probably are still commuters but are here tonight in support and hopefully of your favorable recommendation and I would just like them to be noted, if they would stand please. Thank you guys. And thank you for your time and for your consideration tonight Mr. Chairman.

Mr. Fields: Thank you Pastor. Alright, Debrarae.

Ms. Karnes. I am back again. Okay. You have heard from the church. The term community is in its name. It has been a pleasure to work on this proposal because basically what my instructions from the church has been is to go the extra mile in just about everything. And I am going to try to be very quick but I am going to describe how in almost every single instance they exceed not only the minimum but what would reasonably be required for this type of use. Community planning at its best; my opinion. Okay. Transportation; they are dedicating the right-of-way as VDOT requested and as LeAnn said is a requirement. They constructed a right turn lane or are committing to construct a right turn lane and retime the weekday signal. I am going to mention to you these last two improvements are not justified by the additional traffic that the church is bringing. LeAnn showed you the architecture rendering

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which is proffered. I think it is very attractive but also I think it is compatible with the neighborhood. This site originally was approved to hold 105 houses and it was known as Forbes Landing. And what I think anybody in the process of Forbes Landing approval remembers is that there were highly significant Civil War sites containing, by the way, more than forty-six huts on the property that Forbes Landing agreed to preserve. The archaeologist is here if you want to talk to him later. His description of this historic area that is eligible for the National Register is very cool. Maybe not scientific but I think that conveys it. The church is agreeing to match or exceed all of the cultural resources proffers for the site that were offered by Forbes Landing. That includes a parcel of the most significant hut area known as the campsite which the church is offering to dedicate in fee simple to Stafford County and, in fact, the minor subdivision carving this out was filed I believe on Monday. So that is ready to progress at a very rapid level. The church is offering to dedicate, as preservation easements, the other sensitive Civil War areas on the site and indeed is proffering a greater area than Forbes Landing. The church is offering to put into a preservation easement... and the preservation easement by the way for the family cemeteries was the express suggestion of the Historical Commission. They are offering to put into preservation easement the land that includes the two family cemeteries as well as a thirty-five foot buffer surrounding each. And they are proffering to put a fence up. LeAnn said that they are proffering also to fence it... I am sorry, also to put signage up and, it's not in the proffers, but by the end of the night we will offer to put that in there. It has been a joy to network with the historic community including Debbie... I am sorry I am going to forget her last name... the woman who works for the Historical Commission who monitors all of the family cemeteries, Debbie Shelton, in the County. Anita Dodd I have coordinated with. Glen Trimmer I have coordinated with and, in fact, we sent about two weeks ago the GDP to Mr. Trimmer and asked him to be a party to suggesting the language on the one to three interpretive signs to be erected. He has not gotten back to me as of today on that. But at Mr. Trimmer's request, we did provide an additional proffer that sets aside an exhibition area in the church for some of the historic memorabilia. Since the dispatch last week of the proffers we have gotten five additional requests for additions, including changing the provision for one to three interpretive signs to exactly four. And we are willing to put that in tonight. We have received a request to provide signage for cemeteries as requested in the cemetery ordinance and we have agreed to put that in even though the cemetery ordinance is not applicable to churches but only to residential developments with HOA's. We have also agreed to provide to supplement the preservation easements for the Civil War area with an easement capable of providing a walking trail that connects the various Civil War areas. And so finally, the only thing that we have not been able to reach total consensus with the historic groups on is the exact location of the fence that will surround the cemetery. Now let me tell you about this. The church wants the Planning Commission's input. The ordinance in the Zoning Ordinance that applies only to residential developments requires that a cemetery be protected, not only that the cemetery be protected but an additional thirty-five foot buffer surround with a fence being erected with both the cemetery and the buffer being contained within the fence area. The rationale, at least where I worked in historic preservation, has been that that is to make sure that if any burials occurred outside of the perimeter of the cemetery, which often occurred back then, that they were also protected by the thirty-five foot buffer. One of the other things the church has done that has gone above and beyond Forbes Landing is that they conducted this last week of August a cemetery delineation that meets State standards and they have documented that in fact the boundaries shown for the cemeteries is accurate. They believe that putting the cemetery together with its thirty-five foot buffer the preservation easement will protect it, but that it will allow church members to visit the cemetery and to honor the gravesite and memorialize it more if they can have the buffer located outside of the fence line. And the church has asked me to request that you guys consider not expecting the church to honor an ordinance which does not apply to anybody but residences with HOA's. Let's see... I think I have skipped over one or more of the questions of Ms. Kirkman. She asked whether there was an intent to consolidate the parcels. And absolutely it was our understanding that that would

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be a requirement at site plan. The monument sign with the electronic reader-board; we wanted to make clear that the church was asking to do an electronic reader-board that was not necessarily the LED board with the color graphics. And I apologize if the language is troublesome and we would be willing to work with you guys on adjusting the language. The same concerning the landscaping; the leeland cypresses were identified as a manner to totally shield the reader-board and they were designed... we did not just pick two leeland cypress out of a hat. An engineer took a look at the angle of adjacent residences coupled with the probable location of the sign and came up with that concept. But we would be glad to add the language shall not be visible from other properties if that makes you guys more comfortable. And finally, I skipped over something I think. I told you what other proffers we were willing to add. In talking to Mr. Trimmer, he is concerned that a preservation easement can be broken by the County if it so chooses. I don't want to put words in his mouth; that is what I think I heard from him. Anyway, we are willing to add more comfort to that the following: right now it says establish a preservation easement and we would add in perpetuity which shall not be revocable to protect the Civil War features, and I think that will give him a bit more comfort. I am sure I didn't cover something but I have engineers, I have archaeologists, I have an architect... I know I have forgotten someone; they are all in the audience. And so I would invite you to ask them questions. But I guess my final point Mr. Chairman is this church is energized and ready to go. If you could take action tonight, that would allow them to get to the Board for action before the end of the year. In my opinion, this application which has staff recommendation which goes above and beyond reasonable proffers and we are willing to make more tonight, justifies this action. Thank you.

Mr. Fields: Thank you. Any further questions for the applicant?

Ms. Kirkman: Yes Mr. Chair.

Mr. Fields: Yes Ms. Kirkman.

Ms. Kirkman: First, I think on the sign, my concern is that you are committing the County to do something which I think is inappropriate for the proffer language.

Ms. Karnes: Okay.

Ms. Kirkman: So I think if you just say something like any electronic sign, and I want our attorney to think about this as we have the public hearing, any electronic sign shall be limited to reader-board signs. And do we have a definition of that in our Zoning Ordinance?

Mr. Nugent: If I may, Ms. Kirkman, Mr. Chairman, perhaps language that says any sign installed shall conform to the requirements of the Stafford County sign code.

Ms. Kirkman: But we really don't even need to say that. I think the only piece we need to say is any electronic sign shall not be visible from adjacent residential areas. I don't think the concern is if there is commercial that is adjacent, it's the residences. So I think that is really all you need in the proffers, that they just shall not be visible from adjacent residences.

Ms. Karnes. Electric signs or electronic reader-board?

Ms. Kirkman: Electronic signs.

Ms. Karnes: Okay.

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Ms. Kirkman: And then my concern actually is more so I know of the church and I know that they are very active in the community and I am a little concerned. The ITE was done based on a place of worship which has a fairly low trip generation. My concern is that sometimes we have been presented with very creative definitions of what related uses are and there is one concern I had going into this review and one that came as a result of something that got said. If you open those recreational fields to public use, they will be in use every hour of daylight but there is nothing in the traffic generation count that takes into account that.

Ms. Karnes: Ms. Kirkman, I really think my client misspoke and, if I am going to misquote him, I invite him up here to hit me on the head. The playing fields will not be open to the public. What they will be is used for church programming which includes busing in some young people from adjoining neighborhoods to use the facilities under programming supervision. Is that accurate?

Pastor Mosely: Probably not.

Ms. Karnes: Okay. You want to try?

Pastor Mosely: May I?

Mr. Fields: Yes sir.

Pastor Mosely: Close. We obviously want to be an asset to the community and so we would want to have folks using those, whether it was Stafford County Parks and Rec or not, or whether it is just people who want to practice. Obviously there is a shortage of fields. We think it is a great asset to provide that. I don't know, obviously Debrarae is driving the boat here, but I know that the traffic engineer is here as well and might could speak to your question better than I can.

Ms. Kirkman: Yeah, well, so it gets back to there's nothing in the traffic generation that has taken into account that kind of use of recreational fields?

Ms. Karnes: Let's ask the traffic engineer.

Ms. Kirkman: Well, he used the ITE figure for place of worship.

Vern Torney: Good evening. Vern Torney with Vettra Companies. That is correct. The fields were not considered in the traffic study. That is primarily because the traffic study was based on Sunday peak hour operations only, not during the weekday where traffic is very low. As you know, traffic studies are based on the worst case situation so we concentrated and focused on Sunday.

Ms. Kirkman: Yeah, and so... and I think we can get there tonight, you don't have to sell anybody on the project. Some of us are experiencing great glee at knowing this is the current owner compared to the former owner, so you don't have to sell us on this. But there are some technical things we need to get straight here. And the second concern is knowing how active this church is in the community it would not surprise me at some point if the church was wanting to look at doing some kind of educational programs or daycare. And those also have very high trip generations that have not been taken into account. So I think we need something in the proffers that either says there shall not be activities that exceed 169 vehicles per day or you need to proffer out certain uses; one or the other, however you guys want to solve it.

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Ms. Karnes: We can proffer out daycare now. Darryl, I just committed to proffering daycare out as a use. Alright, we will look at either one of those. I will talk to him.

Ms. Kirkman: I know this church and I am not sure if they would want to do that but...

Ms. Karnes: Okay.

Mr. Fields: Alright, any other questions of the applicant? Mr. Di Peppe.

Mr. Di Peppe: What happened to the other hut sites that were originally...

Ms. Karnes: They are all there. They are all there. The forty-six is a tremendous underestimate.

Mr. Di Peppe: Because I remember almost twice that many.

Ms. Karnes: I want to say it's like 170 but I don't...

Mr. Di Peppe: I don't know if it's that but I just remember that it was... but if you have got all that area encompassed in the protective zone... And also, are the ball fields, are they going to be lit? Are you going to have lights on the ball fields?

Ms. Karnes: The GDP shows lighting for the ball fields, yes.

Mr. Di Peppe: Okay.

Mr. Fields: That makes it a little more complicated.

Ms. Kirkman: Yes, that's a problem.

Mr. Di Peppe: Yeah, that is a little bit more of a problem because I don't want to interfere with your ball playing. When you tend to light ball fields and they are used at night you have the association of light spillage and noise and all of that that goes along with it. I have no problems personally with people playing games there in the afternoons and things like that and I doubt seriously anyone is going to be playing a baseball game at the same time a church service is going on, that's not going to happen. I envision that the games are going on at different times and getting other people to use the fields but it might be a little problematic because of the amount of light you need to light a ball field and then the noise associated with night games in the surrounding areas.

Ms. Karnes: Well, let me discuss that point with my client. We will get to the bottom of whether they want daycare or not or the 169, I think it is, vehicle trips per day you asked for.

Ms. Kirkman: Yeah. I think... so, you have expressed the desire to get this through tonight?

Ms. Karnes: Yes, and I think you now have to have a public hearing and I am going to go back...

Ms. Kirkman: And so, as you are conferring with your client, they either need to be willing to proffer whatever activities they do will be limited to the 169 vehicles per day which I think might give them more flexibility than proffering out specific uses.

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Ms. Karnes: Okay.

Ms. Kirkman: And particularly... three fields?

Mr. Di Peppe: But are we locked at 169?

Mr. Fields: Let's get on with the public hearing and then we will work on that.

Ms. Karnes: Thank you.

Mr. Fields: Alright, at this point I would like to open the public hearing. If there is anyone that wishes to speak for or against the project, please come forward and state your name. You have three minutes per person. Like I say, we are happy to hear from anyone but the hour is a little late and we all know you support it and I think you all know that we do too.

Jason Towery: Good evening or good morning, I am not sure yet. I am a member of the church. I have been an active member of the church for about six years now. I am actually also the engineer or record on this specific design. And, again, I would echo the comments of Debrarae. It has been an absolute joy and a special one for me to be able to work on such a project. I live about two minutes from the site. I pass by it every single day and I am really looking forward to your favorable approval of this tonight. Thank you very much for your time.

Mr. Fields: Thank you sir.

Glen Trimmer: Friends of Stafford Civil War Sites. I will get right to this. A couple things that did concern me here about some of the presentation, yes I did talk to Ms. Karnes but I have been jumping through hoops trying to get ready for this because I only had that information for a week. And I was disappointed that the Planning Commission did not include us in some of the meetings on this or get us included. I was told that they suggested to the firm that we be included. For the record, I contacted the Leming firm, they did not contact us. And so I really have not had time to look at these proffers the way I would like to. Having said that, thank God for the Pastor because I came here tonight with concerns and I got with the Pastor and the church folks outside to talk about concerns I had. And amongst them was the lack of detail in the proffers concerning the historical sites. Not the cemeteries, I actually separate the two. The cemeteries are the kind of detail that we would want to have. It's right down to the foot of the easement, it's right down to the metal in the fence, it's right down to what the fence is. I am the one that did ask for four signs because it gets us close to what we had asked for originally. The other thing that Ms. Karnes, and I want to comment on, she said that Forbes Landing has proffered and she read you off a list. That list did not include signage of ours, it did not include a \$21,000 monument, and let me just say that she said Forbes Landing offered, we are matching what Forbes Landing offered. The exact language that should have been inserted here said, and I quote because we wrote the language and saw that it was to be submitted, it said "Bel Terre LLP commisses a part of their proffer to commit to filling the provisions of the previous contract dated 31 August 2006 with the Friends of Stafford Civil War Sites to the placement of three historical signs not to exceed a cost of \$1,800 and a granite historical monument not to exceed \$21,000 near or on historic areas planned for preservation in the Forbes Landing Subdivision". The day after I submitted that, Mr. Di Peppe was kind enough to submit it and sent back to me an email that said I spoke with Ray in Planning today. Ray will attach... that's Ray Freeland he is talking about... Ray will attach a statement in the letter to the plan and sign it documenting these additional proffers. Now, everybody

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and his brother in the County this week has explained to me why that could have never happened to begin with. I am just telling you, it is what it is. It says it in the email. So I wish we had that monument back. I wish we had that monument back, more than that, because we were cost that monument. I wish that the Planning Commission would have insisted that we would have been contacted early because we could help work out details and we can help and we will, Pastor. We will get with you to talk about how we might manage this area. But the County has to do a better job of, please, asking us what goes on here.

Mr. Fields: Time is up Mr. Trimmer, I am sorry.

Mr. Trimmer: Mr. Di Peppe, you had over 100 hut sites there, most of a factor of four were missed in the CRI initial Phase 1 and those are the ones that we mapped and were confirmed by Dovetail.

Mr. Fields: Thank you sir. Anyone else that would like to speak?

Linda Burdette: Good evening. I am currently the President of the Dogwood Air Park Association which is the Homeowner's Association for Dogwood Air Park which is just to the north of this building site. We actually, in our neighborhood, share the pleasure that many of you feel at this owner vice the last owner so, we really want to make sure though that the applicant understands the spot that they are talking about building is in the flight path of two airports. Stafford Regional Airport and Dogwood planes both fly in that general area. It is on the base leg of the flight to land. If there are any pilots around they will understand what that means. We would actually like to work with the applicant to address these issues starting with things like the materials that you choose to cover the building. The insulation in the top of the building could go a long way toward making sure that there is no sound from airplanes coming into the building during their services. We would also like to work with them on getting an avigation easement so that everyone knows that these planes are going to be flying overhead. Obviously, planes fly in that area, that is a given. But rather than taking that for granted, we would like to be good neighbors and we would like to work together to make sure that both the church and the airfields nearby are all able to preserve their way of life. So, that's what we would like to push here. I am not sure this is the form for it but we would like to bring it up. Thank you.

Mr. Fields: Well, thank you very much. Is there anyone else that would like to speak? Alright, hearing none I will close the public hearing. Debrarae, would you like to address any of the comments?

Ms. Karnes: Okay. Thank you Mr. Chairman. First of all, the applicant is willing to proffer that they will generate no more than 169 vehicle trips per day during weekdays. Obviously, it is more on Sunday. Secondly, the lighting issue... I would like that addressed by the engineer. I think the engineer believes that there will be minimal, if none, no disturbance from light and noise and I would like him to explain that from the perspective of lighting the fields.

Mr. Fields: Okay, I think we definitely need to hear that.

Ms. Karnes: Okay.

Mr. Rhodes: Mr. Chairman, while he is coming up I would just clarify while we jumped in the public hearing that was one Commissioner's view about needing the proffer about the number of vehicles per day. I am not sure who will stand out there and count unnecessarily, but I do not necessarily see the

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need to proffer that there or proffer out the childcare. So I would just clarify that was one individual's thinking. Thank you.

Mr. Fields: You are correct, Mr. Rhodes. That was Ms. Kirkman's request, not the Commission's as a whole.

Bruce Reese: Good evening Mr. Chairman, members of the Commission. I am a registered professional engineer with the Commonwealth and work for the Engineering Group. Without a question there is going to be a need to maintain strict construction requirements for the lighting but, without a doubt, there is technology now that we can direct the lighting onto the field and minimize or eliminate any offsite. The fields are located well within the property. The goal is to keep the lights low and I think with the right design we will be able to minimize the effect of the lights on the surrounding properties.

Mr. Fields: Please define minimize. We obviously support the mission of the church. I think everybody here, I know many members of the Planning Commission, I certainly know on the Board, Mr. Mitchell will attest, as good as it sounds, a lighted ball field is a difficult or complex neighbor for other types of neighborhoods. And they are both great uses; people playing, kids playing. Softball and baseball and soccer into the night is a wonderful thing and it is a wonderful mission for the church to take on. It is a difficult and complex interaction between other uses and so, please don't take this in the wrong way, we are trying to... believe me, I have been through the struggle on Willowmere Park and it was very, very difficult and exhausting to try to get this negotiated between the residents and the uses of the ball field.

Mr. Reese: Mr. Chairman, I understand that completely. I think maybe the goal might be to minimize. By minimize, set a specific foot candle at the property line. Any lighting on the property has a potential to be seen by adjoining properties. Porch lights can be seen by other properties. I don't think anyone believes that the lighting will not be seen by adjoining properties but I think it can be designed so that the effect of that lighting is literally non-existent on the adjoining properties. And you can do that by saying you will not exceed a certain foot candle such as a half a foot candle at the property line.

Mr. Fields: And you can do that, you think, on this property? You have enough space? There is a fair amount of space.

Mr. Reese: Yes sir, I think we can.

Mr. Fields: What about the concerns of the, if I might raise, I don't know if you talked about it, but what about the concerns of the adjacent air park with lit ball fields as a navigation issue? None?

Mr. Reese: I ask them to speak to that better than I think I would be able to speak to that.

Mr. Fields: Yeah, I am just throwing things out.

Mrs. Carlone: Mr. Chair? Excuse me, I did talk with Mrs. Burdette this morning and she did not find a concern with the lights. The engineer was just mentioning perhaps additional insulation because of ten to twenty-seven flights both Saturday and Sunday.

Mr. Fields: Alright.

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Mr. Di Peppe: A question about you were going to address the noise level at games. Here again, for the same questions, Mr. Fields, we have had other areas right across the street from residential and boy do you get the complaints. Maybe we can restrict time; not after so and so, 8 o'clock at night or something real reasonable maybe the Commission could live with.

Mr. Reese: I agree with that one hundred percent.

Mr. Rhodes: Mr. Chairman? I would just submit that that does, especially in the attempt to act on it tonight, that adds a significant degree of complexity to make sure... I must have missed that piece of it so I did not look at the area maps or everything from that perspective. I am now suddenly trying to see where a house is placed and that is, to me, one person again, a bit of complexity that I am not sure how quickly I could act on necessarily tonight.

Mr. Fields: Sure. We would not want to hold it up, I agree.

Mr. Rhodes: I am not against it but it would be challenging.

Mr. Fields: Maybe we need to make a strong recommendation... if we decide to move it forward for approval with a strong recommendation that the Board further analyze the recreation.

Ms. Kirkman: Mr. Chair, just to remind you, if we put... whatever we approve tonight they can change anyway.

Mr. Fields: Certainly. I think it is important we want to express as clearly as possible the thinking and the right reasoning. That is why we advise. So, I just want to make sure that we can accomplish all those things. Mr. Rhodes' point is well taken. We probably cannot resolve the complexity of this lighting issue. The foot candles is good, the noise issue. But, as I said, I am sure you guys are going to be good neighbors.

Ms. Karnes: I am wondering if the Commission would consider voting for this project tonight with the changes to the proffers that I have identified and with the further recommendation to the Board that we work with the nearby community on the avigation easement and devising appropriate limitations on lighting and noise for the ball fields.

Mr. Fields: Sounds good to me. Mr. Di Peppe, this is in your district.

Mr. Di Peppe: Well, I need to address a couple things because Mr. Trimmer said a few things. The first moment that Debrarae called me about the church, I called Mr. Trimmer and said good news. Somebody is going to buy this land and they are going to honor the proffers for the preservation and I even, I think I mentioned at that time I think we can get everything but the monument. The people that were providing the monument were doing this as a money-making process and making millions of dollars and we could get those kinds of proffers if this was a different operation. But I have to commend the church for the amount of preservation. And I believe I said to you call Glen Trimmer.

Ms. Karnes: And I did.

Mr. Trimmer: (inaudible)

Mr. Di Peppe: Okay, but it was a few days...

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Mr. Fields: Mr. Trimmer, you are out of order.

Mr. Di Peppe: Okay, but you made the accusation that nobody cared or nobody bothered and within ten minutes of speaking to Debrarae I phoned you. And I said this is great news.

Mr. Trimmer: (inaudible).

Mr. Di Peppe: Okay, but I never heard. I never heard back that you did. I am just making the point that an honest fair attempt was made because I called you and made you aware of it and I said that Debrarae would be calling you. Anyway, and then there was a second time when I heard something else and then within a day I called. That is just the absolute truth. I have no problem whatsoever. I don't necessarily want daycare out because I have seen so many churches provide daycare that is has been so important to not only the church members but the surrounding community. My own children went to it and it was a tremendous experience and I don't want you to proffer that out. I think that is often a wonderful thing that churches do in their community that helps everybody. I am not wedded to 169 or 167 during the day because I think... I mean, I want it to be reasonable but because if you do play baseball in the afternoon and you have two teams and some people watch plus the normal church activities, I don't want to put you in a box. So my vote would not be contingent upon taking out daycare or 167 during the day. And other than that...

Mr. Fields: Is that your motion?

Mr. Di Peppe: Well, my motion is... well, before I make the motion... gosh...

Ms. Karnes: We are talking about revising proffers.

Mr. Di Peppe: Right. You know, I am just... I want to make a motion for approval but I want to make sure that the rest of the Commission has had a opportunity to speak to whatever. I have just said what I said, so, do I need to make a motion?

Mr. Fields: We need to put it on the floor.

Mr. Di Peppe: Okay. Then I move to approve...

Ms. Kirkman: Mr. Chair, can I just clarify where the applicant is? What the applicant I believe said was that they were willing to proffer the 169 and willing to proffer that the electronic sign would not be visible...

Ms. Karnes: As long as it is clear that it is a reader-board.

Ms. Kirkman: Yeah, a reader-board. I think that was the two changes and that you would, or was there an additional one?

Ms. Karnes: I think you talked about... you had concerns about the words related activities. Do you still have that concern?

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Ms. Kirkman: Not if you do the proffer on the vehicle because it is all tied to the traffic analysis. And then it was for a recommendation that we also include a recommendation that you work with the airport and everybody else to address the other things that were raised.

Mr. Rhodes: Mr. Chairman?

Ms. Kirkman: I am just trying to understand where the applicant was.

Ms. Karnes: That is correct and we had previously committed to adding four things, changing the one to four interpretive signs to exactly four, committing to put in the easement in the preservation area for a walking trail that provides connectivity, and at Mr. Trimmer's request providing that the preservation easement for the Civil War areas be irrevocable.

Mr. Rhodes: Mr. Chairman? And it appears that the applicant is trying very hard to be very supportive of all the requests and I would like to ensure that they do not get themselves too supportive. I do not know how many children they might have there for vacation bible school or something else. I do not know how many vehicles per day that might derive. I know when we do it at my place of worship we would beat the heck out of that and it is not that we are that much larger church. There is a big demand there. So I would be concerned that you might be putting yourself in a box that you have not had time to necessarily consider, so I might suggest to the motioner, when he gets to that point that we proceed with the motion that endorses all the things we have been talking about, that we suggest to the Board of Supervisors that there be some revised things in their final consideration dealing with the lights and working with the neighbors, but maybe it does not have that vehicle per day count for the week because they may limit themselves on things they have not had the opportunity to consider fully.

Mr. Howard: Mr. Chairman? I would support that thought process, just for the record. I thought that the committing to the vehicles per day at 169 really it is limiting them and I think it kind of handicaps what the purpose of literally their mission is. And I am not sure that would work long term. I think we would ask them to do something that actually they could not do.

Mr. Mitchell: Mr. Chair? I also am not in favor of capping the vehicles per day. I think it is an issue that does not have to go with this proffer. I realize the church is being supportive, but like Mr. Rhodes and Mr. Howard both said, there could be an occasion, a celebration, a seventh year celebration that we might need more vehicles there. So, I would rather have it without the vehicles per day.

Ms. Kirkman: Mr. Chair, since the Planning Commission seems to have decided to engage in debate at this moment...

Mr. Fields: Right, without a motion on the floor.

Ms. Kirkman: Without a motion, I guess I feel compelled to join in. And I guess my concern is that we have a traffic impact analysis based on a certain number of vehicles per day that is an average. So, one time events usually aren't included in that. And what came out during the course of the discussions is that this church, being who they are, will probably want to do activities that generate much higher vehicle trips. So, it is good planning to make sure that what you are approving actually matches the traffic counts in your traffic impact analysis. That is how we try to avoid messes like some of the messes we have got now on Garrisonville Road and Route 17. And Forbes Street, we have lost the proffer on the improvements to Forbes Street. So that is why being accurate about the traffic count and the matched uses is important because we have lost a very significant traffic improvement

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proffer on that street. So, the applicant has said they are willing to do this and I would really encourage people to think about including it.

Mr. Fields: Alright, since we have already debated it and we do not have a motion, lets get a motion on the floor.

Mr. Di Peppe: Mr. Fields, I would move, let me do these separately, I would move for approval of RC2900184, the reclassification of Stafford Crossing Community Church.

Mr. Rhodes: Second.

Mr. Fields: What is your motion regarding the vehicle count per day proffer?

Mr. Di Peppe: I would ask for 250.

Ms. Kirkman: That's fine.

Mr. Di Peppe: I think we need to give them a little more room. If that is average, I think they will come within it. I don't think that is going to restrict them. I do not want to restrict the daycare, but I think we still... the only thing I am a little concerned of... well, when we send this recommendation that some further study about the light and noise associated with the ball fields.

Mr. Fields: Okay, so the motion is for recommendation of approval with all the proffers as stated, with 250 vehicle trips per day during weekdays and a strong request that the Board further consider and work through the issues relating to the uses of lit ball fields. Is that correct? Does the seconder agree with that?

Mr. Rhodes: Yes.

Mr. Fields: Okay.

Ms. Kirkman: And I believe the other proffer was around screening the electronic sign.

Ms. Karnes: Yes.

Mr. Fields: Sure. The other proffers I think have not... those are the only two I wanted to articulate as being changed. Those have gone along with the other ones. Alright, is there any further discussion?

Mr. Mitchell: That's with a daycare?

Mr. Fields: This is allowing daycare.

Mr. Di Peppe: This is allowing daycare.

Ms. Kirkman: This is not addressing uses.

Mr. Fields: We are not proffering out daycare. We are not addressing daycare.

Mr. Mitchell: Okay.

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Mr. Fields: Any further discussion on the motion?

Mr. Howard: Yes. Obviously, Ms. Kirkman's comment on the traffic impact analysis we all would agree with. I did not see any evidence in the documentation that indicated that even at the level of 400 per day that there would be an impact that would cause the rating of this particular road more area to change. So, I am not sure I understand the 250 either. I am not picking on anybody, but I am struggling with the number. There is a TIA attached to this. Even if you went to the highest number and you said that was the number, I don't believe it would impact the current rating of that particular road. This is a completely different use than was proposed previously with the homes and there will be significantly less traffic, daily traffic. So, I understand the comment. It was a great comment about we have to look out for the County and the County's best interest but I really feel as though... and I am going to vote for this... but I feel as though putting the 250 in there unless Mr. Di Peppe accepts a friendly amendment is really just handicapping the applicant and at some point they are going to have to come back and change it because there is going to be more than 250 a day.

Mr. Di Peppe: But that is the average and so, on days that there aren't baseball games, there might be 130 cars.

Mr. Howard: Absolutely, I understand.

Mr. Di Peppe: Some days there might be 400 and other days there might be 200, so I just thought that would cover it.

Ms. Karnes: Mr. Chair? My transportation engineer has weighed in on the issue of what the appropriate number is. Would you like to hear?

Mr. Fields: Sure.

Mr. Di Peppe: Sure.

Mr. Torney: Thank you once again. I think there is some confusion between the 169 weekday daily count and the 347 peak hour count on Sunday. Let me remind you that the traffic study was based on 347 trips per hour which is far, far greater, many, many times more than 169 vehicles per day. So, by the fact that the traffic study was based on 347 per hour and it was shown that there was no impact and no mitigation measures required, it would indicate that an equivalent daily vpd may be in the thousands, many thousands equivalent. So I just wanted to assure you that 347 peak hour has measured, has been analyzed and there is no impact based on 347 per hour. And, again, an equivalent daily number would be thousands and thousands of vehicles per day.

Mr. Fields: What is the daily trip count on Forbes Street on that location, do you know?

Mr. Torney: I can look it up.

Mr. Di Peppe: Why do I want to say 8,000?

Mr. Fields: Do you know the level of service at that location?

Mr. Torney: Currently it is approximately 6,300... 6,346 is what is in the traffic study.

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Mr. Fields: And the current level of service there?

Mr. Torney: The current level of service is, as I recall, A along that road at Forbes and Morton intersection.

Mr. Fields: Okay.

Mr. Torney: Thank you.

Mr. Fields: Alright. So are we still sticking with the same motion?

Mr. Di Peppe: Well, should we take out the two... I mean, do we need to have the 250 there? I am going to revise my thing and take out the daily... make my motion without the daily trip.

Mr. Rhodes: Secunder would agree.

Mr. Fields: Secunder would agree to the amendment. Alright. So, on the floor is... is everybody clear with what is on the floor?

Mr. Howard: Yes.

Mrs. Carlone: No.

Mr. Fields: Okay. We are not asking them to proffer out daycare. We are not asking them to proffer any vehicle counts. We are accepting their proffers as revised with the sign, with the cemetery... oh, you know, we didn't address the cemetery whether we want the fence around the cemetery internal to the buffer area or the fence external to the buffer area.

Mr. Di Peppe: I don't think they have to do it at all. They are not required to do anything; they are just asking to put the fence around the cemetery. They have already delineated that there are no graves outside. To put around the buffer would be many thousands of dollars more to the church and since they have already spent the money to find out there are no graves outside it and they are going to maintain the buffer, I would recommend to say... and let me say this, the amount of historic preservation that they have agreed to is significant, tremendously significant. I thought it was going away but for this church we are going to get something very significant so I would ask the Commission to say the fence goes around the cemetery and the buffer zone outside. I think that is a small consideration for something that we are getting.

Mr. Fields: Okay. Mrs. Carlone, are you clear now?

Mrs. Carlone: I was just trying to get down to the traffic, that was all. What is the number we are now coming up with?

Mr. Fields: We are not requiring any proffering of that.

Mrs. Carlone: Okay.

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Mr. Fields: Okay, we have to adjourn in one minute so we have to vote, because then we have to reconvene. We have to adjourn at midnight. Alright, all those in favor of the motion as corrected, amended and revised and debated signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, motion carries. Very good.

Mr. Di Peppe: Wait a minute, we have got one more.

Mr. Fields: We have got one more. We have got to adjourn though. We have to adjourn and then reconvene.

The meeting was adjourned at 12:00 midnight.

The meeting reconvened at 12:01 a.m.

Mr. Fields: Okay, now we are back.

Mr. Di Peppe: You gotta do that. Believe it or not, you gotta do that. Mr. Chair, I would like to move for approval of CUP2900185, move for approval.

Mr. Rhodes: Second.

Mr. Fields: Okay, motion on the floor to approve the CUP. Any discussion? All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

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Mr. Fields: Aye. Opposed? Alright, very good. Thank you all very much. Good luck! Alright, item number 10, amendments to the Zoning and Subdivision Ordinances. Okay folks, sorry... we still have two items. You can leave but you have to be quiet and congratulations and good luck to your church. Thank you all for having such a wonderful asset to the community.

10. Amendments to the Zoning and Subdivision Ordinances and the Design and Construction Standards for Landscaping, Buffering and Screening - Amendments to Section 22-153, Lots for Required Buffers; Section 22-267, Definitions; Section 22-268, Open Space Regulations; Section 22-269, Maintenance and Ownership of Open Space; and Section 22-270, Provisions For Pipe Stem Lots, of the Subdivision Ordinance; Section 28-24, Measurement; Section 28-25, Definitions of Specific Terms; Section 28-35, Table of Uses and Standards, Table 3.1, District Uses and Standards; Section 28-38, Performance Regulations; Section 28-73, Where Allowed; Section 28-75, Density and Dimensional Requirements; and Table 5.1, Cluster Option, of the Zoning Ordinance; Table 2, Transitional Buffers Matrix and Section 110.2, Street Buffering Along Arterial and Major Collector Streets, of the Design and Construction Standards for Landscaping, Buffering and Screening, pursuant to Ordinance O09-27, for the purpose of permitting cluster subdivisions as an option in the A-1, Agricultural and A-2, Rural Residential Zoning Districts. **(Time Limit: September 16, 2009)**

Mr. Harvey: Mr. Chairman, Jaime Stepowany will give a brief presentation.

Mr. Stepowany: A brief?

Mr. Harvey: Yes, please.

Mr. Fields: Set a new record in the world of briefness.

Mr. Stepowany: Good Morning Mr. Chairman and members of the Planning Commission. Item number 10 is proposed Ordinance O09-27 that pertains to allowing clustering subdivisions in the A-1 and A-2 Zoning Districts. Computer please. In lieu of time, the slide presents all of the modifications to all the sections in the Zoning Ordinance, Subdivision Ordinance and in the Design and Construction Standards for Landscaping, Buffering and Screening, which is better known as the DCSL. This was referred to the Planning Commission by Resolution R09-276 and there is a time limit as of yesterday.

Ms. Kirkman: No, what do you mean?

Mr. Fields: As of yesterday?

Mr. Stepowany: The 17th.

Mr. Fields: So it is deemed approved and we can dispose of it then.

Ms. Kirkman: No, you made a mistake on this right? Because we specifically asked about the time limit on this.

Mr. Stepowany: Right, I am just saying we have gone past midnight.

Mr. Rhodes: And we met on the day of the time limit but we have now gone past it.

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Mr. Mitchell: Today is the 17th.

Mr. Howard: So it is approved.

Mr. Fields: I think we will need a ruling from the Attorney on this one.

Mr. Nugent: It carries over.

Mr. Fields: It carries over because we are still in session.

Ms. Kirkman: Okay, I did not get the joke there, it is really late.

Mr. Fields: Okay.

Mr. Stepowany: The purpose of the ordinance will allow the option for clustered subdivisions in the A-1 and A-2 Zoning Districts. The Comprehensive plans recommends cluster subdivisions should be encouraged in the agricultural areas where permitted. Currently, clusters are only permitted in Residential Zoning Districts and are not permitted as an option in the A-1 and A-2 Zoning Districts. As a background to the ordinance, the Board formed a subcommittee consisting of Supervisors Brito and Crisp. They developed this proposed ordinance on May 5, 2009, the Board approved R09-192 for the Planning Commission to hold a public hearing. The Planning Commission requested an extension for decision and R09-192 authorized the Planning Commission to make technical and clerical modifications also. Then on July 7, 2009, the Board approved R09-276 to extend the time limit for a recommendation by the Planning Commission to be September 16, 2009. Clusters. A cluster subdivision is to allow compact development on a portion of a tract of land while retaining the balance of the property as open space. Cluster development is a recognized tool to allow communities to preserve open space, retain rural character and maintain sustainable growth and development patters. It preserves open space. Cluster development may save development costs by requiring less infrastructure. More homes on a shorter street may save the County and the Commonwealth of VA long term costs for less maintenance and shorter distances for provisions of services. Ordinance O09-27 provides the option for cluster development is by-right in the A-1 & A-2 zoning districts; it does have minimum lot sizes than standard lots sizes for those Zoning Districts. Setbacks and street frontage requirements are reduced in this ordinance. Open space is required (not including any open space within individual lots) and the allocated density is the factor to determine the number of lots permitted. In the A-1 Zoning District, the minimum tract size is twenty-five (25) acres; the allocated density is .33 units per acre, which comes out to one unit for every three acres. Open space factor is 0.33 of the overall tract that is the amount of open space minimum you have to have for the overall tract (the amount of open space that's not included within the lots). On-lots does have open space requirements, setbacks and street frontage requirements and those are reduced from the normal subdivision requirements. It can have private wells and septic systems or in the A-1, they could be services by public water and sewer if available. In the A-2 Zoning District, the minimum tract size is 15 acres, allocated density of 1 unit per acre, minimum lot size is 20,000 square feet (for your information, 1 acre equals 43,560), open space factor is 0.5 of the overall tract, on-lots open space, setbacks and street frontage reduced from the normal A-2 lots and must be served by public water and sewer. Other alternatives for retaining open space. As stated in the staff report traditionally cluster subdivisions create open space for recreational amenities and other types of amenities where as in the agricultural zoning district. One of the strategies for open spaces is to create preservation and conservation areas. This ordinance will create preservation areas and preservation lots. Preservation lot would be significant land areas that have important environmental, historical or agricultural features that are

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worth preserving but could be maintained on an individual property owner's lot. Preservation area would be significant land area with the same important features and maintained in common area. All preservation areas and all of the preservation lot must be in an easement for preservation or conservation and maintained by a preservation organization or the County. Ensure that the property would be maintained for its intended purpose (farming, forestry, open lands). This is a general example of a tract of land, this is from other explanations, other demonstrations for trying to do clusters in the agricultural zoning district, and it gives the general idea for anybody who is still watching. The standard three acre lot subdivision, there are some RPA and resources in the back of the property that are within lots. This is a standard cluster, where you have a couple of streets; this was forty percent minimum open space, remembering that the A-1 is thirty-three percent open spaces. This is one acre lots, which would not apply for the A-1 because it has to have two acre lots but it gives the idea of what could be a preservation lot and the open space. Again, this is the same type of demonstration again with eleven lots in a couple different areas. This is just a comparison; you take your standard three acre lot subdivisions and all the features and everything in it and have longer infrastructures. At the bottom you have a cluster where you may have your preservation lot and open space and everything else. Additional regulations for new definitions for preservation area and preservation lots. The term "open space" in Section 22-267 changed to "open space required". Definitions listed in Section 22-267 added to Sec. 28-25, which is the definitions section of the Zoning Ordinance. This ordinance requires transitional buffers required along the lots of a cluster subdivision and also requires street buffers along all existing street. Staff recommends approval of the proposed ordinance. Ordinance O09-27 addresses the recommendations in the Comprehensive Plan for cluster options in the agricultural areas. I would be more than happy to answer any questions.

Mr. Fields: Do we have any questions for staff?

Mr. Di Peppe: Real quick, did you say this can only be done and if they have water and sewer?

Mr. Stepowany: In the A-2 Zoning District, yes. You go down to 20,000 square foot lots; you have to public water and sewer.

Mr. Di Peppe: You are saying in the A-1, you would be able to get...

Mr. Stepowany: You can be served by either option; there are no restrictions in the A-1 on how water and sewer serve, whether by private on site sewage disposal system or public water and sewer.

Mr. Di Peppe: That has been my problem all along in the A-1 with that utilities is that, how are you going to make it work?

Mr. Stepowany: Well, as we demonstrated through the different discussions, we have showed a couple subdivisions where they have had drainfields on one acre or one and a half acre lots. It just depends on the soils and configurations.

Mr. Rhodes: Mr. Chairman, just for clarification, where we have .33 units per acre, so with exactly a three acre lot, it would be .99 units. Does it round up or do you have to literally get to 1.0 and really have to be over three acres?

Mr. Stepowany: Actually we did include, which may help that discussion, we have had that discussion in other ordinances that in the, I believe it is this ordinance where we amend the measurement section

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or is that a different ordinance Mr. Harvey? Yes, measurement, fractions of one to five or rounded down to the next whole number and fractions of six to nine are rounded up to the next whole number.

Mr. Rhodes: So we are rounding up?

Mr. Stepowany: We are rounding up.

Mr. Rhodes: Thank you very much.

Mr. Stepowany: No problem.

Mr. Fields: Alright, any other questions for staff? Alright, so with that we will open the public hearing. Nobody stayed for this one.

Mrs. Carlone: No, nobody stayed.

Mr. Fields: Stuff they care about, they stay and now this broad business of the county, everybody went home. It is okay, I will close the public hearing and bring this back to the Commission. What is that wish of the Commission on this?

Ms. Kirkman: Mr. Chair, I would like to recommend denial of this ordinance.

Mr. Fields: Okay, motion to deny.

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe.

Ms. Kirkman: Mr. Chair, I made the recommendation, once again we are pressed up against time limits, and I think this ordinance needs significant work as came out during our work sessions. I think particularly problematic are the lack of defining characteristics regarding open space size and shape, as well as how RPA's are included or excluded in the open space calculations. So, I just feel like, if this is passed in its current form, it would be creating... It is a terrible piece of legislation, it would be creating nightmares for years to as people will try and sort out the particulars. In summary, I think this ordinance needs a lot more work so I am recommending denial.

Mr. Di Peppe: I agree, I do not think it is workable in its present.

Mr. Fields: So perhaps, like the other one the recommendation is denial with a request for re-referral if they so choose. We are denying this and are not running away from the cluster options and would embrace the chance to keep working on it.

Mr. Howard: I have a question Mr. Chair.

Mr. Fields: Mr. Howard.

Mr. Howard: I thought and Mr. Stepowany maybe you could clarify, I thought you did indicate that the RPA could be part of the open space. Is that not what you said, it is kind of late? I thought one of the examples showed it had the RPA in the open space.

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Mr. Stepowany: The RPA has to be within the preservation area which has to be in the open space. This is not just for clusters in the A-1 and A-2; it is any cluster regardless of the Zoning District. If it is a cluster option, the RPA has to be within the preservation area which also has to be near the conservation easement.

Mr. Howard: Thank you.

Mr. Fields: Alright.

Mr. Mitchell: Mr. Chairman?

Mr. Fields: Yes, Mr. Mitchell.

Mr. Mitchell: Just a ruling from the parliamentarian, I am dead serious when I say this, it is 12:15, it is actually September 17th, my daughters birthday. However, specifically the time limit is September 17th, if we vote on this and try to send it in, we are voting on an issue where the time has already lapsed.

Mr. Nugent: That is not correct, because this was on the agenda and we started the meeting on the 16th and this part of the meeting for the 16th. So sending it to the Board is still timely. My understanding is the recommendation is for denial with a re-referral.

Mr. Fields: Yes, so we are within spec?

Mr. Nugent: Yes.

Mr. Fields: Thank you Mr. Mitchell. Alright, all those in favor for the motion signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mrs. Carlone: Aye.

Mr. Howard: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: I am not opposed, I am just abstaining.

Mr. Fields: Okay.

Ms. Kirkman: Mr. Chair, as a point of order, my colleague needs to state his reason for abstention.

Mr. Mitchell: Absolutely, my reason for not voting is today is the 17th.

Mr. Fields: Alright.

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Mr. Mitchell: End of story.

Mr. Fields: Okie doke, Cranewood preliminary subdivision plan. The world's briefest preliminary subdivision plan.

UNFINISHED BUSINESS:

11. 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) (Deferred at September 2, 2009 Work Session to September 16, 2009 Work Session)**

NEW BUSINESS

12. SUB241784; Cranewood, Section 2, Preliminary Subdivision Plan - A preliminary subdivision plan with 9 single-family residential lots, zoned R-1, Suburban Residential, consisting of 5.20 acres located approximately 400 feet west of Jefferson Davis Highway on the north side of Enon Road on Assessor's Parcel 45-281 within the Hartwood Election District. **(Time Limit: December 9, 2009)**

Jamie Stepowany: Thank you Mr. Chairman.

Mr. Fields: I mean the worlds briefest one.

Mr. Stepowany: This is item number 12, preliminary subdivision plan. Subdivision SUB241784. It is Cranewood, Section 2. The applicant is John Tulloss of Meekins and Associates. The date of the application is October 28, 2004. The TRC date was November 23, 2004. The engineer is Thomas Dougher, P. E. of Ross, France and Ratliff. Assessors parcels 45-281, is located on the north side of Enon Road approximately four hundred feet west of Jefferson Davis Highway. The parcel is 5.2 acres and is zoned R-1, Suburban Residential. This request is for nine lots in the Hartwood election district. Here is the general location for the property. Here is Jefferson Davis Highway, Route 95, here is Enon Road, Stafford High School is right here and this outline is where the subject property is. Here is the aerial of the property, I would like to identify the actual road of the subdivision and the ingress/egress easements are already physically in place. This is the subdivision plan, right here is lot 1, that has already been recorded and is not part of this property and here is the proposed road. You can quite see it but the stormwater pond is there and the lots wrap around the road. The site already has a approved preliminary subdivision plan. It was approved March 27, 1996. The construction plan is approved and constructed. The public water and the public sewage systems are already installed. The plat for lot 1 was recorded November 12, 1996. The preliminary plan was no longer valid for the remaining lots to

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be recorded. That is for this application. The stormwater management facility that is contained through a BMP on a open space parcel has already been constructed. There is no RPA located on the property and the site is subject to proffers including a twenty-five foot wide undisturbed buffer along Enon Road. And just for the record the plan was re-reviewed within the last six months by the various agencies including Utilities and Stormwater Management which all the infrastructures were already improved and just to make sure to see if there were any additional or any modifications to any of the infrastructures and they have approved their reviews without any additional changes and modifications on the plan. Staff recommends approval of this preliminary plan and I will be more than happy to answer any questions the Planning Commission may have.

Mr. Fields: Any questions for staff?

Mrs. Carlone: Yes.

Mr. Fields: Mrs. Carlone, did you have questions for staff?

Mrs. Carlone: I am really opposed to waiving the frontage. Is there anyway of getting around, it says waive to the reverse frontage lots 2 and 3.

Mr. Stepowany: There was discussion, especially when this came back in with the ingress/egress easement serving the tow lots. At the time...when the original preliminary plan was approved it was required to have reverse frontage because that was Mountain View Road and the classification of the road required reverse frontage and at the time reverse frontage could be accomplished through and ingress/egress easement. And the ingress/egress easement has been recorded, so it is already recognized and honored. So as an option the applicant and actually Ms. Karnes, on behalf of the applicant, submitted a request to see if the agent would waive the reverse frontage requirement and allow them to do shared driveway for the two lots. But as Mr. Harvey pointed out, they have a proffer that requires a twenty-five foot undisturbed buffer along Enon Road. If we allow them to put in a shared driveway, that kind of defeats the purpose of having an undisturbed buffer along Enon Road, so therefore the actual request to put shared driveways in lieu of having the reverse frontage was denied. And they are still doing that. Because the ingress/egress easement is already in place, we are just going to continue to recognize it as it was established on the plat.

Ms. Kirkman: Yes, Mr. Char.

Mr. Fields: Ms. Kirkman.

Ms. Kirkman: My questions were also about the private access easement and the only one that exists now is to lot 1.

Mr. Stepowany: It is through lot 1. The plat is to serve the other two lots.

Ms. Kirkman: It may be, but there is not lot 2 with a private access easement on it and don't we now have a code requirement that says private access easements in subdivisions can only serve two lots?

Mr. Stepowany: That was part of the issue, but since the original preliminary plan had it...but the plat has a note to serve two lots.

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Ms. Kirkman: But it serve...our definition of private access easement says the private access easement serves both the lot through which it runs as well as the lots that it serves.

Mr. Stepowany: This was not a private access easement as being approved by the Planning Commission like for the purpose of subdividing. This was part of a preliminary plan where it is an ingress/egress easement.

Ms. Kirkman: I am gonna...I actually think the issue is a bit more complicated than that and I am going to ask the Commissioner from Hartwood if she would consider, after we hear from the applicant, well I guess this is premature. I don't want to have to try and sort this out at 12:30 in the morning.

Mrs. Carlone: Could you go ahead Jamie, with the applicant.

Mr. Fields: Can we hear from the applicant?

Debrarae Karnes: My name is Debrarae Karnes representing the applicant for the record. The Chairman has asked for the shortest response in history. It is a new preliminary subdivision plan for nine building lots and one open space lot. The notable thing about this proposal is that as Commissioner Kirkman recognizes, there are two lots served by and ingress/egress easement. Our office did contact Mr. Harvey earlier in the year to inquire about waiving reverse frontage. And he determined that was not possible and this access for lots 2 and 3 were appropriate. I am here to ask you guys to approve this tonight, because staff recommends it. If you so choose not to do that, we will be happy to work with the Commission and evaluate all the potential options on this.

Mr. Fields: Alright, thank you. Any question for the applicant? Alright, Mrs. Carlone what would you like to do?

Ms. Kirkman: Can I...now I would like to make my request to the Commissioner, the honorable Commissioner from Hartwood, that she would please consider sending this to a work session for further discussion of the ingress/egress easement issue.

Ms. Carlone: Yes, I would like to refer this SUB241784 to the next work session.

Ms. Kirkman: I will second it.

Mr. Fields: Second. Motion moved and seconded to move this to the October 21st work session. Any discussion? All in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mrs. Carlone: Aye.

Mr. Howard: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

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Mr. Fields: Aye. Opposed? Alright.

Ms. Karnes: Thank you.

Mr. Fields: Alright that about concludes everything, we are adjourned.

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

None

ADJOURNMENT

With not further business to discuss the meeting was adjourned at 12:23 a. m.

Peter Fields, Chairman
Planning Commission