STAFFORD COUNTY PLANNING COMMISSION
October 21, 2009

The work session of the Stafford County Planning Commission of Wednesday, October 21, 2009, was called to order at 5:47 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT: Howard and Kirkman

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

Mr. Fields: We will go ahead and call ourselves into session. Mr. Secretary, now that you are here you can go ahead and call the roll.

Mr. Mitchell: Mrs. Carlone.

Mrs. Carlone: Here.

Mr. Mitchell: Mr. Rhodes has an excused absence for this first session.

Mr. Fields: Yes.

Mr. Mitchell: Mr. Di Peppe.

Mr. Di Peppe: Here.

Mr. Mitchell: Mr. Fields.

Mr. Fields: Here.

Mr. Mitchell: Ms. Kirkman has an excused absence for being sick. Mr. Mitchell is present and Mr. Howard is sick and also has an excused absence. Mr. Chairman, with that we have four and a quorum.

Mr. Fields: Just barely. We were discussing just a few business items. First of all let me make sure we go through the process. Any declarations of disqualification?

DECLARATIONS OF DISQUALIFICATION

Mr. Fields: Okay. Mr. Mitchell, just to bring you up to speed, we were sort of thinking about and we can continue this discussion now since we are sort of into it. We are looking at our plan of action for the next couple of months. We have four scheduled meetings, November 4 and 18 and December 2 and 16. Mr. Harvey informed us that there are no land use public hearings in the queue for rezoning, CUP, comp plan amendments at this point for those two months. But we do have three fairly…well more than three…but three fairly significant referrals back from the Board of actions that are ongoing that we probably need to look at. The comprehensive plan, of course, which was referred back to us at the joint public hearing, the reservoir protection overlay district and the cluster ordinance. I think where we are sort of sitting and I think what Mr. Harvey wants us to get at in this discussion is to decide what meeting we are going to have and how we want to structure these meeting.

Mr. Harvey: Correct.

Mr. Fields: It looks like to a certain degree the typical format is not necessarily germane to the next couple of months. We may want to schedule a couple of fairly long work sessions. There was a lot to get through on all of those, particularly the reservoir protection overlay, had an awful lot of comments and it seems like we have a fair amount of work to do to address those and get that into shape. The comprehensive plan, of course, is huge and I am not sure exactly what…well I am not exactly sure where they want us to go with that. When they referred this back, we were all at the public hearing, does anybody have a sense of exactly what they think the priorities would be to or what the Board envisions us referring back to them as a comp plan and in what way would it be different that what was already sent up.

Mr. Harvey: Mr. Chairman, my sense was that they wanted the Commission to take a look at the comments that were raised at the public hearing and also provide some recommendations for the urban development areas.

Mr. Fields: Okay. Yes, Mr. Di Peppe.

Mr. Di Peppe: My sense was that they wanted to delay it past the November election because if they get…if there is a swing in the political makeup of the Board, they are going to rewrite it to be a whole lot more developer friendly. And so, I don't know how much…what they expect us to do before November comes and we know what is going to happen in the new year.

Mr. Fields: Well you know, I understand your point of view. I think you don't want to judge things too far in advance either. Also you don't necessarily know…well it is a general rule that Planning Commissioners are usually ideologically, if that is applicable, in sync with their Supervisors. We all have independent views on things, as you know. To a certain degree we do have to operate under the assumption that even if there is a change, our changes in the composition of the Planning Commission which may be different than the composition of the Board to some degree. I certainly understand your remarks. I know that there was one issue raised that I am not exactly sure how to handle it, maybe Jeff if you or staff can enlighten us on that. My understanding that it was sort of addressed, I know some people felt the concept of transportation not being adequately addressed in the comprehensive plan, but my understanding…I think you guys or somebody from staff addressed it once. Our understanding, at least Mr. Rhodes and I and Mr. Howard, working on the Transportation Committee is that to a large degree until the land use pattern is really established with the comprehensive plan, the final stages of a more comprehensive transportation plan can not be addressed because we can not model or fine tune that until we really decide what the land use generators are going to be. Is that somewhat accurate?

Mr. Harvey: That is correct. Because to run the model to see how many lanes we need to accommodate for traffic you have to be able to have inputs of land use. So there are some chicken and egg types of questions, but you may be able to maybe beef up that section and talk about some of the things we are pretty sure about like improvements to the Route 1 corridor, specific improvements to Courthouse Road and those types of things. There will be other network adjustments that won't be able to be fully evaluated until again we have some more land use inputs.

Mrs. Carlone: Mr. Chair.

Mr. Fields: I can tell you… yes ma'am.

Mrs. Carlone: FIM was another one that was not included and they did mention a couple of time about updating the figures for that.

Mr. Fields: That was a salient point, generating a FIM based on updated numbers. Mr. Mitchell, do you have any recollections? We can get these from staff, I am just sort of generally trying to get a sense of how we want to work ahead.

Mr. Mitchell: The one document that was included in our packet was amendments to the comprehensive plan update. We had several…we had citizen issues, Commissioner issues and Board of Supervisor issues. Maybe I am wrong, but if we just attack each item individually and make a determination, be it good or bad. At least take this list of issues that people brought up, like I say Board members, Planning Commission members, citizens.

Mr. Fields: Okay.

Mr. Mitchell: To me, if we potentially look at this and address them and then make a change if needed or leave it the same if it did not need it. To me if we would attack this document, that may be a comprehensive way to phase in some information that was needed or phase out some information that was not needed.

Mr. Fields: Okay.

Mrs. Carlone: Mr. Chair.

Mr. Fields: Yes ma'am.

Mrs. Carlone: What we really need to do first, if possible, is to go ahead a set a date to meet. Some of these are non issues. I read through them and some of them…there is misconception, so those are not a problem.

Mr. Fields: That is sort of what I am getting my head around here. Do we need to…the November 4th date is the day after Election Day. Is the Board rescheduling their first meeting in November or passing to one meeting?

Mr. Harvey: It was cancelled.

Mr. Fields: So they are just going to the 17th?

Mr. Harvey: Yes sir.

Mr. Fields: Okay.

Mr. Mitchell: Would that be a good opportunity to make the meeting agenda lighter?

Mr. Fields: Yeah. What I am sort of thinking we have like these three fairly large issues, maybe we can work November 4th, 18th , and December 2nd. November 4th on the comp plan, 18th on the Reservoir Protection, the 2nd on cluster ordinance and some other things that we may need to look at and perhaps not have to have the meeting later in December. Unless some public hearing or land use

issues come along that we need to address or some carryovers from existing items, I would have to double check.

Mrs. Carlone: Wouldn't it be just simpler for us to go ahead and set a time and just meet and hash out or get rid of some of the ones, like I said non-issues and then concentrate on this for…when we come here it would be easier to discuss the items.

Mr. Fields: Well I think the ones, I think the discussion we have to have on the comp plan even if it seems pro-forma, I think we have to have that we really need to have that in a meeting that is called to order in a public forum.

Mrs. Carlone: But to have the staff meet with…I just think it is going to be a very lengthy process, so if we were able to…I will let Arch say something.

Mr. Di Peppe: I was just going to suggest that if we do approach the comprehensive plan, we start that the second meeting in November.

Mr. Fields: Okay.

Mr. Di Peppe: After we know how the ground lies. I hate to say that, but I think effectively what happens on the 4th is going to effect, as it always does, Stafford County for the next four years. We might have a different perspective in that second meeting. And we certainly can meet in the first meeting, I am not suggesting we don't meet for the first meeting, but there I would take up either the Reservoir or what was the other, what was the third issue.

Mr. Nugent: Cluster.

Mr. Di Peppe: The cluster development. I don't know how we are going to solve the cluster development. But I was just going to say if we were going to schedule it, it might be better to schedule the comp plan until the second meeting in November or possibly the first meeting…I agree with Ruth, I think comp plan is a huge issue. I think the core of it is still they are going to agree on. The big question is going to be after the first of the year, here is the big…honestly the big problem is this, after the first year we could possibly see a much larger urban service area. Depending on the political outcome of the election and I am not going to get into which is what or whatever.

Mr. Fields: Right.

Mr. Di Peppe: Just we could see…and if that is so, for us to sit here and make plans and suggestions about something without knowing that. I do believe that could be a political outcome. So we should have that meeting the second meeting of November. Other than that I don't think…the other meetings we can schedule anytime between now and the end of the year. I would love to see…get the work done in time to have…because we have done that in past years, sometimes have that second meeting in December off because it is so close to Christmas.

Mr. Fields: Sure.

Mr. Di Peppe: Things slow down, especially in an election year. Where we don't have, in this case, all those land use decisions that normally…

Mr. Fields: You could have a majority of the Board change, so you really have a lame duck situation.

Mrs. Carlone: Yeah, but we still have to…

Mr. Di Peppe: I am not saying we don't do the work, I am just saying schedule the other things, maybe for…

Mr. Fields: How about this then. How about November 4th we start looking at all the comments for reservoir protection. In some ways that is even…the comp plan is a bigger deal, but actually the complexity of looking at the comments from reservoir protection is actually probably harder. Every one of those comments was technically appropriate and germane and actually raised a set of issues that we are going to have to sort through.

Mr. Di Peppe: We got excellent citizen input. I was glad to see that.

Mr. Fields: The comp plan, were good remarks too, but the comp plan being a bigger picture thing. Some of the remarks, I mean this with equal respect to everybody, but the remarks on the comp plan tend to be a little more ideological, which it should be. The comp plan is kind of a philosophy of the county. So we have remarks that were more philosophically oriented, where as I thought the reservoir protection was primarily all just technical details about the thing. So, we actually…from the planning commission's perspective we actually may have more work to do on that one, so let's start on that if that is okay. Let's do that on November 4th, Comp Plan on November 18th and then continue on December 2nd, add the cluster ordinance in on the 2nd and probably continue some of the work from the others. We will probably raise questions and need replies back from staff on the reservoir protection; it will be ongoing and then at that point let's at least tentatively probably cancel the meeting on December 16th. Is that okay with everybody? Sound like a plan?

Mrs. Carlone: Excuse me Mr. Chair.

Mr. Fields: Yes ma'am.

Mrs. Carlone: Didn't we have some legal area you were looking into for reservoir?

Mr. Nugent: We need to incorporate those suggestions in as well.

Mr. Fields: Alright. Do we need a motion to that effect? Do we need to cancel the December 16th meeting right now or can we hold off? We are tentatively sort of agreeing consensus wise that we are not planning on it, but obviously if necessity is necessity we can do it. Okay, very good. Okay, let's see. We do have some folks here, so let's maybe move ahead with that. I think the first thing we have is the Onville Retail Center.

<u>REVIEW OF PROPOSED ORDINANCES</u>

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

3. Rappahannock River Overlay District (Deferred to subcommittee - Peter Fields, Ruth Carlone, Friends of the Rappahannock and Rappahannock River Basin Commission) (Request sent to Board of Supervisors for indefinite postponement)

REVIEW OF PENDING REZONING/CONDITIONAL USE PERMITS

4. 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: January 19, 2010) (History - Deferred at September 16, 2009 Regular Meeting to October 21, 2009 Work Session)**

Mr. Harvey: Yes Mr. Chairman. Joey Hess can give you and update on the application.

Joey Hess: Good afternoon. Bringing back to you the Onville Retail Center, we put together a memo for you. Staff brought this to you at your September 16th public hearing meeting and there were some application requirements that were not fulfilled, which are now fulfilled. We brought back four owner consent letters and one Power-of-Attorney letter; there are two for the property at 23 Onville Road both giving the authorization to Sharon Lee to represent all the property owners on that property, and there are three additional owner consent letters for 17 Onville Road that give Paul Tavara authority to represent them in this reclassification. The applicants also submitted a revised architectural rendering. As you might be able to see, it is a color copy there. And there are also some changes to the proffer statements, revisions made to the proffer statement. In particular, two proffers are added towards the end on page 5 of 14 on the proffer statement. It's under number 5, miscellaneous, it's under letter D, which is architectural treatment/exterior building materials. The applicant added statement number 1 which the applicants agree to utilize a consistence architectural theme in conformance with the illustrative exhibit that is in your packet, that is with your memo in your package. And then there is also number 3 which this more or less is to ensure conformity with these proffers and it just more or less says that at the time of submission of the building permit, the applicant will submit the plans, the elevations and the architectural treatment/exterior building materials to the Planning Commission for their review and approval. We already have someone in the Public Works Department that reviews this but this will give us a second pair of eyes to make sure that the architectural treatment is in proffer conformance. And with that I am here to answer any questions or comments or concerns you may have. The applicant has their attorney here, Mr. Dennis Cate, to answer any additional questions you might have.

Mr. Fields: Okay. Are there any questions for staff or the applicant? Mrs. Carlone?

Mrs. Carlone: Yes. Well, it would be for the applicant.

Mr. Fields: Well, go ahead. We are in a work session so we don't have to go in strict sequence.

Mrs. Carlone: Oh, okay. Looking at the rendering, can you tell me right now what the various materials will be as this is represented?

Mr. Hess: Are you asking me or are you asking the applicant?

Mrs. Carlone: Well, that was supposed to be for the applicant. It doesn't show the texture too well.

Mr. Paul Tavara: It's brick and glass. The intention is that the columns and the walls will be of brick and obviously we have added the glass to break up the facades more than in previous iteration.

Mrs. Carlone: Okay, what is the material above the basic wall?

Mr. Tavara: I will have to defer; it may be EIFS. It is intended to be consistent with what you see across in Doc Stone and so forth, but this was trying to give a general representation of the architectural. We don't have the exact materials. We do have in the proffers what the materials cannot be.

Mrs. Carlone: I saw that, but I was curious because, like I mentioned, it doesn't show textures. So the brick certainly that would go along but I was curious what the upper portion just below the roof was going to be. Okay, that's all. You do state the materials, like you said, that you won't use. This is representation of what it will be because it says not necessarily, I think, one of your statements in the end.

Mr. Tavara: It's in general conformity with this. Basically, we needed to have a unified theme in general conformity with this representation. And then, to make sure it is, we have given another bite at the apple at the Planning Department; they will look at this at building permit and make sure that what we're proposing is in general conformance with this.

Mrs. Carlone: Okay, thank you.

Mr. Fields: I have a question. I just have to ask; I mean, this is just not up to the same standards as virtually all of the other architectural representations that we get in a proposed thing like that. Is there a specific reason for that? I know it's not a huge property, but it's a reclassification, it's a rezoning request. Even though this parcel may seem like that's a fairly logical choice, a rezoning request I think is a very significant request to the County. And most applicants for a rezoning have a much more extensive set of proposals in terms of the architectural. It doesn't mean that I'm asking that I want you to come up with an elaborate design and hold you to it and make you do exactly that, I am just determining the process for creating… you know, trying to guarantee and negotiate with the destiny of that. Places like architectural is usually better work. This is just kind of disappointing, you know. I was just wondering what the reason for that is. Is there a reason?

Mr. Tavara: I think the intent was to provide architecture that was consistent with the area. If you look at the offices across Onville, this is similar although, since this is intended to be retail, the intent was also to make this look akin to the retail that you do have along Garrisonville. Hence, the coloring of the roof but the architectural embellishments, the peaks were intended to be consistent with what is across Onville from here.

Mr. Fields: Does it say that in the proffers?

Mr. Tavara: It's generally in accordance with this exhibit and the exhibit shows that.

Mr. Fields: With all due respect, this exhibit doesn't show anything. This is colored shapes on a page. And I think you are referencing it in the proffers and it seems to be probably okay, but I am just concerned. I mean, you know, this is what the Planning Commission's responsibility, is to make recommendations on, in many ways, the quality of the environment. The quality of the built environment is not because some people want to look at something nice. The quality of the built environment is what inspires a sense of place in the community and when you inspire a sense of place in the community, you inspire an engaged active community which leads to a better, healthier, safer, more prosperous community. And this has been shown time and time and time and time and time and time again that the quality of the built environment has a real impact on the nature of the way people feel about the world they live in. So, I am not trying to be obstructionist or difficult here, but I am… as a Planning Commissioner, I am entrusted with that responsibility and I think all of us up here are. So, I still, I hate to say it, I am still uncomfortable that this is kind of a level below where we sort of set the bar for Stafford County. If this is the maximum you are willing to do in terms of the proffers and the exhibits, that is certainly your call. But I don't wish you any harm. I wish you a profitable venture. I am not trying to stand in the way of that, but these issues… I don't envy anybody coming into development, commercial or residential at this stage, in Stafford's history because previous incarnations of the Planning Commission and the Board did not set the bar as high, and so we have something that has negatively affected… that has set the bar higher for people coming in later. Whether that's fair or not, I don't know what to say. But that is just the reality of it. Any response? Again, I am not trying to be mean or anything, I am just telling you what I feel, my concerns.

Mr. Tavara: We understand your points. The intention is to actually have something that does look good because we do agree that you need a quality built environment and that is the intention of what you see here. Maybe the representation is not as clear; I am not sure if the coloring translated quite as well as it might have. When I saw this on screen, the coloring was slightly different than what we are seeing here, that was printed out. So, it may be partially that representation but, the bottom line, in order for a commercial development to succeed, the applicant does want it to look nice. So the intention is to have a nice looking development so we are certainly on the same page with that.

Mr. Fields: Okay. Mr. Di Peppe.

Mr. Di Peppe: I would have to agree with Mr. Fields because as long as I have been on the board, this is… honestly I cannot remember one that had less detail. Let's put it that way. Normally, and if you want to see other representations I am sure the staff can show them to you, but it has been my experience on the board that we get a lot better detailed drawings in the past. I can remember sitting here with Barbara Kirby where we made people in rezonings proffer materials and colors. We would hand them the color of something and go "make it so". And, with this, I can't tell what we are getting. It looks like whatever program was used to generate this it is not anywhere near the level of detail that we normally see. And since we are the stewards and have to safeguard how the County will look and function, when I look at this, like Pete, I am just really disappointed in the representation. Staff must have fifty examples of what we normally see and I think you need to go look at that and bring us back something. And I would like to know, what are the other materials besides brick? What is the percentage? What is the roof going to be made out of? Are there any decorations at all on these eves? I'm sorry… it just is nowhere near what we normally see when we are asked to make a decision. And if you ask me to make a decision tonight based on this, I would vote no. I don't see what we're agreeing to do.

Mr. Fields: I would recommend that, I don't tout this, well I partly tout this because it's in my George Washington District, but I often use White Oak Plaza is a proposed shopping center as an example how

a smaller center in an area I think can create, can use, a way of referencing a set of design standards without necessarily having a… I want to be very clear, it's not that I need a very elaborate architectural rendering that I want you to hold down brick by brick, window detail by detail. It's something that guarantees that the overall look… and if you wanted to eventually add those to the proffers, I mean you are offering it to us by specifically referencing the surrounding area, because that is the key. The key is applicability to surrounding areas which is what we did in White Oak Plaza. That was when I was on the Board of Supervisors. The Planning Commission, in a diligent work, came forward with a sort of a very modern brick and glass structure that looked great. It would have looked great up here on Garrisonville Road. I thought it was inappropriately suburban looking for White Oak and so we went back and we came up with a set of design standards that is not proscriptive but references the architectural language of the White Oak area which is primarily brick and clapboard. And so, with materials like hearty plank and stuff like that, we have a set of design standards for that that will allow it to evolve in a way that is appropriate contextual to the neighborhood. It sounds like that's what you want to do here. I mean, it's not that I need a fancy rendering as much as I need some idea that you are going to take some architectural language around you and reference that. I mean, I would be happy to do that. But, it's not that you're not saying that you are going to do something wrong here, you are saying you are not going to do butler buildings, you are not going to do just cinderblock. I think generally we have moved beyond that as sort of the baseline in saying that the baseline is something that creates a harmonious and reasonable flow of the visual pattern. Certainly Stafford Marketplace and Doc Stone Commons, those have truly set, I think, a higher standard for what we want on 610. And if you wanted to reference conformity or design standards that reference those same kind of architectural treatments, that would satisfy my issues with it. Like Mr. Di Peppe, I want you to be able to go ahead and get started and get in business and start prospering but I can't, the way these sit now, I am afraid I can't support them.

Mr. Di Peppe: Is there anything on parking or landscaping? I mean, normally we see all sorts of things and it's not uncommon for rezonings to actually proffer the general development plan instead of going "it kind of will look like this", in general terms. We are used to holding people's feet to the fire and going "it will look like this, it will be this color, it will be this material". I realize you may not know your tenants yet but certainly certain materials and… there's not a bush, there's not a sidewalk, there's not a parking lot, there's not anything other than the kind of things that I build out of Lincoln logs with my grandkids. And I think staff needs to show them what we are normally used to seeing. When they come in with something like this, I hope staff will go "I wouldn't go before these people with this if I were you because you are just going to have to go back and do it over". And maybe you weren't told that. And so you may have a legitimate gripe going; you turned this in and nobody said anything to me about it.

Mr. Tavara: I am not going to say we've had these discussions. As for the GDP, we've proffered aspects of the GDP which really do limit any meaningful change from what's shown. We have inter parcel connections that are proffered, we have the buffer, we have the entrance location is proffered, we have dedication along Onville, we have right-of-way dedication, we have a continuous right turn lane construction, and we have the sidewalk along Onville that has to be constructed. In tandem with that we have proffered the location of the loading spaces, the dumpster. When you have other requirements you have the parking requirements, the number, the Stormwater Management and so forth. Basically we have limited what it would look like and we have proffered generally to the architecture and we certainly can go back and look at the architecture.

Mr. Di Peppe: But we normally see all that in the rendering. Like I said, we would see an artists concept, say, if you were looking from this side it looks like this, if you are looking from this side it

looks like that. And maybe I would feel much more comfortable about it if I saw that. Maybe I am biased because that is what I normally see, a much more detailed rendering. And then I might feel a lot better about okay, well this… you know…

Mr. Tavara: We can certainly look into providing something…

Mr. Di Peppe: And I would ask staff to show you… it's public record what other people have turned in and what we are normally used to seeing.

Mr. Fields: And like I said, if you could just even look at language that would reference the surrounding architecture. I think all those other things that you mentioned are adequate. Whether you did the architectural renderings or not is not as important to me as that you reference the… if you reference the context in terms of the neighborhood then that is the most significant thing. That's just me speaking personally.

Mrs. Carlone: I have a question. From one end, which this is a good thing if this is the way I am looking at this, that it's a covered walkway? On one end you have a white area that looks like that might be a column…

Mr. Tavara: There is an overhang.

Mrs. Carlone: Well, that I commend you on because you like to be covered. But I would, just like Mr. Di Peppe and Mr. Fields, that I wish there were some more embellishment because someone that is going to bring a business in, they kind of like an attractive building; something to be proud of where they have their business. That's all.

Mr. Fields: I just don't want… language that is more vague can definitely yield a fine result, but you have to watch out for unintended consequences. I would reference, I don't know if you have ever seen the famous modern house on Sophia Street in downtown Fredericksburg. That would be a great example of how not paying attention to the big picture yields unintended consequences. At this point, I guess… is this in the Aquia District or is this in Griffis-Widewater?

Mr. Tavara: Griffis-Widewater.

Mr. Fields: The Commissioner from Griffis-Widewater is not here and will not be here; she is out ill this evening. I guess we need to… do you think if we think this back another session we can address some of those issues and come back with something ready to go?

Mr. Tavara: I think we could.

Mr. Fields: Okay. Well, let's bring it back…

Mr. Di Peppe: We can bring it back the next meeting.

Mr. Fields: That's what I am saying. Bring it back November 4 I guess is our next meeting. If you could address the comments that we have had today, I think we would be ready to go. Like I said, it's not an onerous thing; I think we can get this resolved pretty quickly.

Mr. Di Peppe: Do we need a… I would like to make a motion to defer until our next meeting, November 4th.

Mrs. Carlone: Second.

Mr. Fields: Okay. Motion to Defer; any discussion? All in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye. Opposed? Alright, thank you very much. Mr. Rhodes, welcome.

Mr. Rhodes arrived at 6:20 p.m.

Mr. Fields: Okay, we can move to Cranewood, Preliminary Subdivision Plan.

REVIEW OF PENDING SUBDIVISION PLANS

5. 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) (History - Deferred at September 16, 2009 Regular Meeting to October 21, 2009 Work Session)**

Mr. Harvey: Mr. Chairman, Mr. Stepowany will give you an update.

Mr. Stepowany: Thank you Mr. Chairman, members of the Planning Commission. At the last Planning Commission meeting on September 16th a question was raised pertaining to the use of the easement to serve lots 2 and 3. We have included the zoning ordinance regulations for lots 2 and 3 stating that they are compliant lots, that they have the required lot frontage and lot width along Enon Road. And that is an important factor to bring out for this application because both lots do comply with the street frontage requirements. Proffer one for Cranewood Subdivision requires lots retain 25 foot undisturbed vegetative buffer along Enon Road. Even though the lots have frontage on Enon Road, they are restricted from accessing it; therefore, the secondary means of access provided has already been recorded through the already existing lot 1. The secondary means of access is not considered a private access easement which may have been one of the questions. A private access easement is the means of access to a lot being established in a subdivision that does not have frontage on a public street. The ingress/egress easement to serve proposed lots 2 and 3 was recorded Novmeber 12, 1996 in Plat Book 29, Page 246. It has been partly constructed to include a curb cut onto Brass Court, and attached are photos of this site. The first photo is actually Brass Court from Enon Road and the cut is that ingress/egress easement. And then the second photo is the existing ingress/egress easement as it goes behind lot 1. And then the third is just another view of Brass Court and the existing access road. And I will be more than happy to answer any questions and the applicant and his engineer are here to answer any questions that the Planning Commission may have.

Mr. Fields: Does anybody have their master plan from last time?

Mrs. Carlone: Now, the cuts and everything here matches what VDOT would approve?

Mr. Stepowany: They were required to comply with current VDOT standards with the street. As a matter of fact, the originally approved preliminary plan only had a 4 foot wide sidewalk; this preliminary plan actually has a 5 foot wide sidewalk because that is required now as opposed to what was required on the originally approved plan. It still got approval from VDOT and had to comply with current standards.

Mrs. Carlone: Okay.

Mr. Fields: I notice the easement is 20 feet, right? It's required by code to be constructed to 20 foot?

Mr. Stepowany: The current requirement requires the width of the easements to be 20 feet clear of any vegetation or structures.

Mr. Fields: Right. I was just making sure. I remember we had a really bad experience years ago with easements.

Mrs. Carlone: And Jamie, the buffer remains on Enon.

Mr. Stepowany: Undisturbed. It was proffered.

Mrs. Carlone: Undisturbed. Okay. That was one of the issues. I don't have any more comments on this.

Mr. Fields: Is this owned by a builder? I can't remember…

Mr. Stepowany: Yes.

Mr. Fields: Who is the builder?

Mr. Tulloss: Good afternoon ladies and gentlemen. I am John Tulloss. Unfortunately I have been around Stafford a long, long time and you probably all know me. We put together investment groups; secretaries, teachers, unfortunately there are a couple people that are dead we have been working on this so long. No, it's not a builder; we have no builder as of yet.

Mr. Fields: Okay, so you are just trying to get your plan, your investment, vested and sort of on the table. But at this point you don't have a plan in the near term to begin building houses there?

Mr. Tulloss: I guess like everything else…

Mr. Fields: The lots will go for sale the instant they are created, right?

Mr. Tulloss: Yes, but we don't expect them to sell. We've had it a while so it's not the right time to jump on it real hard to sell it. Yes, we would like to have somebody come along and really want those lots.

Mr. Fields: I guess what I'm getting at as I am a little bit encouraged, these look like the type of lots that maybe something more affordable and modest would be a logical product for that. There is a shortage of new lots that are… of course, now anything is affordable, but I mean because of many factors I know it has been an issue for a long time the typical suburban subdivision has gotten quite pricy for the average teacher or deputy or something.

Mr. Tulloss: That was what was originally set up and we felt it was a good place to locate a subdivision within walking distance to the high school across the street. They were designed to be reasonably priced homes and nice lots. There is a lot of vegetation on those lots and it was important to us then and it still is to keep it looking that way.

Mr. Fields: Okay. Are there any other questions for the applicant or staff on this? Alright, we can go ahead and move this. We don't have to move this to the evening; if you are ready to vote on it we can vote on it right now.

Mrs. Carlone: I would like to recommend approval of 241784 Cranewood, Section 2.

Mr. Fields: Is there a second?

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Any discussion? Alright, hearing none all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye. Opposed? Alright, very good. Good Luck. So, we are just ripping through things here. Let's go back then and with the time left, we have the Groundwater Management Plan Ordinance. The elimination of the preliminary subdivision plan we are still waiting to hear from VDOT and still sorting through some of the details, right?

Mr. Harvey: Yes, Mr. Chairman. Staff has given you a compilation of the internal department comments, including the Health Department. We are still waiting for a written response from VDOT based upon the meeting we had with them. I guess the next steps would be, at that point in time, the legal department to digest all of it and to prepare the ordinance.

Mr. Fields: Okay, very good. Okay, Groundwater Management Plan Ordinance.

2. Groundwater Management Plan Ordinance

Mr. Zuraf: Good evening Mr. Chairman, members of the Planning Commission. At your meeting on September 19th, Ms. Kirkman requested a copy of the model Groundwater Management Ordinance and we have provided you with a copy of the Groundwater Management Plan that was prepared for the

County back in 2004. It does contain an outline for a model ordinance; that is within the Appendix of that Plan in the back. The Plan back then was prepared in response to an extended period of drought conditions that the County was undergoing; that was basically happening from 2001 to 2003 and the County felt that there was a need to address the groundwater issues in the County. And kind of to refresh everyone's memory since we have kind of been away from the Groundwater Management Plan for a while, I would like to go through and provide an executive summary of the Plan.

Mr. Fields: That would be very helpful Mike.

Mr. Zuraf: Okay. The Plan basically evaluates the existing groundwater conditions, as well as the issues, challenges and impacts of development on groundwater resources in the County. It kind of serves as the purpose of providing management strategies that would protect the quantity and quality of the County's groundwater resources. And then this would serve as the basis for any future ordinances or programs the County would enact to address groundwater concerns. Looking at the County overall, the County has three distinct geological units and we have a map that is included in your package that kind of explains the location of the different geological units in the County that affect groundwater differently. We have the Piedmont Crystalline Bedrock System, the Fall Zone or Coastal Plain Aquifer Recharge Zone and the Coastal Plain System. Looking at the locations of these areas, they basically run from west to east across the County. The Piedmont Bedrock area is land that is generally west of Interstate 95, the Aquifer Recharge area basically bisects the County from north to south right along the 95/Route 1 corridor and basically corresponds with a lot of the County's growth area, and then the Coastal Plain is located along the eastern part of the County. Some of the issues related to these three zones: within the Piedmont area, where you have a lot of underlying bedrock, the greatest concern is water supply. Water contamination is less of an issue in this area. The reason for the issue with water supply is you have deep wells that would sometimes, and have in the past, drawn up the water in where you don't have fissures in the bedrock. Or where there are fissures in the bedrock, that would basically draw a lot of the surface water down and the shallow wells then suffer from the water that is drawn out from those deep wells. And contamination is less of a concern because some of the sub-soils provide a good layer and protect the water aquifers in these areas. In the Aquifer Recharge area, or it's basically termed as the Fall Zone, and these areas where there is more concentrated of development, the impacts to existing water wells are less of a concern in this area, mainly because a lot of the housing and uses in these areas are on public water. But the issue in the Fall Zone area is you have aquifers basically to the east of this area that would be affected by what happens in relation to groundwater runoff in these areas. What runs off of development and impervious areas basically feeds the aquifers to the east of this line. So, the bigger concern here is looking at preventing the introduction of pollutants into the groundwater system. And the Coastal Plain areas to the east, they also then deal more so with the risks to contamination of water for the same reasons as in the Fall Zone.

Mr. Di Peppe: Before we go on, can we at least mention that the big problem with where the Fall Zone is also is that that is also the center of our Urban Service Area and the recharge area for aquifers. And so what often ends up as our most intense development and we know that unless we change our ways with impervious materials that we have a serious problem in the future if we don't do something. If we continue to build out like we have, the water just won't get back onto the aquifer.

Mr. Zuraf: And some of those issues are being addressed right now and have been addressed with some of the innovative things that the County has done with LID. The old practices of development would divert water more directly to stream channels that would run, basically take rainwater and stormwater right to the nearest channel, and there would be less of a chance of that rainwater

infiltrating into the ground. So, some of that is being addressed but there is probably more that can be done.

Mr. Fields: I agree with Mr. Di Peppe; it is important to remember, though, that these are not bounded by Stafford County. The recharge area is hundreds of miles long and into an aquifer that is hundreds of square miles.

Mr. Di Peppe: But I am worried about the recharge area in Stafford County (inaudible). We are all downstream from somewhere.

Mr. Fields: Believe me, I have had a lot of conversations and talks about this.

Mr. Di Peppe: Let me say I loved reading this plan. There was a lot in this that I went "oh wow, some enlightenment".

Mr. Fields: It actually gets into some interlocking issues that are still complex. I know on the Rappahannock River Basin Commission we discussed some of these issues to a great deal and one of the primary implications that we still haven't quite sorted out yet, I think it's still an ongoing process, is that what it does ultimately is interconnect land use decisions across jurisdictions. Really, the recharge is not this eastern part of Stafford County, it's the Potomac aquifer that goes down the Northern Neck and covers a good deal of Southern Maryland as well. So, ultimately, we don't get very much benefit. The amount of water that we get from the water that recharges through this recharge area is fairly minimal to some degree. It's more what happens down in the Northern Neck. The same, thought, with what happens in Fauquier County; it affects the recharge of our Piedmont area. So, ultimately, I think the state is still developing some models. I know there has been a push at least at some level to develop a great deal more of test monitoring wells right in the Piedmont area because there is just very little data on well performance in the Piedmont area. I didn't mean to interrupt you Mike.

Mr. Zuraf: That's fine.

Mr. Di Peppe: One more. But historically in the east we haven't had the problems they have had in the west where they have shot each other for 150 years over water rights. But we are coming to the point with increased population and changes that we really have to start looking at our aquifers and our recharge areas. And I will stop there. Thank you.

Mr. Zuraf: I have a little bit more to go. The Plan then gets into what are the solutions to some of these issues. And the Plan recommends three different levels of groundwater management strategies. There are minimum, moderate and high levels of strategies that are suggested in the Plan. Some of these suggestions, just kind of going from the minimum up to the high, recommend designating well head protection areas for any future community wells. Also, the strategies suggest requiring hydrological testing and it is listed in various types of hydrological testing that could be done. It could be required for uses that have just simply large well withdrawals; that is one of the low strategies. The mid strategy would be to require this hydrological testing for any new residential development with wells that would have more than twenty-five lots within the subdivision. Then the high level of strategy, with hydrological testing, would be that any new residential developments, excluding minor subdivisions, so any major subdivision throughout the County would have to do hydrological testing. Also, some other strategies would be to prepare a contaminant source inventory for wellhead protection zones and aquifer recharge zones, develop an overlay zone to enhance protection of the

aquifer recharge area and require Conditional Use Permits for certain uses that may have a higher potential for groundwater pollution. And then also a strategy that would require new development within a certain distance of water lines to connect to that public water line and we currently have this in place now. Our current Utilities Ordinance requires new homes that are within 300 feet of existing water lines to connect to a water line if one is present or planned in the area where that home is going up. Among these three levels of strategy is when the Board approved the Plan or adopted this Plan in 2005, they recommended high level management strategies be incorporated and any future implementation. And aside from that Board recommendation, the Plan does then recommend specific strategies. There are three specific strategies recommended within this plan; one being the requirement for Conditional Use Permits for certain land uses that are located within the aquifer recharge zone, another would be requiring Conditional Use Permits for certain uses that are within a certain radius of existing or proposed community water well supplies, and then also the requirement for hydrological testing on any subdivisions with greater than twenty-five lots that would have wells. The model ordinance that is provided in the Plan is in general outline form in the Appendix. It includes some general perimeters for requiring a groundwater plan and hydro-geological testing. It states when it would apply, the required plan elements that would go along and any required testing elements, and then also certain testing guidelines. Then the model ordinance also includes certain specific wellhead protection and recharge area requirements. That gets into suggesting certain uses be prohibited and certain uses require a Conditional Use Permit in those areas. So, it states then where these Conditional Use Permits would be applicable in addition to prohibiting additional uses. Staff would need to craft more detailed ordinance language to kind of follow our standard practice to determine where these ordinances would appropriately fit in the County Code, whether they would be within the Zoning Ordinance. Some aspects of this might be best in the Utilities Sewer and Water Ordinance, so we would have to hash that out at the staff level. And in developing any of these ordinances, we would likely look at other localities. There are certain examples cited within the Plan as well, specifically Loudoun, Fauquier and Rappahannock Counties have certain levels of hydrological testing required for development. So, we would likely look to see what's happening and how the situations worked in other counties. At this point, we will address any questions that you might have.

Mrs. Carlone: Mike, I have a concern about, not just for me or for us where we are, we are in the Piedmont Plateau area and we have a shallow well of sixty-five feet. Across the street they went 250 to try and find some water. Further down on Long Branch they went 850 feet; three lots went 850 feet. Now, this states twenty-five units. I really think it should be a little lower for a subdivision coming in.

Mr. Zuraf: The high level management strategy would apply to any preliminary subdivision in which there were five or six lots or more; it would apply there.

Mrs. Carlone: It's been devastating for us in drought, how our well has dropped. And there are two subdivisions that were put in down from us. Oh, also, I don't know if you remember, Mr. Chair, when I bugged the Board so much to get the testing to go ahead and have spot test wells around to watch the groundwater level. Some were abandoned wells, not being in use, and then USGS was willing to go together with us…

Mr. Fields: Have we ever done any of that?

Mrs. Carlone: There was one… I was trying to remember, some of this sounds familiar but it was about $42,000, something like that, for a very… usually you go for five years but this was done just within a year's time to come up with. But we did, I just don't know how many years ago that was, but I know you were on the Board at that time.

Mr. Fields: It is a tough…the whole protection of the Piedmont is a very, it is just a tough scientific problem. Because the fissures are so numerous and random that it is hard to say, like in your area, whether a well a half mile away has any interactivity or inner connection to the strata that your water is on. It is very difficult.

Mrs. Carlone: There is fractured strata and you just don't know. You might hit a pocket, but how long will it hold out.

Mr. Fields: It might be connected to your neighbors well or it might not be connected to your neighbors well, it is very hard to tell.

Mrs. Carlone: Anyway we do have quite a concern out in that area because there is plenty of land for growth out in that area. That is more or less it.

Mr. Fields: I had heard something recently about…for a while of course we think we have fairly limitless resources. It does not take long to be reminded that they are not. Even out in the northern neck they are starting to, like in King George, Westmoreland, they are starting to realize that they are depleting the Potomac aquifers that underlie… they are being depleted a little faster than they thought. Have you heard anything about that Jeff or Mike?

Mr. Zuraf: I have not.

Mr. Fields: I remember hearing something about that.

Mr. Harvey: I know there are concerns with the Tidewater communities, because most of them are primarily dependant on well water supplies. We have some staff members, the Deputy County Administrator and also a staff member from Public Works that are attending sessions at the State level, because the State is considering expanding its regulatory authority into all the Tidewater areas, which would include parts of Stafford County as far as groundwater withdrawals. Because the do have a potential impact to localities that are more dependant on ground water than we are. So at the State level it has been gaining some recognition.

Mr. Fields: The context that I heard that in was that some localities in the general Tidewater area are saying this is not…there is a lot of water being drawn here and it is not coming back in as fast as we once thought. That gets back to the recharge area that plays a huge component in that. Is there anything related to, this is not runoff or septic, but is there anything since this was done, new that is updatable because of the 2010 deadline of Chesapeake Bay Act or the potential TNDL's or things like that. Does this interact with any of that in any way? Is there anything that hasn't in this study that has certain current events affect this?

Mr. Harvey: I can not think of specifics but I know in talking briefly with Mr. Baral, on our staff, about the stormwater management component, with LID we try to get the water back into the ground rather than running off the surface. Not that would assist with the aquifer recharge issue. There may be a stormwater component that we can use, especially for commercial and industrial type of developments to try to focus more in the aquifer recharge area for groundwater infiltration. From the TNDL standpoint, anything you can do to try to minimize surface runoff is going to be a benefit. I am not aware of any specific direct ties to groundwater management plan verses streams that are impaired waters.

Mr. Zuraf: Sorry, the only other current issue then that may be affected by this plan is the whole issue that Jeff mentioned about expanding the State's groundwater management area. Some of the regulation there may fall under the state and may overlap with suggestions in this plan.

Mr. Fields: Okay. We have the state…the group working on that has representation from Stafford so we will be the first to know.

Mr. Zuraf: Right.

Mr. Fields: Any other questions for staff? So, next phase, I am assuming we sort of want, I think the idea is to start looking at an ordinance. What kind of timeframe to you guys need on that? We sort of mapped out our work here so I guess we want to…we don't want to overload you, but…any thought on that.

Mr. Harvey: I think if the Commission so directs us, we will take a look at the recommendations here and identify the appropriate parts of the County Code that may be applicable. There will be some things that will be in the Subdivision and Zoning regulations, but others like Mike had said may be outside the normal purview of the Planning Commission. So at that point in time, maybe we can identify those and start the discussion and some general work on that.

Mr. Fields: Okay.

Mr. Harvey: We certainly can move forward with the subdivision and zoning aspects, but we may need to get some communication back and forth between the Commission and the Board about the Utilities Ordinance, because the Utilities Commission may need to get involved. Also if it is stormwater, that is typically done with the Board of Supervisors. I think we need to map out a game plan and figure out from there how timelines and what we think we can accomplish.

Mr. Fields: Okay.

Mrs. Carlone: Mr. Chair, there is a tie in…I don't know if it is a stretch, but for our Overlay District protection steep slopes, all of that comes into defoliating areas. There is a tie in wouldn't you think or is that a stretch?

Mr. Fields: I guess it all has to do with…comprehensively it all has to do with how you would re-infiltrate stormwater.

Mrs. Carlone: Oh well, okay we will think about it.

Mr. Fields: So a game plan would be coming in with a general overview of these are the things we need to do and then we would need to request a Board referral to get started on this.

Mr. Harvey: Possibly, first we would need to identify the areas of responsibility so to speak, as far as Utilities Commission, Planning Commission, whoever..

Mr. Fields: Okay.

Mr. Harvey: And then go from there.

Mr. Rhodes: Mr. Chairman.

Mr. Fields: Yes sir.

Mr. Rhodes: I am encouraged by the fact that we do have the other counties that have been involved with this or something similar, some over ten or fifteen years. So at the point in time where staff does begin to start drafting things, and at the appropriate time agree to which we can pull in some observations and experiences from other counties, calling your peers at those counties to get some sense of being informed by them would be helpful in the process as we start to bring things forward.

Mr. Harvey: Certainly, Mr. Chairman. We can come back at an earlier date with the specifics on what other localities do in their programs and give you a briefing on that.

Mr. Fields: That is always helpful, particularly Fauquier. Geologically, the western Stafford and Fauquier County…particularly southern Fauquier County are almost the same thing and are very germane. Okay, so do you have what you need?

Mr. Harvey: We will first start with giving you examples of other localities and then take a look at what are our potential options that we need to take a look at.

Mr. Fields: Okay. Very good, any other questions? Let's see, does that take us up to dinner? Yep, alright, so we are adjourned until 7:30.

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

None

OTHER UNFINISHED BUSINESS

None

ADJOURNMENT

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

End of Work Session Agenda

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7:30 P.M. REGULAR MEETING

The regular meeting of the Stafford County Planning Commission of Wednesday, October 21, 2009, was called to order at 7:32 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT: Howard and Kirkman

STAFF PRESENT: Harvey, Nugent, Stinnette and Stepowany

Mr. Fields: Yeah, we wish Mr. Howard and Ms. Kirkman a speedy recovery. This is the time of the year when we are all, about fifty percent of the people out there, are on the verge of not feeling well most of the time. I hope everybody stays nice and healthy. Ok, we are at public presentation time. This is, I see this gentleman here has something he wishes to bring to the attention of the Planning Commission

DECLARATIONS OF DISQUALIFICATION

None

PUBLIC PRESENTATIONS

Paul Waldowski: Good evening, my name is Paul Waldowski and I am here to discuss with you a follow up of when you were present at the Board of Supervisors meeting two weeks ago. I am addressing Chapter 21, Solid Waste, specifically section 21-8, frequency of removal. This Ordinance needs to be drastically updated, it even has things like the word etc., I have furnished all that information to you. What I want to do with my time is basically give you a scenario of what happens to my garbage can for my condominium. My garbage can sits on the balcony waiting for yellow jackets then I open the door and the screen to bring it inside, my living room rug, I close the sliding door and I take it to the vinyl entry way where I open my fire retardant door and I take my can outside. I let all the odors go to my neighbors through the public stairway, down two flights of stairs to a fire hydrant. After the trash man picks it up, it sits there all day and I hope that no animals will urinate on it. So I bring it back in up two stories high, though the air is a little fresher, I open my fire retardant door and put my can on my entry way and then I prepare my sliding glass door so I can move my trash can across my living room rug so it can go back outside and breed some more germs and fun. I think you can get from my gist that I am tired of smelling empty beer bottles on the patios; there is dirty diapers; these cans are stored in the public stairway; I am talking about condominiums and apartments. I went around and I found six subdivisions in North Stafford, Aquia Terrace Apartments, Carriage Point, Garrison Woods and Onville Heights. They are a combination of condos and apartments and they all have dumpsters. Yet Stafford Meadows has no dumpster, though it did have them and Sunnydale Meadows also does not have any dumpsters. I am asking you to please look at this ordinance and though I am an able body to move my can, think about the handicap person or the elderly woman who has to move her can and if she is on the bottom floor, she has mice and rats to deal with. Thank you very much.

Mr. Fields: Thank you sir.

Mr. Di Peppe: Before we move on, I would like to make a quick comment because I have been in contact, I would like to make some kind of recommendation.

Mr. Fields: Sure, yeah, I assume we would want to get moving on this and take a look at this at the next work session.

Mr. Di Peppe: Well, I just want to address a problem we have because, like with this citizen here, I have been in contact with him back and forth and emailing and getting a little bit more information. He has a very legitimate problem. I think one of the difficulties we have in local government… I know we have to keep three minutes because sometimes we have fifty people here or 150 people or whatever. But it makes it extremely difficult for the average citizen if they have a complaint to even approach to explain what they are talking about and this particular citizen is bringing a legitimate complaint that we ought to take a look at to find some way to address. I would be willing to serve on a committee and get together with Jamie and would even, if this citizen would agree to it, I would like to have a way that we could come before this commission and explain in a little more depth so the Commissioners could understand what is going on here. I won't take anymore time tonight to do that,

except that I would like to be able to get together with one staff member and this citizen and maybe have staff make a presentation on this issue because I think it needs to be addressed.

Mr. Fields: It sounds like it. Okay, so ordered. You are it.

Mr. Di Peppe: I am it. Thank you. So if you will email me and I will… Jamie, is that okay to… so if you will just send me an email tomorrow and give me some times and we will talk on the phone and get together for a meeting.

Mr. Fields: See where our authority lies and does not lie and what we can do.

Mr. Di Peppe: It is hard in three minutes for him to explain the reason. He has some good concerns and I think there are ways that we can address this that would be good. So thank you.

Mr. Fields: Thank you, Mr. Di Peppe, for taking the initiative and thank you sir for brining this to our attention. Alright, public hearings.

PUBLIC HEARINGS:

6. Amendment to Zoning Ordinance - Amendment to Section 28-35, Table of Uses and Standards and Table 3.1, District Uses and Standards, of the Zoning Ordinance pursuant to Ordinance O09-50. The proposed amendment modifies Table 3.1 by permitting medical/dental clinics as a by-right use in the B-1, Convenience Commercial; B-2, Urban Commercial; B-3, Office; RC, Rural Commercial; SC, Suburban Commercial; and PD-1, Planned Development-1, zoning districts. **(Time Limit: November 17, 2009)**

Mr. Fields: Amendment to Zoning Ordinance, amendment to Section 28-35, Table of Uses and Standards and Table 3.1, District Uses and Standards, of the Zoning Ordinance pursuant to Ordinance O09-50. The proposed amendment modifies Table 3.1 by permitting medical/dental clinics as a by-right use in the B-1, Convenience Commercial; B-2, Urban Commercial; B-3, Office; RC, Rural Commercial; SC, Suburban Commercial; and PD-1, Planned Development-1, zoning districts.

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

Mr. Stepowany: Thank you Mr. Chairman and members of Planning Commission. Computer please. Item number six is as you stated an amendment to the Zoning Ordinance, ordinance O09-50. It pertains to medical and dental clinics. The purpose of this request is for the Planning Commission to consider a proposed amendment to Section 28-35 and Table 3.1 of the Zoning Ordinance as was referred the Planning Commission by Resolution R09-293 and there is a time limit and it is November 17, 2009. The definition of clinic medical or dental is building a group of rooms used by more than two licensed professionals. Listed below is practice, a group to conduct the normal operations associated with healthcare providers. Those professionals include physicians, dentists, orthodontists, optometrist, ophthalmologists, chiropractors, psychologists, psychiatrists, physical therapists and any similar profession. Patients shall be treated on an outpatient basis only, there shall be no overnight stays for treatment. Medical and Dental clinics currently require a Conditional Use Permit (CUP) in the B-1, B-2, RC and PD-1 zoning districts. It is currently prohibited in the B-3, which is office and suburban commercial zoning districts. Medical and Dental clinics would be permitted as a by right use in the commercial zones for Albemarle, Fauquier, Hanover, King George, Spotsylvania, Prince William and the City of Fredericksburg. These are counties that would just research in close proximity to Stafford. The common Comprehensive Economic Plan identifies recommendations aimed at

increasing the county's economic competitiveness, increase employment opportunities and diversification of the local economy. An objective of the Comprehensive Plan is to facilitate the location of social services and human aid facilities as demand and population expansion warrant, in locations which are geographically dispersed throughout the County in order to support the health and well-being of County residents. The Board of Supervisors is concerned that Stafford County may discourage the opportunity to have medical and dental clinics since this type of use in nearby jurisdictions is a by-right use and does not require the issuance of a Conditional Use Permit. The County may not be able to compete amongst adjoining jurisdictions in encouraging the establishment of medical and dental clinics. Therefore, the citizens of the County would not have the convenience to local medical and dental care that may exist in other jurisdictions. Proposed Ordinance O09-50 amends Table 3.1 to where Medical and Dental Clinics are no longer required to have issuance of a CUP in the B-1, B-2, RC and PD-1 Zoning District and it is amended by permitted as a by right use in the B-1, B-2, B-3, SC, RC and PD-1 Zoning Districts. Staff recommends Planning Commission approval of the proposed ordinance and I will be more than happy to answer any questions.

Mr. Fields: Any questions for Mr. Stepowany?

Mrs. Carlone: Jamie, thank you and Sam for making that change to the initial part, background, I appreciate that. Also, I understand that you won't really need to, in the ordinance, make any change, this will suffice?

Mr. Stepowany: Well, we need to explain exactly what we are talking about.

Mrs. Carlone: Oh yeah, sorry.

Mr. Stepowany: So, the rest of the Planning Commission or the public watching understands what is going on. I would be more than happy to bring about what has brought about the change. Mrs. Carlone called me earlier and had concerns about the definition of Medical and Dental Clinic. Especially the use of what we came out and any similar profession, so I talked to the County Attorney's Office and he started reviewing the definition for clerical and administrative works has made some modifications and one of the big issues, and Mr. Nugent can speak if you like, was mainly don't rely on "and any similar profession" because that could be up for some discussion and should be clearer as to what the intent of what licensed professionals is to use this. Would you like to continue Mr. Nugent?

Mr. Nugent: Thank you Jamie. Mr. Chairman, Jamie handed out this one page item, do you have that? It would be helpful if you all had that in front of you. What he originally worked on is shown up above in the first full paragraph where it says showing changes. I looked at it and made some modifications after Ms. Carlone raised some concerns. I wanted to tighten it up, I wanted to limit it to certain professions, eliminate the vagueness and the end result almost is what you see down below as the end result. But in looking at it again, I have some further suggestions fro some minor modifications to tighten it up even further if you are willing to entertain those?

Mr. Fields: Certainly.

Mr. Nugent: I will read it and then I will identify the changes. It reads currently "a facility building or group of rooms used by more than two physicians, dentists, orthodontists, optometrists, ophthalmologists, chiropractors, psychologists, psychiatrists or physical therapists, practicing as a group, instead of to conduct the normal operations", because operation is usually a word associated

with physicians and that could be confusing for some language later, I changed to "conduct the normal operations" to "perform those functions recognized by and associated with their healthcare professions". So I deleted "conduct the normal operations" and substituted instead "perform those functions recognized by and associated with their healthcare professions". It continues to read "patients shall be treated on an outpatient basis only. There shall be no overnight stay or treatment, building, group or rooms" and in front of the word used, I put "so used" to identify the fact and reinforce the fact that this facility can only be used for those things described above. So that would be my final suggestion to tighten up the definition and accomplish the purposes and objectives that were intended to be accomplished. Thank you.

Mr. Fields: Would this, by taking out the similar professions, how does this affect people that are practicing types of healthcare and or activities that are not included in those, specifically one that would come to mind would be acupuncture or other types of alternative healthcare practitioners? Would they then simply be excluded from the definition of a clinic and simply be a business or an office?

Mr. Harvey: I would assume that an acupuncturist is a person licensed by the Commonwealth, if they are then they would probably follow under the healthcare professions, I am assuming. I don't know for certain.

Mr. Fields: We have defined the professionals in certain disciplines and physicians, dentists, orthodontists, optometrists, ophthalmologists, chiropractors, psychologists, psychiatrists or physical therapists

Mr. Nugent: Right.

Mr. Fields: There is a world of other types of medicine that are out there and I don't just mean in a… of licensed and very sophisticated practitioners in medicine, different types of medicine that don't fall under those headings. So where would they be left by drawing such a tight definitions?

Mr. Nugent: They are out, the way this is written they are out. You have to include them specifically. The reason to eliminate any similar professions is because it is to vague, it would be unenforceable, it would be subject to legal attack. So, if you have other ideas for other professionals that you want to include in this identification then they need to be identified specifically. Your instincts are accurate, by doing that you run the risk of eliminating, potentially perhaps, some profession that you may not have really intended to eliminate.

Mr. Fields: I think we are going to have to, gosh we are sitting here getting ready to have a public hearing, obviously if we cant do similar professions then we are going to need to go back and really figure this out because there are people that practice osteopathic medicine, which has it's own certification and education so they would not consider themselves and would not technically be under these things. Even doctors of podiatric medicine is a slightly different subspecialty, certainly acupuncturist, this does not reference massage therapy, it does not reference different types of… Obviously I happen to know this because my wife has a yoga center so, there is a lot of, it is part of my world that I am aware of a broad range of alternative therapeutic practices that are perfectly legitimate. So many of which are licensed by the state that are not included in this list.

Mrs. Carlone: The point of… Yes, podiatrist certainly, gynecologist, the whole group…

Mr. Fields: Gynecologist is a physician.

Mrs. Carlone: Okay, but the issue was that there are sudo science, this is set up for certified physicians for I don't know if it is state certification or what the procedure is but maybe there are some left out that can maybe similar board certified. I am not to sure.

Mr. Nugent: Yes, Mr. Chairman, Mrs. Carlone one way to deal with this is to eliminate the specific identity and say any licensed healthcare provider or any healthcare provider licensed by the State of Virginia. Presumably, that would include a greater number of professions then what we have in this tightened up version. The problem with the way it was before "And any similar profession", you conceivably could have someone who holds a license can carry on their profession, which would not be traditionally healthcare and they might claim and entitlement under this section.

Mrs. Carlone: So Jamie, when we discussed this this afternoon, it would be state certified, is there then another health organization also that would certify that they fall under these categories.

Mr. Stepowany: I would have to ask Mr. Harvey or Mr. Nugent if they could think of any other.

Mrs. Carlone: I don't know.

Mr. Harvey: I am not certain

Mr. Di Peppe: Can I ask a question? This is not going to prohibit though… They are not going to come under the jurisdiction, let's suppose somebody wanted to open a yoga center. Would they then be prohibited by right because they are not a certified medical, would they then have to go through a CUP?

Mr. Fields: Something like a yoga center is not generally considered per say a clinic but acupuncture is, that is according to what Mr. Nugent said, acupuncture would be prohibited under this.

Mr. Nugent: But all we have to do is add them to the group.

Mr. Fields: I am concerned about having to come up with a comprehensive list of all the licensed healthcare specialties. It is fairly evolved and would be easy to omit one.

Mr. Di Peppe: What about other healthcare providers and professions…

Mr. Nugent: Licensed.

Mr. Di Peppe: Licensed by the state of the Commonwealth of Virginia. That might then be an umbrella but not make it so broad.

Mr. Fields: What about a naturopathic, somebody who is a naturopathic doctor, they consult people in terms of diet and vitamins?

Mrs. Carlone: Are they certified by the state or by a health organization?

Mr. Fields: Some of these are licensed by the state and some are not. Part of it is the state like Virginia and many other states. Virginia is a little behind the curve compared to other states many

states are behind the curve compared to your ability to keep up with. There are people that practice ayurvedic medicine, traditional Indian medicine, traditional Chinese herbology, traditional Chinese medicine that are within their field are highly skilled, highly educated, they do not necessarily have to have a specific licensure by the Commonwealth but they provide a legitimate component to healthcare spectrum of choices.

Mrs. Carlone: Okay, this was set up and the Supervisors, if you read further here, they were concerned about establishment of medical and dental clinics. This was set up to not go beyond… a clinic is set up for medical practice that is certified. It is not someone coming in there like a hairdresser but they are state licensed.

Mr. Di Peppe: But they are not healthcare.

Mrs. Carlone: They are not healthcare. So you need someone who actually has something on the wall to be in a clinic, a healthcare provider, therapist, etc. I agree that there are so many other medical professionals so maybe…

Mr. Fields: The problem is that healthcare is a broad spectrum and trying to put bright lines on what is and is not healthcare in the modern world that embraces and encompasses a lot of different modalities of medicine is to me a very slippery slope. What one person may consider unusual or not viable, other people may benefit tremendously from there own personal. The problem with healthcare is it is a very personal journey for each individual. I don't really want to be in a position, I am uncomfortable being in a position on the Planning Commission or the Board of Supervisors that we be adjudicators of what is legitimate and not legitimate healthcare. That is not a position nor an area of expertise.

Mr. Harvey: Mr. Chairman, I don't know if this help or hurts but this ordinance would not apply to an individual or two people practicing different forms of medicine or the same form of medicine. It would apply to three or more people practicing as a group in a single facility. I am not sure, that would fall under general professional office use, which is a by right use in all of the commercial zones as well as the office zones. It would not necessarily fall under this definition but again this ordinance is intended where you would have a more intense type of activity where there are multiple people together in the same practice, usually practicing the same type of medicine or dentistry or physical therapy.

Mr. Rhodes: Certainly that was a very helpful point. Jeff brought us back to the focus here being the definition of the medical and dental clinic, which is helpful but this conversation also still has merit. Even with the flexibility that counsel is trying to provide on license by the state etc. I just don't know enough to know what that entails or not. What very valid and logical and what we would assume would be included in here whether is actually a required licensure by the state for each component of it that we would think that would be included in this for a practice that has a few folks. Not being able to specifically identify them for discomfort that we are missing some elements that we would really want to have in there and not being comfortable that a more general but technical phrasing by trying to say licensure from the state would necessarily cover it. We have got to find a way to better get arms around how this should be captured, I am not sure what the vehicle is but I think this short conversation clearly identifies a need to get a better handle on how we capture that.

Mr. Di Peppe: We still have to have the public hearing.

Mr. Fields: We still have to have the public hearing.

Mr. Rhodes: We will.

Mr. Fields: We have been kind of drifting obviously because we don't have a lot of people here we have been being more work session than public hearing but I think it is okay. We are getting to the point but it is my fault that we have kind of drifted into a discussion. Okay, I guess at this point for the sake of procedure, I will open the public hearing. With that, obviously there are no comments from the public so we will close the public hearing and bring this back now to the Commission.

Mr. Di Peppe: Can we hold this because I think Mike has a legitimate point that we need to get our head around exactly who we are identifying that is going to be the subject of this ordinance.

Mr. Fields: Our time limit is November 17th, which is the day before our second meeting so we have to resolve this on the next meeting.

Mr. Di Peppe: Okay, we would have to do this on the November 4th, yeah. That would give Samuel a chance to… No… I am sorry Sam.

Mr. Fields: It is partly so and Jeff's comments swaged my concerns, I would like to request that we try to consider a way to be inclusive.

Mr. Rhodes: And I don't know between somebody at the State or between Economic Development but somebody; if somebody who knows this area or this field a little bit better could quickly identify, you know there are these two truly valid medical professions but for whatever reason they do not required a licensure from the state. Just some quick sensing of that, I think that that is worth while. The suggestion you had sounds great, it sounds perfect, it sounds exactly what you need requiring licensure from the state but I just know what that might inadvertently eliminate.

Mr. Fields: There are many things and there are practices and professions that require licenses in some states and not in others and so that is why that licensure, while it sounds like a nice way of getting at it is not necessarily going to tell the whole picture I'm afraid. That is my concern. I think Jeff's comment is probably on the bulk of this scenario that tends to be the alternative practitioners are more often than not on a smaller scale. I would not want to suddenly see a group that had… you know I don't mean to be highly personal and maybe I don't have a conflict of interest, I hope I don't have a conflict of interest because my wife has a yoga center. I hope that it reflects that I have a level of knowledge in it. I mean, she has the healing arts center ion the City of Fredericksburg and she has areas were she does, in addition to teaching yoga classes, she does what is called structured yoga therapy which is consulting with clients on an individual basis and how to use yoga to correct physical problems. She does ty yoga massage, she has other massage therapists and for a while she had a structural integration therapist, which is another type of manipulation. These are all very sophisticated modalities. So she would in a sense at some points have three or more practitioners doing medicine, some of it is licensed and some of it is not, all of it is valid. I would not want those types of groups to be excluded from there ability to exist.

Mr. Nugent: Just keep in mind Mr. Chairman that when you are looking for professions that are required to be licensed, you are not necessarily going to see any identification of professions that are not required to be licensed. So unless you have them all up here, you are inevitably going to leave something out. I am not sure that we are ever going to get to that point where we include everything that is out there; we are only going to be able to include everything we can think of .

Mr. Fields: Is there a way to have constructing language that is more inclusive?

Mr. Nugent: Then you bump up against the constitutional vagueness problems. For instance, I am not suggesting that this comes under the label of healthcare but there could be some kind of provider out there that may try to make an argument that everybody instinctively says no that is not what we were talking about, but if the language is there and it is vague you are going to have to let them in, even though that was not what was intended. That's all.

Mr. Fields: I understand. Well it gets down to… It is somewhat of a philosophical question of whether it is our job to, the public will if somebody comes in that everybody would recognized is maybe not exactly what you are looking for, is it our job to protect the public from what we think is bad or is it the publics job to take care of themselves and not patronize or make successful somebody that does not perform up to par and let the people make the choices for themselves. I guess it is kind of a philosophical issue here. Okay, so I am looking for a motion to defer to see what our language options were.

Mr. Di Peppe: So moved.

Mrs. Carlone: Second.

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright, motion passes 5-0 (Mr. Howard and Ms. Kirkman were absent).

7. Amendment to Zoning and Subdivision Ordinances - Amendment to Section 28-25, Definition of Specific Terms, of the Zoning Ordinance, Section 22-4, Definitions, Section 22-46, Assignment of Subdivision Names, and Section 22-134, Required Amenities, of the Subdivision Ordinance, pursuant to Ordinance O09-53. The proposed amendment requires the name of the subdivision to be the name as shown on the recorded plat for the subdivision. **(Time Limit: November 17, 2009)**

Mr. Fields: Number seven, amendment to zoning and subdivision ordinances. It is already eight o'clock, I am sorry.

Mr. Stepowany: Thank you Mr. Chairman. Item number seven is proposed ordinance O09-53. Computer please. Proposed ordinance O09-53 is referred to a subdivision name, the Planning Commission is to consider proposed amendment to Section 28-25 of the Zoning Ordinance and Section 22-4, Section 22-46 and Section 22-134 of the Subdivision Ordinance it was referred to the Planning Commission per Resolution R09-313 and also has a time limit of November 17, 2009. Section 22-46, Assignment of Subdivision Names, of the Subdivision Ordinance requires the name of the subdivision to be accepted by Department of Planning and Zoning after preliminary plans, final plats, family

subdivision plats and minor plats. This is to prevent duplication of a subdivision name; names of subdivisions may be changed after approval and may be duplicate and similar to an already approved name. The Board of Supervisors desires amendments to the Subdivision Ordinance in order to prevent changes subdivision names after all plans and applications have been approved. The Board desires to name of a subdivision to be the same name as shown on the approved final plat. O09-53 amends the definition for subdivision signs to include a sign sixty (60) square feet or less, the aggregate area identifying a subdivision by the name found on the recorded plat for such subdivision and located on the subdivision site at one or more of the entrances to such subdivision. This was added to both he zoning ordinance and subdivision ordinance for definitions. The proposed ordinance amends Section 22-46 to require a technical change to the approved preliminary subdivision plan if the name of a subdivision was not shown on the approved preliminary plan and wants to be accepted by the Department of Planning and Zoning with the approval of the final plat and it requires a vacation of the plat to change the name of the subdivision after the approval of a final plat, minor subdivision plat or family subdivision plat. Section 22-134 is amended to include subdivision signs as an amenity of the approved preliminary plan. It shall be constructed with the corresponding section of the subdivision or the construction plan and it requires the subdivision sign contain the name of the subdivision approved per Section 22-46, which states it has to be the name on the final subdivision plat. Staff recommends approval to proposed ordinance and I will be more than happy to answer any questions the Planning Commission may have.

Mr. Fields: Any questions for staff? Alright, pretty straight forward, if there is no questions for staff I will open the public hearing. Seeing no one here, I will assume that no one is concerned enough about it to come down and talk to us tonight about it so I will bring it back to the Commission. What is the will of the Commission?

Mr. Di Peppe: Mr. Chairman, I would like to recommend approval for ordinance 09-53.

Mr. Mitchell: Second.

Mr. Fields: Okay. Moved and seconded. Any further discussion? All those in favor, signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright, motion passes 5-0 (Mr. Howard and Ms. Kirkman were absent).

8. <u>Amendment to Zoning Ordinance</u> - Amendment to Section 28-350, Grant of Variances, of the Zoning Ordinance pursuant to proposed Ordinance O09-41. The proposed amendment would eliminate the words "approaching confiscation" as a factor in consideration of determining a hardship for granting of a variance by the Board of Zoning Appeals. **(Time Limit: November 17, 2009)**

Mr. Stepowany: Mr. Chairman, item number eight is proposed Ordinance O09-41. The Planning Commission is to consider a proposed amendment Section 28-350 (b) of Grant of Variances of the Zoning Ordinance. It was referred to the Planning Commission by resolution R09-253 and it also has a time limit of November 17, 2009. House bill 2326 removed the basis for approving a Variance language "approaching confiscation" from the text of Virginia Code Section 15.2-2309(2). Currently the Stafford County Zoning Ordinance requires that upon the evidence heard by it, that the granting of such Variance will alleviate clearly demonstrateable hardship "approaching confiscation" as distinguished from special privilege or convenience sought by the applicant. Due to change in the state bill and for the Zoning Ordinance to be consistent with the Code of Virginia, this ordinance removes those two words "approaching confiscation" from the Zoning Ordinance to be consistent with the State Code. That is the purpose of the ordinance and either myself or I may have to rely Mr. Nugent, we will be more than happy to answer any questions the Planning Commission may have.

Mr. Fields: Any questions for staff on this? Pretty straight forward, just a matter of house keeping.

Mr. Stepowany: That is correct.

Mr. Fields: Anybody wants to speak for or against, I will open the public hearing. Seeing no one here I will close the public hearing. What is the will of the Commission?

Mr. Di Peppe: Mr. Chairman, I would like to move for the approval of Ordinance O09-41.

Mr. Mitchell: Second.

Mr. Fields: Recommend approval to the Board I assume? Second by Mr. Mitchell. Any further discussion? All those in favor, signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Alright, motion passes 5-0 (Mr. Howard and Ms. Kirkman were absent). Thank you Mr. Stepowany. Let's see where we are, we have dispensed with the two unfinished business things, one is deferred and one is approved.

UNFINISHED BUSINESS:

9. 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: January 19, 2010) (History - Deferred at September 16, 2009 Regular Meeting to October 21, 2009 Work Session)**

10. 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) (History - Deferred at September 16, 2009 Regular Meeting to October 21, 2009 Work Session)**

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Fields: Did we cover everything under the Planning Director's Report earlier?

Mr. Harvey: Yes Mr. Chairman but I do have one item that I will wait for under other business.

Mr. Fields: Okay. County Attorney, do you have anything?

COUNTY ATTORNEY'S REPORT

None

SECRETARY'S REPORT

None

Mrs. Carlone: We have this Planning Department report, I just wanted to have them take a look, see page four and page nine, it looks like the second on page nine "any associated uses" this was on the cluster subdivision. Just take a look at the wording if you will on page nine and page four. Jamie, where it says any accessory uses and it was taken out on the first one on page four, which was, where was it let me find it, anyway, then on page nine it was kept on same. Here it is, it would be the second paragraph on page four where it says "any accessory uses" and it was crossed out "associated with these uses", then on page nine it is still in there.

Mr. Harvey: Correct, Mrs. Carlone. You are referring to the definition of useable open space in that proposed ordinance amendment.

Mrs. Carlone: Yes.

Mr. Harvey: As I mentioned earlier this evening, staff thinks we have a couple of similar corrections we need to make for consistency purposes so when this comes back to the Commission, staff with legal counsel will have some additional changes for you.

Mrs. Carlone: Okay, that was just one. I didn't know what you were going to do.

Mr. Harvey: Yes ma'am.

Mrs. Carlone: Okay.

Mr. Harvey: Thank you.

Mrs. Carlone: Your welcome.

Mr. Fields: Chairman's Report.

COMMITTEE REPORTS

None

CHAIRMAN'S REPORT

Mr. Fields: I would just like to thank everybody for their participation in the Joint Public Hearing with the Board of Supervisors. I would like to commend everybody on the Planning Commission and staff I would kind of like to give us all a collective pat on the back and an atta boy. I think under very difficult and at times of almost absurdly contentious circumstances, I think the Planning Commission did an outstanding job of keeping a very civil and elevated discourse going on the topic and I would like to commend staff for all of your assistance and help in that and it goes where it goes. I think I once again honored and proud to serve with you all and honored to be selected in the leadership role. I thought we did a good job, the best we could under the circumstances, which were not great. With that, other business.

OTHER BUSINESS

Mr. Harvey: Yes, Mr. Chairman, thank you. For other business I would like to bring up the discussion of Medical and Dental Clinic.

Mr. Fields: Okay.

Mr. Harvey: In looking at the ordinance that was subject to the public hearing ordinance 09-50, I think we had a little bit of force for the trees syndrome. The ordinance only speaks to where medical and dental clinics would be permitted within the context of the zoning ordinance, it did not include any discussion of the definition and that was not advertised. From staff's perspective for other business, we should consider the zoning ordinance definition outside of the scope of the zoning change that was proposed for the public hearing.

Mr. Fields: Oh, so at this point we could revisit and simply approve that change and then discuss the definition as a secondary item?

Mr. Nugent: As a separate issue.

Mr. Fields: As a separate issue. Okay, great. Well with that, do you need a motion to theatrically bring it back out of deferral?

Mr. Nugent: Yes.

Mr. Fields: Then we can a separate motion to vote it on.

Mr. Nugent: Yes.

Mr. Rhodes: I have to find it.

Mr. Fields: I will entertain a motion to un-defer it.

Mr. Di Peppe: So moved.

Mr. Rhodes: Second.

Mr. Fields: Alright, all those in favor of bringing back up the issue of by-right medical and dental clinics, signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright, now we are open for making a motion on this, a recommendation to the Board of Supervisors.

Mr. Di Peppe: Now, with the wording…

Mr. Fields: The wording is irrelevant.

Mr. Di Peppe: Alright then I would move for approval of Ordinance O09-50.

Mr. Rhodes: Second.

Mr. Fields: Motion by Mr. Di Peppe, second by Mr. Rhodes. Any discussion on the item? Alright, all those in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright, motion passes 5-0 (Mr. Howard and Ms. Kirkman were absent). I am glad because I really wanted that to be a by-right use.

Mr. Nugent: Mr. Chairman?

Mr. Fields: Yes sir.

Mr. Nugent: Excuse me, now that that has been taken care of properly if in fact there is to be a revisiting of this definition. Since the recommendation for the zoning change came down from the Board, so is this is also going to have to come from the Board or through the Board. Either the Planning Commission makes a request for the Board to allow the Commission to relook at this, or take another look at this, or the Board on it's own can do that.

Mr. Fields: Okay.

Mr. Nugent: I would suggest that you make that recommendation only because this and any similar profession language that exists in the current definition. I came up with a good example after we had the initial discussion, if you specifically identify professions as I did in the so called tightened version, you eliminate clearly other professions that are not named such as veterinarian okay. If you say any similar profession, you include veterinarians, even though I am sure that is not the intent of this definition to include veterinarians. If you use language that says you use licensed healthcare professional, you also include veterinarians, even though I am sure the definition as it is currently on the books is not intended to include veterinarians. I tell you, give you the sound legal advice that if a veterinarian came in here tomorrow and said I want to do this in this district, the county is going to have a problem because of the this "any similar profession" language.

Mr. Fields: Would having a veterinarian in an office park be a problem? A lot of veterinarians are in office parks.

Mr. Nugent: I don't know if it is or not but it is pretty clear that that was not the intent of this definition.

Mr. Fields: Right.

Mr. Nugent: So, I am just alerting you to a very difficult issue. You have to decide how you want to approach it and it is not something that can be done easily, it needs examination, it needs a work session analysis.

Mr. Fields: Okay. So I guess what we need to do is… I will entertain a motion to forward onto the Board of Supervisors a request that they refer to us an examination of the definition of medical and dental clinic.

Mr. Di Peppe: So moved.

Mr. Fields: Is there a second?

Mr. Rhodes: Second.

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? Alright. Mr. Harvey, I guess you are the conduit for that type of information.

Mr. Harvey: Yes sir.

Mr. Fields: Okay. The eternal Jeff Harvey, don't shoot me I am just the messenger. I am just telling you what they ask me to task you.

APPROVAL OF MINUTES

August 19, 2009

Mr. Fields: Alright, we have minutes. August 19, 2009.

Mr. Di Peppe: Move for approval of the work session minutes for August 19.

Mr. Rhodes: Second

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? No abstentions. September 2, 2009?

September 2, 2009

Mr. Di Peppe: Move for approval of the work session minutes for September 2, 2009.

Mr. Rhodes: Second

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mrs. Carlone: Aye.

Mr. Fields: Aye. Opposed? No abstentions, none. Alright, anything else that we have left out, any stone left unturned?

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:19 p.m.

_____
Gordon Howard, Chairman
Planning Commission