

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

The work session of the Stafford County Planning Commission of Wednesday, December 2, 2009, was called to order at 5:40 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Baker, Zuraf, Stepowany, Baral, Forestier, Hornung, deLamorton, Bullington and Johnson

DECLARATIONS OF DISQUALIFICATION

REVIEW OF PROPOSED ORDINANCES

Mr. Fields: So, what we have tonight/today is to look through and take our best shot before the end of the year at looking at some of the things that have been referred to us by the Board of Supervisors and things we need to get done. The first item is the Reservoir Protection Overlay District.

1. Reservoir Protection Overlay District (**Time Limit: January 29, 2010**)

Mr. Stepowany: Thank you Mr. Chairman. This is the continuation of the discussion that the Planning Commission had on the ordinance for the Reservoir Protection Overlay based on public input from a public hearing that was held on September 16. To follow up real quickly, we presented the main twelve items and some of them have been resolved with directions in the staff report. If you would like, I can go over all those or we can just hit the highlights; it's your preference.

Mr. Fields: Does anybody have a preference? Is everybody comfortable with the bulk of the information? Do we just want to hit the highlights for now? If we need to drill down farther than that we will just pause and work more. Yes Mrs. Carlone?

Mrs. Carlone: Jamie, on that item three about the vegetation, one individual was rather put out that he would have to let some of that undergrowth grow back. In that section 28-62, I went through it real quick but basically, what is it saying as far as our ordinance, as far as clearing the vegetation?

Mr. Stepowany: I will refer to Mr. Harvey on that.

Mr. Harvey: With regards to 28-62, that is the Chesapeake Bay Act provisions. The Bay Act provisions require an undisturbed natural buffer with certain exceptions. One exception is you can clear vegetation for site lines and move dead or diseased vegetation. That would require consultation with our department to ensure that what is being taken care of is not going to be adverse to the goals of the Chesapeake Bay Act.

Mrs. Carlone: Yeah, because one of the issues that one of the speakers brought up was the dead tree removal. So... I just don't see there's a problem. I know this is questions but...

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Mr. Fields: Sure. Well, this is just working through this. We are just trying to get through some version of this.

Mr. Harvey: If you have any specific questions along those lines, Mrs. Forestier from our department is here and she can talk you through the process of what we go through right now with the citizens.

Mrs. Carlone: This is on that item three, what clearing of vegetation would be allowed and it refers to the Chesapeake Bay Overlay District. There was at least one gentleman in particular at our public hearing that made quite an issue about now he would have to start letting his vegetation grow back and he also asked about fallen trees. Now, I don't see a problem with removing the fallen trees but how are we going to handle this when someone wants to maybe clear a path? What is the process?

Mrs. Forestier: We usually require them to go through us, at least for approval of where the pathway will go. Or, if there is a fallen tree, we can give them permission to take it out. Usually it goes through Code Administration at this point on single family lots.

Mrs. Carlone: Okay.

Ms. Kirkman: What about clearing for site lines?

Mrs. Forestier: For site lines... we don't have that happen very often. Most of our waterfront property right now is pretty clear already.

Mrs. Carlone: Like the removal of vegetation.

Mrs. Forestier: Right. We have had that happen a few times. But, for site lines, usually what they allow is limbing up more than cutting down trees.

Mrs. Carlone: Okay, so now they will have to allow the vegetation to grow back. We took a drive going down some of the waterfront property and so they will have to let it grow back?

Mrs. Forestier: This is the Reservoir Overlay; I was not really involved with drafting it so I am not familiar. So, there are going to be some... if they follow the Chesapeake Bay Act, if you have a lot that is created prior to this say, you would have some methodology to actually encroaching it or keep your house if it's already within the buffer or something.

Mrs. Carlone: Yeah, this is just the vegetation. If you take a canoe trip out there, you can see where it has been stripped down to the water line, and to resolve the issue about going back to its natural state, so then...

Mrs. Forestier: Usually for the Chesapeake Bay Act it requires that if there is no buffer there then it has to be created. But the only mechanism we have to make sure that happens is if somebody brings in a site plan for something. It is not like we walk around and tell people you have to let things regrow. So, it would be a lot by lot process.

Mrs. Carlone: If someone called in and asked a question about can they go ahead and continue clearing the underbrush, I mean, keep it cleared as they have, what would you tell them?

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Mrs. Forestier: For the underbrush, it depends what it is. I mean, if it is an invasive species, we usually allow them to take it out. There is also you can clear to an extent if it is so overgrown that it is dangerous; if there are a lot of snakes or something to that effect. There are methods where you can let them keep it clear but not have grass growing there.

Mrs. Carlone: Okay, thanks.

Mrs. Forestier: I don't know if I cleared up your question at all.

Ms. Kirkman: Mrs. Forestier, are the reservoirs considered perennial water bodies that are covered in...

Mrs. Forestier: Yes, they already have a 100 foot buffer in them.

Ms. Kirkman: Okay, thank you.

Mr. Fields: I think that on some of this... I wish I had the map in front of me and the proposed line around some of Stafford Lakes. I am trying to think how this... a lot of the comments and a lot of the thought, the dialogue, like I said before has sort of focused on what is on the ground around Abel Lake. Smith Lake is a little bit different and Rocky Pen is going to be real different because it is going to have essentially a high density subdivision property abutting the reservoir. Am I right?

Ms. Kirkman: Stafford Lakes?

Mr. Fields: Yeah, isn't part of Stafford Lakes... is it that close that that is being affected by this?

Ms. Kirkman: Maybe Jeff would know. It seems to me they have some buffers in that plan, the Stafford Lakes plan? Staffordshire you mean.

Mr. Fields: Yeah, any part of the build-out around Rocky Pen. Do we have situations where we have... a lot of this dialogue has been people that own large lot properties around Abel Lake is where a lot of this is, but are there some large density things within these buffer zones at Rocky Pen?

Mr. Harvey: Stafford Lakes is near the Rocky Pen Run Reservoir. When we did the mapping, there were several lots that were either within or totally encompassed within the 200 foot proposed buffer.

Mr. Fields: Existing lots? Built lots?

Mr. Harvey: Yes.

Mr. Fields: A third acre densities, right?

Mr. Harvey: Yes. Some were vacant, some were occupied.

Mr. Fields: How in the world is this... how does the provision within the Chesapeake Bay going to apply to suburban lots with yards? I mean, I'm just curious. Am I wrong in asking that question?

Ms. Kirkman: It would depend on when those lots were created to what extent the Ches Bay applies, and I don't know when...

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Mrs. Forestier: And for the 200 foot buffer, I am not sure if there is anything in there that would say that any lots created prior to this date...

Mr. Harvey: That was one of the things that the citizens brought out at the hearing and suggested that we provide some grandfathering in the ordinance. I know that was one of the discussion points that the Commission had at one point in time, was grandfathering.

Mr. Fields: Okay, so one is assuming if you have a typical suburban lot with a yard within the proposed 200 foot, or even if it is within the 100 foot... even if we didn't put this 200 zone in, the 100 foot would apply once Rocky Pen fills up to the mean high water marks.

Mrs. Forestier: Yes sir.

Mr. Fields: So, let's just say, even for the sake of discussion we are not even talking about a different buffer other than what is already on the State Code, if someone has a typical suburban lot which is primarily yard with a shed on it or something like that, I mean, are they grandfathered from the provision?

Mrs. Forestier: As long as they were platted prior to December of 2003 they have some leeway as to encroachments into the fifty foot...

Mr. Fields: For an existing home. But what about a lot that was platted but is yet to be built upon is still grandfathered?

Mrs. Forestier: Yes sir.

Mr. Fields: Okay. Are there suggestions or ideas that we try to do and CBLT, like those people try to do when people have this situation? I mean, this is sort of a unique situation where people buy property that isn't waterfront that suddenly becomes waterfront property because suddenly there is a lot of water there. Are there other situations for dealing with that? Are there other prior examples where that has been dealt with?

Mrs. Forestier: I have not heard of any to this day. I can inquire from the Chesapeake Bay Local Assistance Department.

Mr. Fields: Were there notes on any of those plats from those subdivisions on the deed or even on the preliminary subdivision plans before people purchased those that at some point... because Rocky Pen has obviously been in the works for a long time... were there notes on those plats when people bought that property telling them at some point this lake was going to be there?

Mrs. Forestier: I know that the more recent subdivisions that have come through since I have been here in 2005 do have the new RPAs and the new elevations shown on the plans, but I am not sure about prior.

Mr. Harvey: I would have to check into the specifics on that.

Mr. Fields: I know there is probably a lot of varies, I am just sort of getting a sense of it.

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Mr. Harvey: Mr. Chairman, back to the grandfathering issue, we have seen a number of ordinances over time. You can make the ordinances effective of a certain date or apply to future subdivisions that are recorded or approved after a certain date. I can send that out to the Commission for your consideration if that is something you all felt was necessary to have in the ordinance.

Mr. Stepowany: Excuse me, number nine has already addressed that.

Mr. Harvey: Thank you.

Mr. Fields: Right. We have discussed the vesting in general several times, but I was just concerned about the vesting on this buffer. So this is how we apply it already irrespective of the Reservoir Protection Overlay. But the new reservoir will make this applicable in sections where it was not applicable currently.

Mr. Stepowany: Right.

Mr. Fields: So the current properties on Abel Lake are currently subject to the Chesapeake Bay 100 foot buffer regulations.

Mr. Stepowany: Correct. And just for clarification, what number 3 does instead of just saying removal of vegetation and underbrush being prohibited, it changes it to would be in compliance as similar to 28-62(g)(2)f.

Mr. Howard arrived at 5:53 p.m.

Mr. Fields: Okay.

Mr. Stepowany: The same provisions for that would apply to removing the vegetation and underbrush. That is what number 3 is trying to resolve.

Mr. Fields: Okay. Is everybody clear on what is going on here? Proposed and what that means and doesn't mean? Any more questions on that one?

Ms. Kirkman: So, the proposed ordinance that we have in our packet for this, does that have the fixes in it that staff proposed?

Mr. Stepowany: No, we haven't made any of the changes yet. We are still waiting for final direction from the Planning Commission before we put together all the modifications of the ordinance.

Mr. Fields: As we are working through this, for finding things we want to resolve and move forward on, do we want to go ahead and take a vote on that so that we can give direction bit by bit as we resolve. Some of these on here we cannot resolve tonight because we have requested guidance from people who can't be at this meeting. So, at this point, we know there are some things we can't get done but if it seems like we can get an item taken off our list and moved forward, that would be a prudent thing to do. Are we at a point... is everybody comfortable with having a motion to make the language regarding clearing of vegetation be such according to this recommendation that the removal of vegetation simply references 28-62(g)(2)f of the Chesapeake Bay Protection Overlay District?

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Mrs. Carlone: Jamie did mention we will be in compliance with, to use that terminology. Is that what you are recommending?

Ms. Kirkman: Why don't we let staff figure out the exact language if we just approve the concept.

Mr. Fields: We should probably do that by vote though. I think that makes it clearer. I'm not trying to be too formal about it but I think that makes sense. Does anybody have any questions before we try to proceed in that way? Okay, does anyone want to make a motion that we recommend that staff craft language that removal of vegetation be addressed by referencing the same standards as currently exists in the Chesapeake Bay Preservation Area Overlay District?

Mr. Di Peppe: So moved.

Mr. Fields: Moved by Mr. Di Peppe.

Mrs. Carlone: Second.

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

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. Motion passes six with one absent. So, that should be clear then, how we want to go?

Mr. Stepowany: Yes.

Mr. Fields: Good. Alright.

Mr. Stepowany: Do we want to start at number one then?

Mr. Fields: Yeah.

Mr. Stepowany: Okay. Number one was the storage of propane was regulated for residential use but not larger commercial uses. The Planning Commission recommended a modification to restrict the storage of heating fuel/oil underground and to exempt the restriction for the storage of propane. And that was the recommendation that was made at the last meeting.

Mr. Fields: Okay. Are there any discussions on that?

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Mrs. Carlone: Jamie, I remember from our last meeting that there was going to be a determination. At that meeting it was decided there was not anything toxic so that has been confirmed, anything that might... I don't think there is. Is that clarified as far as propane?

Mr. Stepowany: Right. Staff felt propane was not an issue as a contaminant.

Mrs. Carlone: Okay.

Mr. Fields: So, the recommendation again, if we want to proceed, the recommendation is that we restrict storage of heating oil underground but we allow the storage of propane.

Mr. Di Peppe: Do you want a motion?

Mr. Fields: Yes.

Mr. Di Peppe: So moved.

Ms. Kirkman: I didn't get a chance to ask my question. Why is this restriction solely to underground tanks, because, if you develop a leaking tank, even if it's sitting above ground, you are still going to have contaminants. Is there some rationale?

Mr. Stepowany: I believe that the above ground has to have a containment.

Ms. Kirkman: Okay.

Mr. Stepowany: If it's above ground, it has to have a containment facility.

Ms. Kirkman: We have that written in there?

Mr. Stepowany: It's already in the provision, but the question was propane and what if it is underground.

Ms. Kirkman: Well, no, I was asking... I just wanted to clarify about what was happening above ground. Thanks.

Mrs. Carlone: Jamie, excuse me. Didn't I see something about eliminating the requirement for a containment someplace in here?

Mr. Stepowany: That was the backup system; that's number 2.

Ms. Kirkman: That's different?

Mrs. Carlone: Oh, okay.

Mr. Fields: And this applies to what zone... this restriction applies to what zone? Which zones of the Overlay?

Mr. Stepowany: I have to find it. It is in the proximity zone. That would be the proximity and the buffer zones. Storage or production of hazardous materials as defined by applicable state or federal

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regulations, except (1) storage of those materials typically associated with residential use (e.g., fuel oil, gasoline, yard and garden fertilizer), and (2) storage of those materials typically associated with agricultural or forestry operations, provided that the storage of materials in bulk greater than 500 gallons shall be surrounded by a spill containment structure adequate to retain the entire contents being stored. And bulk storage of petroleum or asphalt products. That is in the proximity zone.

Mr. Fields: The only question I have is at 2,000 feet are we impacting any agricultural operations? (Inaudible) to actual working farms.

Mr. Stepowany: According to some of the inquiries we had where one individual we had was talking about his farm animals actually walk to one of the lakes for water, so there are obviously at least a couple that we know through the public input that are within 2,000 feet that are working farms.

Ms. Kirkman: I would think if they were that large of land they should have some ability to locate fuel tanks outside of that 2,000 feet.

Mr. Stepowany: Sorry, in the buffer zone, (f), it just says fuel storage. Sorry it took so long. So, I guess it is (f), fuel storage, and this clarifies fuel storage and we could add that if the above ground could have a containment, if that is the desire...

Ms. Kirkman: I thought you said we do have containment?

Mr. Stepowany: Well, I was looking at (c) in proximity zone where it talks about containment; spill containment structures adequate. But that may not be for fuel storage.

Mr. Harvey: What Jamie suggested is we need to clarify this section to meet what the Commission's desires are. And if you want us to specify that they can only have above ground storage of heating oil, then we can also put in a requirement for containment. Because right now it specifies in the proximity zones for 500 gallons but someone may have a smaller tank, so it would probably be better just to specify the containment just in general terms.

Mrs. Carlone: I would like to see that put in there please.

Mr. Stepowany: Okay.

Mr. Fields: I think I need to see the distinction between heating oil and fuel oil because I don't want to see that agricultural storage of fuel oil on a working farm. Or at least there be some provision that it cannot be located out of the proximity zone, then I don't want to see the storage of fuel oil prohibited for a working farm. You want to make some provisions for its containment in a very environmentally sound storage of it, but you know, that would shut down a farm if you can't store fuel oil.

Ms. Kirkman: Presumably they have some land other than the 2,000 feet next to the lake. Otherwise, it is not going to be much of a farm.

Mr. Fields: One would assume so, but then there are a lot of factors. I don't know for a fact that that is true. I agree that it is logical to assume that in most of the cases there would be the ability to have that located, and probably is located, more proximal to roads or the place where the barn and the equipment storage is. But I want to be cautious that we don't create something that, you know,

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suddenly an unintended consequence out of no fault... out of no malice whatsoever suddenly creates the inability to make the farm work.

Mrs. Carlone: I'm just not too sure I agree with you on that because it only takes... Rishi or someone else that might be familiar... it just takes a little bit of fuel oil, heating oil, to go ahead and contaminate the water if there is a spillage without a containment. I really feel that the containment is necessary.

Mr. Fields: I agree with the containment.

Mrs. Carlone: But I don't think it would put anybody out of business the one farm that I am thinking of right now has enough property that they would be able to manage.

Mr. Fields: Well, I think most of them probably do. But I don't know for a fact that every single one that might be affected around all three reservoirs that there wouldn't be a circumstance where that would be true. I would assume that it isn't, but I would hate to suddenly have that be true. I think we should have a provision if we have no acceptable alternative to the storage, and I think we need to separate fuel and heating oil, even though they are basically the same thing, but I mean heating oil being primarily residential use, etcetera, etcetera, that's fine. And fuel oil that's used for commercial agricultural seems to me to be under a different category.

Ms. Kirkman: I'm just not quite following the logic there because the contaminant is the same and has the same impact on the drinking water regardless of what it's used for. So, I am not quite following the logic.

Mr. Fields: Well, I guess the logic is that I have always felt that I really don't want to be doing anything to discourage agricultural use of agricultural land. That's my concern. It's protecting peoples' right to farm and ability to farm. It's not excusing their right to mitigate to potential impact of fuel or heating oil, it's just saying that to prohibit the underground storage of fuel oil on an agricultural operation within that zone and have it come out that for whatever variety of reasons there was no way they could relocate that storage and then their alternative would be to shut down their operation.

Ms. Kirkman: Except for that's what a variance is for from the BZA. And the standard for obtaining a variance has been lowered. So, clearly they would have an alternative if that rare situation were to occur.

Mr. Fields: I'm satisfied with the answer that a variance could solve the issue, if you think that's true.

Ms. Kirkman: If our attorney could comment on that.

Mr. Fields: Do you have any thoughts, Mrs. Roberts?

Mrs. Roberts: I agree.

Mr. Fields: I mean, that that would meet the hardship standard for a variance?

Mrs. Roberts: Well, of course, it is going to depend on each individual circumstances and if they could locate it someplace else or not.

Mr. Fields: That's all I am concerned about is there be a point of redress for that.

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Ms. Kirkman: The change to the ordinance was made, correct, to make it consistent with the new state language on variances?

Mrs. Roberts: I know we prepared it. Do you know if that was passed?

Mr. Harvey: I think that is waiting for next year to be heard by the Board, because we have the moratorium in November and December. December is our normal quarterly update of ordinances so we have a few of them in the queue.

Mr. Fields: Okay, so we are at propane okay, underground heating oil, fuel oil, prohibited; above ground, heating oil requiring a containment structure, above ground fuel storage requiring a containment structure. Is that what we've got? Does everybody see it that way?

Mr. Howard: Yes. Do you have a thought, Jamie, on what types of containment processes are available? Or is there something that we know you can put underneath an oil tank, as an example, that would prevent the ground from absorbing if it started to leak?

Mr. Stepowany: We would have to research that.

Mr. Howard: Okay, because I think that would be important to know that. I think it's possible. I think they make those types of containment apparatus or trays or things that would prevent the ground from actually ever being impacted by a leak. Which is why we wanted this above ground anyway, so you have got line of sight and can see if there is an issue or not with the tank. Underground you would never know.

Mr. Stepowany: I would have to research and get back to the Planning Commission.

Mr. Howard: Okay.

Mr. Fields: Okay, so do we want to hold this until we find out the technical issues on containment?

Mr. Howard: Or just word it so that that's required. But I think we should... I mean, I think it's just a good practice to understand is there something out there that actually does that or are we asking for something that doesn't exist.

Mrs. Carlone: Or suggested containment includes...

Mr. Harvey: We will check into that. I imagine that it is either in the building code or the fire code.

Mr. Howard: It must be somewhere.

Mr. Fields: Okay. So does someone want to make a motion to move ahead with this one as well? With that language, those issues?

Mr. Di Peppe: So moved.

Mr. Fields: Mr. Di Peppe. Second? Did you second?

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Mrs. Carlone: Second.

Mr. Fields: Okay. Any discussion then? So we have propane okay, fuel and heating oil underground not okay, above ground requiring a containment, and before we of course adopt its inclusion in the ordinance we will make sure we understand the containment issue.

Mr. Howard: Would you add in there or other types of liquid fuel?

Mr. Fields: Or other types of liquid fuel?

Mr. Howard: Just as a precaution.

Ms. Kirkman: I don't think we want to do that because now you are pulling propane back in.

Mr. Howard: No, I think propane is a gas.

Ms. Kirkman: It's a liquefied gas.

Mr. Howard: It is a liquefied gas but it's a gas.

Mr. Fields: Do we want to look at... we were doing so well Mr. Howard.

Mr. Howard: I know.

Mr. Fields: So we skidded off and hit the guardrail right there.

Mr. Di Peppe: Could you say other liquid fuels other than propane?

Mr. Howard: Well, we are specifically saying that propane is allowed.

Mr. Fields: Liquid fuels other than liquefied gases, I guess.

Ms. Kirkman: Why don't we let staff figure this out.

Mr. Fields: Okay. All those in favor of moving forward addressing those concerns say aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. Good stuff though. Alright, number 2?

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Mr. Stepowany: Okay, number 2 we discussed at the last meeting that the type of notification of audible alarm is not addressed for sewage pumps, as well as the type of back-up power and type of containment facility for a sewage pumping station. The Health Department and state code requires audio and visual alarm systems for sewage pump stations. And the recommendation last meeting was to reference that section which is 12VAC 5-610-880 B 8 to state that the audible and visual alarm systems for sewage pumping stations must be there in accordance with that section. We had discussions about the containment facility to accommodate 48 hours of effluent. Currently, they are required to have a thousand gallons for containment for, I believe, six hours or whatever was the cause for it. And the Health Department raised concerns that to require 48 hours of effluent would double the size and that may create more issues being it has to go deeper in the ground and it could actually disturb the water table. Then you get into problems with if it leaks you don't know it's leaking and it might be problems where your water table is. And so the Health Department was not in favor of 48 hour containment because they are already required to have a containment system in place, which is 1,000 gallons. And that is why the second bullet, the Planning Commission is recommending modification. The back-up power question came in and, again, the Health Department brought to our attention that water provides sewage, and if you don't have water, you don't have sewer. So if you go on well and septic and there is a power outage, you are not going to have water. But if you are on public water with a drainfield and there is a power outage, you can still have water, and recommends that we modify the ordinance that if you are on public water but if you have a drainfield that you require electrical back-up system. And then the Planning Commission asked for what kind of cost would be imposed on property owners and what we did was we went through Virginia Dominion's web page and we provided the web page to get the different prices of the different types of systems that homeowners could do through Virginia Dominion. Obviously, you can get an electrician and go to a hardware store and buy a generator to meet your needs and we cannot control the cost of what it would cost for you to go buy a generator and have an electrician hook it up or stuff like that. But, through the Virginia Dominion web page, I actually have one copy of the different generator systems with the cost that Virginia Dominion would charge the homeowner, including the installation. So, again, it depends on what your demand is; if you just need to provide a back-up for the pump, that may only require a small system. But if you want a back-up generator that also wants to control your refrigerator and if you have a standalone freezer and if you have a heat pump, the more appliances you want to put on a generator, the larger generator you are going to need and the more money it is going to cost.

Mr. Fields: These back-up generators... is this something different than just like going down to Home Depot and buying a generator and running an extension cord to your sewage pump? This is a system that is installed to interface with the Dominion Power grid and all that kind of stuff?

Mr. Stepowany: Yeah.

Ms. Kirkman: If they are hard-wired, which is a little like typically... I mean, you can get the hard-wired ones in the big box stores but typically you get the ones that are portable.

Mr. Fields: Right, portable. So this is like an installed hard-wired system.

Ms. Kirkman: This is like if the power goes off, this automatically kicks in which is different than the portable ones.

Mr. Fields: Right, okay. Because you can buy a portable one for less than a thousand bucks, right?

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Mr. Stepowany: Right. And that's what I am saying; the cost includes installation of hard-wiring it.

Mr. Fields: And the point being is to make this an effective protection of the reservoir, it almost has to be an installed back-up automatic tripping system because you can't really say everybody has to buy a portable generator and be on their honor to run out and start it when the power goes out. Okay. So you could do this for as little as basically eleven hundred bucks. We are assuming that the minimum system, if all you were doing was making sure you were backing up your sewage pump, your grinder pump, and this is only on drainfields that require pumping; a gravity flow system would not require this.

Mr. Stepowany: Correct.

Mr. Fields: What happens to gravity flow systems that are on public water? I mean, do all drainfields have some electric pumping to them? A lot of them just drain.

Ms. Kirkman: No, drainfields... traditional gravity flow is gravity that carries...

Mr. Fields: It just comes out of the house. So, those that are on public water, there's no protection whatsoever that they won't overwhelm the drainfield.

Ms. Kirkman: Well, there is no way to do that with gravity flow systems.

Mr. Fields: Well, I thought the idea here was as long as you... in a typical drainfield system that the power goes out, you can't pump water out of your well so there is nothing coming in so there is nothing going out. The idea on the public water, right, is the idea that if you are on public water, you can have water coming in and then...

Ms. Kirkman: So the way traditional gravity flow works is there is a huge holding tank...

Mr. Fields: I know how it works.

Ms. Kirkman: You know how it works? So, you don't have the same problems with water going in and then going out.

Mr. Fields: So, you are taking the normal flow, is what I'm saying. I'm just making sure that we are not missing something.

Ms. Kirkman: It's only with the grinding...

Mr. Fields: The pumping system, where it won't get out to the drainfield.

Ms. Kirkman: That's right, and then backs up and overflows. That's the issue.

Mr. Fields: Got it.

Mr. Stepowany: And the way the ordinance is written is for individual sewage pumping or low pressure systems; because if that's what you have, you would have a back-up system.

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Mr. Fields: We already have this on low pressure systems that connect to the municipal sewer system. We already have this safeguard, is that correct? Because I remember that whole ordinance that we enacted when I was on the Board of Supervisors requiring back-up systems and alarms for low pressure systems that connect to the sewer system?

Mr. Harvey: I'm not aware of a requirement to have back-up power for the pumps. I know that the ordinance requires that a low pressure system for public sewer be approved through the Board of Supervisors and then the Utilities Department interfaces with the homeowners and the builders...

Mr. Fields: I remember this whole issue because it happened during hurricane Isabelle is where it all came up. People didn't realize they had grinder pumps in their basement and they kept flushing their toilet and the sewage came up and went into their basement. So, I remember the low pressure systems we approved all had provisions for, I thought, all had provisions for back-up systems and alarms.

Mr. Harvey: We can check with the Utilities Department to verify.

Mr. Fields: Let's double-check because I think it seems like that seemed to me to be already in place for those systems to connect to the municipal sources.

Mr. Howard: Is this also something we would want to do on a go forward basis so not necessarily impact it retroactively but all new construction or any new system that has to be designed for your home? Let the builder build it into the price of the house, the back-up generator; let them make it part of the deal if they can't do the gravity flow. For whatever reason, sometimes topography prevents them from doing that, but they might be more inclined to rethink how they are putting the septic systems in.

Mr. Fields: Plus, I don't know what the on the ground, no pun intended, reality is of how many... can you identify where in the current potential reservoir zones we have the situation of municipal water but drainfields?

Mr. Stepowany: I believe one of the maps that we have had in the past identifies that.

Mr. Fields: Okay. I can't remember; does anybody remember where that was?

Mr. Harvey: It was probably some properties near Smith Lake; I think Smith Lake Estates. There is also another project off Mountain View Road, Lakes Estates; it has not been built yet but their approvals have drainfields and public water. Those are two that I can think of off the top of my head. There are probably additional neighborhoods.

Mr. Fields: So, they are scattered here and there, but it's not a completely unique incident. Low percentage, but it does exist.

Mr. Harvey: Correct.

Mr. Fields: What about existing homes? So some on Smith Lake, you think, might already have this issue?

Mr. Harvey: Possibly so, yes.

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Mr. Fields: Is this something that could be... Mr. Howard, is your concern about affecting the sixteen properties simply imposing the cost on the homeowner?

Mr. Howard: Absolutely. I am not sure; the thousand dollars is more of a guess because I think to really wire this thing in your home, it depends on the wattage obviously. But even a 300 watt generator would probably get you two or three appliances only as a back-up. So, I am not sure what the price would be. I would have to believe it would be more than a thousand dollars though.

Mr. Fields: Do you think this is a program that could be helped to be financed by the Utilities and paid back incrementally? We do that with some other things right now, don't we, where the homeowner has to comply with the regulation but we allow a structured payment of that cost of compliance?

Mr. Harvey: I believe under the neighborhood project program they allow some of that to be maybe under a payment plan when you connect. That is probably the only area I am aware of right now.

Mr. Fields: Is that an unreasonable question to ask if Utilities would consider that? Considering this is a part of Utilities and we are protecting the Utilities' reservoir and it's affecting public water, it seems that might get us to a consensus point. Mr. Howard, if we changed that so that there was an incremental payment option to the homeowner, would that change your perspective on it?

Mr. Howard: I suppose it could. Again, I think I said watts, but a small 300 amp generator is only going to get you maybe three appliances. It is usually about 100 amps per appliance or pump. I would hate to put somebody in a hardship situation. I don't know who has a thousand dollars and that is for the subpanel; I am not sure if that includes the actual generator that generates the power. That has got to plug into something else; the subpanel gets plugged into your circuit breaker box at home and then there is a cord that they dangle and that gets plugged into some other element that generates the power. And then the power gets distributed obviously through the panel and you decide ahead of time what you want that panel to power. So, there are additional costs for an outside generator, maybe \$250 to \$300 plus the \$1200 to wire it.

Mr. Rhodes arrived at 6:23 p.m.

Ms. Kirkman: First off, this is only going to apply to low gravity low pressure systems because those are the only ones that use the grinders, is that correct?

Mr. Stepowany: Correct.

Ms. Kirkman: So, we can just look at a water and sewer map... oh, no, it won't... So, we can't tell from those maps.

Mr. Fields: We kind of can because from those properties where you see water lines but you can't see sewer lines.

Ms. Kirkman: Well, you can see... right.

Mr. Fields: The maps only have like the trunk lines.

Ms. Kirkman: Are we really tying ourselves in knots over like three properties?

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Mr. Fields: That is kind of what I was getting at.

Mr. Howard: That's a good question; I am not sure. We should probably know that.

Ms. Kirkman: Can we just get the answer. Mrs. Forestier, do you have any insight to offer on this?

Mrs. Forestier: I am not sure how much information is on the drainfield. We actually are doing the pump out, requiring pump out, letters to go out every five years. I am not sure how much information is on our pump out screen.

Ms. Kirkman: It's not on there. Good thought though. I just did mine last year so I know.

Mr. Fields: Because of the pump out thing, we actually do have data now on drainfields that we probably didn't use to have, right? We have them all identified? Since everybody is happy to comply with that requirement. Okay, so we are going to try to scope this as best we can to see how many properties we are talking about. And ask Utilities if they think that is something that they might be able to do.

Mr. Howard: That's a good question. Pay it back over a long period of time interest free, that might be a good solution.

Ms. Kirkman: Yeah, but the other thing is you would have to identify the lots that are going to be on public water, private sewer, and then you basically look at the topography of the lot and see... which is pretty easy to turn by looking at the...

Mr. Fields: On the unbuilt lots, some of that detail might not even exist yet. Only recently have we really been getting a lot more detail on proposed drainfields. So, there's probably a lot of preliminary subdivisions, right, older preliminary subdivision plans that might be a little tricky to even tell where the drainfields are, right?

Mr. Harvey: Yes, probably our best data would be to look in the building permits to see if they had a pump with the house.

Mr. Fields: Okay. Well, let's see what the scope of the problem is and then if Utilities could be part of the solution. If it's not that big a problem and Utilities would be willing to be part of the solution, it seems like a pretty solvable thing. Okay. We did three already so we are going to hold this one until we get that further data. Four, we are good, right? The tax id parcel would solve that problem. Number five and number 8 are still awaiting some input from the Extension Service?

Mr. Stepowany: Right. We have been contacted by John Howe of the Extension Service. He was unable to attend tonight but will make a future meeting.

Mr. Fields: Okay.

Mr. Harvey: We do have information in your packet regarding animal units and the regulations from state and federal government regarding what the terming is on CAFO's, which are Concentrated Animal Feeding Operations. I will note that the USDA uses the animal units but when we look at the pollution discharge permits, they don't use animal units; they use total number of animals.

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Mr. Fields: Do they really?

Mr. Harvey: So, there's a little bit of a difference in terminology there.

Mr. Fields: So, if you feed over a thousand cattle in a feedlot, you have to get your own VPDES permit? Is that how that works?

Mr. Harvey: Yes.

Mr. Fields: We don't really have anybody then in Stafford probably that is at that level, right, that I know of.

Mrs. Forestier: I don't believe so but I can look it up.

Ms. Kirkman: At the public hearing, I thought what was more discussed as an issue was not what was necessarily the larger farmers but people who have agriculturally zoned land and are putting five horses on two acres. I thought that was more the issue that was raised and that's what the discussion about animal units first came up. And this is reaching back five or six years ago, I think there was even a proposed ordinance at some point, Jeff, wasn't there about limiting the number of animals on non-conforming agriculturally zoned lots?

Mr. Harvey: Yes, there was some discussion about the use of animal units and similar measures because there were concerns about non-conforming lots.

Ms. Kirkman: And so the smaller agricultural parcels where people were really more animal per square inch than ought to be. I think that was more the context of this than concern about the larger, the true farms. Is that what I remember from the public hearing?

Mr. Fields: And there was primarily manure disposal storage issue, right, was the real crux of what everybody...

Mr. Howard: Right, because I think there is zoning now, right? Number of horses per acre.

Mr. Stepowany: No.

Mr. Howard: There's not?

Mr. Fields: I have heard that concern expressed that people have too many horses on too little land. But I don't know what the proper spacing for that is, or considered optimum. But we are going to get the Extension person in, right, and ask them.

Ms. Kirkman: Well, I raise all that because that was one of the concerns I remember being raised, all of this is oriented against the large true farms but the concerns that was raised at the public hearing was that large true farms generally are pretty good about those things. I mean, it's their livelihood. But the concern was more about the smaller lot owners who aren't true farmers.

Mr. Fields: I don't disagree, I just figure we figure when we get the Extension person here he will be able to answer many, many questions about all those things. We are hoping. Okay. Number six?

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Mr. Stepowany: Number six we discussed about non-conforming buildings and basically said there were already provisions for what happens to a non-conforming building or structure if it is damaged. And it was brought out that there was inconsistency with the zoning ordinance and the state code that pertains to rebuilding and whether the Planning Commission wants to recommend that staff and the County Attorney's office to discuss the differences and see if a text amendment is needed for the zoning ordinance to be more consistent. And that was the discussion.

Mr. Fields: Right. It was pretty clear, I think, that they were not the same.

Mr. Stepowany: Correct.

Mr. Fields: Mrs. Roberts, do you have anything further to report on this?

Mrs. Roberts: No I do not.

Mr. Fields: Okay.

Mrs. Roberts: Just waiting on direction from the Planning Commission.

Mr. Fields: Okay.

Mrs. Carlone: Can we go ahead and recommend that they do...

Mr. Fields: I think so, because it was pretty clear from the discussion last week that they are not the same. And I am losing the detail on which was which and which was more or less permissive. Does anybody remember exactly what...

Mr. Howard: No, but it did seem to be a conflict.

Mr. Fields: Yeah, it was pretty clear that there was a conflict.

Mrs. Roberts: The difference was between one refers to natural disaster versus normal destruction.

Mr. Fields: Yeah, one seemed to imply that you could rebuild after a natural disaster and one seemed to imply that you could not.

Mrs. Roberts: I believe that is correct.

Mr. Fields: Is that it?

Mr. Stepowany: It might have been percentages. I think Stafford County is only fifty percent of it can be rebuilt and state code says under certain circumstances 100 percent can be rebuilt to its original.

Mr. Fields: As I am digging this up I am recalling that it was natural disaster triggered... one said that the natural disaster sort of exempted you from a lot of the non-conforming requirements and another said that natural disaster did not exempt you from the non-conforming requirements. Is that right?

Mr. Howard: Yes.

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Mr. Fields: Okay. So, we need to figure out which is which and, obviously, while it's not hard to figure out which is which, it's what the Dylan Rule states and it's really easy, our code has to match the state code.

Mr. Di Peppe: That's what I was going to say; if we just conform to state code...

Mr. Fields: That's the beauty of the Dylan Rule; we don't have to work as hard as other states to govern ourselves.

Mrs. Carlone: Can we go ahead and make that an action?

Mr. Fields: Yeah, can we have a motion on that?

Mr. Di Peppe: So moved.

Mr. Fields: Moved by Mr. Di Peppe. Second by Mrs. Carlone?

Mrs. Carlone: Yes.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Motion passes 7 to 0, welcoming Mr. Rhodes to the proceedings. Number 7, that's a done deal, right? That's regulated state and federal government. There's nothing that we do.

Mr. Di Peppe: We don't allow them to do. Another Dylan Rule.

Mr. Fields: I remember we ran into that at some other point. Okay, number nine, how will vacant lots of future development be affected after the ordinance. Last time, right, we said that any lots of record at the time the proposed ordinance is approved is exempt. So we are grandfathering everything from the date prior to the effective date of the ordinance, right?

Mr. Stepowany: Correct.

Ms. Kirkman: And that's for all applications?

Mr. Stepowany: Correct.

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Ms. Kirkman: So that would address Mr. Howard's question that he had earlier.

Mr. Rhodes: But we had talked about the single lots, whether or not if nothing else was done, they would have to go to the BZA for a variance or maybe, I think, somebody came up with the language... maybe it was Jeff, always thoughtfully looking through options... maybe say that it doesn't apply to existing lots of record, right? Wasn't that part of the discussion last time on this?

Mr. Fields: I thought so. I mean, I think there is a certainly a philosophical distinction in my mind that existing lots of record should be protected from something that would prohibit the use of that lot for the purpose of which it was intended. But, preliminary subdivision plans are subject to changes in regulation. I mean, subdivision plans in general are subject to change in regulation on lots of fronts. I don't know about exempting preliminary subdivision plans. Because it says here, subdivisions that were subject to vested preliminary plans are also protected from the regulations.

Ms. Kirkman: Well, that's just the way life is.

Mr. Di Peppe: The word vested.

Mr. Rhodes: So, the issue was whether there was language really to cover those individual lots similarly which would need something along the lines of recognizing that it doesn't apply so it's existing lots of record.

Ms. Kirkman: That's what this language does, it's proposed here.

Mr. Di Peppe: If I remember the discussion, we just didn't want to make somebody's land totally valueless.

Mr. Fields: Right. Okay, so do we want to direct staff to prepare an ordinance essentially grandfathering, as this term goes, existing lots of record for provisions of the ordinance? Does someone want to make that motion?

Mr. Rhodes: So moved.

Mr. Mitchell: Second.

Mr. Fields: Moved by Mr. Rhodes. Second by Mr. Mitchell.

Mr. Di Peppe: The only thing about a sweeping... does that mean that if you are already existing... when you say none of these provisions, that worries me because does that then mean that you don't have to worry about below ground fuel storage? That is my only problem with that.

Mr. Stepowany: For clarification, go to "the following uses are prohibited within the buffer zones; a. construction of any buildings or structures including gazebos, picnic shelters or similar structures". I believe that pertains to that provision.

Mr. Di Peppe: So this is just for that, not for...

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Mr. Stepowany: But the question is how will lots and future development be affected after enactment of the ordinance? How will vacant lots... that's the only provision that would restrict a vacant lot from having any development is that one provision.

Mr. Di Peppe: So, we need to put the wording in to make sure that we are talking about the vacant lot. Here again, my question is, when we say vacant lots...

Mr. Howard: Well, this is saying lots of record which would include any vacant lot of record.

Ms. Kirkman: It would also include improved lots as well. So, you can't distinguish...

Mr. Di Peppe: I just wonder if we are exempting everybody from all of these rules which I don't think is our purpose.

Mr. Stepowany: So, going back, I believe the attempt of this ordinance was to address issues raised by construction of any building or other structures within the buffer zone.

Mr. Fields: On currently unbuilt lots.

Mr. Stepowany: Or, if you have a lot with a house, can you no longer build a gazebo or shed or garage or anything like that because that is how this provision would prohibit you from...

Mr. Fields: Well, I think that was part of the question. My recollection of the seriousness of the question raised by a couple of individuals at the hearing was not, to me there was two layers of this. I will say... at the risk I hope I don't offend anybody... I will say that not being allowed to build a gazebo in the buffer zone on an existing property is an inconvenience and a disappointment. Being prohibited from building a home on a lot that you purposely intend on making your house, this is your investment and your home, is a whole different issue and I thought was really what we were driving at, am I correct?

Mr. Di Peppe: And there was one marine that came here and specifically brought that issue up.

Mr. Fields: Right. So, I think that's the crux of the issue. Is that everybody's recollection? I mean, the buffer zone is... irrespective of this ordinance though, once we get back to where we were before, the Chesapeake Bay Act still applies. The 100 foot buffer zone applies to everything anyway all the time no matter what. So, everybody has already dealt with that. Do we need to figure out how to make this language tightened and specific to say that we don't want any unimproved lot of record...

Ms. Kirkman: So, if that really is the crux of the issue, if the crux of the issue is that somebody has purchased a lot and the enactment of this ordinance will completely prohibit them from being able to use that lot for its intended purpose, that is exactly the kind of thing that variances were created for.

Mr. Fields: I agree, but just to be the devil's advocate on this, and I recall our discussion with the attorney at that time because there was a concern, that leaves it up to the vagaries of that individual case. It also requires that the individual has to apply for the use of their property, which in this case is totally fair. If we are talking about a vacant lot that they want to build a house to live in, not if they want to build a shed or a gazebo.

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Mrs. Forestier: As I understand it, you would like them to be able to build a house on a lot but not necessarily the accessory structures.

Mr. Fields: You have to understand that the buffer is the buffer. If we enact, and they are already prohibited with the 100 foot buffer, if this ordinance finally emerges and is adopted with a larger than 200 foot buffer which at least a couple of individuals have said would essentially prohibit the use of their property, can we tighten our grandfathering to just prohibit the construction of a primary residence.

Mrs. Forestier: Right. There is some wording in the Chesapeake Bay Regulations about for waivers, where you are allowed only waivers for construction of a principal structure and the necessary utilities. So we could say you could allow that as long as there isn't buildable area outside of the buffer, which is the way the Chesapeake Bay Act is worded as well.

Mr. Fields: Well, that's what we are saying as well. If you have buildable area outside the buffer, you can build your house there. It's just if you have no buildable area other than, and if we act this with a 200 foot buffer, that's my understanding is that if there are some properties that are literally impacted by the 100 foot difference between the 200 foot proposed buffer and the 100 foot Chesapeake Bay buffer with alternatives. It sounds like there is language in the Chesapeake Bay Act that probably addresses that that we could just put a boiler plate over to this.

Mrs. Forestier: Yes, you would just have to change it so that it could be an encroachment into the entire 200 foot, the 100 foot and the 50 foot of the RPA or whichever. We could figure out some wording.

Mr. Di Peppe: Can you reference?

Mrs. Forestier: No, because it applies to anything platted prior to 1989 and up to 2003.

Mr. Di Peppe: Okay, thank you.

Mr. Fields: But we will research then... is everybody comfortable with that? We will research the language of the Chesapeake Bay Act and find how we can similarly construct language to permit with that type of grandfathering.

Ms. Kirkman: Mr. Chair, we have a motion and a second on the table so that does have to be dealt with. And my concern about the motion is just that if we exempt all recorded lots then we are going to end up with very few lots this ordinance will actually apply to.

Mr. Fields: Yeah, I think we all realize that simply saying lots of record is not what we are talking about. Do we want to withdraw the motions until we get the information?

Mr. Rhodes: Yes.

Mr. Fields: So, I think we have that done. Very good. Then we have... we answered the golf course question, right?

Mr. Stepowany: Yes.

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Mr. Fields: Now, 200 foot buffer. We were going to have some information presented to us.

Mr. Stepowany: Mr. Chairman, we had a couple memos that have been sent as part of the report. One was pertaining to additional information about buffers that went out with the memo for the Water Resource Protection Overlay District. The second one was a memo from DCR again related to the Water Resource Protection Overlay District. Again, Mrs. Forestier is here and also Mrs. Baker is here to address some more specific issues about the width of buffers. And what we have also handed out today is a page that starts out with Stormwater Management plan and that is the current language in the Land Use Plan for reservoir protections as of today. The third page is a copy from the recommended changes to the zoning ordinance from the 1988 Land Use Plan which, on page 4, deals with the reservoir protection district where it specifically states “the performance standards should require large lots (5 acres plus) and buffer yards (200 foot minimum) along land which abuts the drinking water supplies. And that’s what Mrs. Carlone was talking about; the 1988 Land Use Plan recommended the 200 foot wide strip. After that, we’ve come across a Model Surface Water Ordinance from EPA on what jurisdictions may want to model their Reservoir Protection Overlay District zoning amendments to. And on page 4 of 5, buffer requirements, we have highlighted “since this ordinance is for reservoirs that supply public drinking water, the larger buffer width of 200 feet would be more appropriate”. And that is recommended from the EPA. To discuss specifics about how a 200 foot buffer would benefit, again, Mrs. Forestier is here and Mrs. Baker is here to discuss that further if the Planning Commission has questions. But, for background, those are the information that we have provided at this time.

Mr. Fields: So, to try to get my head around this, to sum up, the 200 feet has been a consistent recommendation for a better part of twenty years as the logical extension buffer.

Mr. Stepowany: Correct.

Mr. Fields: I think some of the questions were is what are we getting for the additional 100 feet versus why another 100 feet other than like 175 feet or 150 feet.

Mrs. Forestier: It’s almost impossible to answer that question totally. It depends on what you are looking at. All I can say is that a 200 foot buffer would give you better water quality in many instances, for example, where there are steep slopes or not as much vegetation as another spot. It’s easier to enforce in a sense because you can just measure 200 feet. If we were willing to go much further, we could probably do it side by side which would require the soils to be tested, I guess, on the slopes and what kind of trees and vegetation are out there and how much they uptake in nitrogen and phosphorus and all. But, I think 200 feet just gives you... you are more likely to get rid of most of the contaminants.

Mr. Rhodes: But is there any general, and the logic of being the further you are, the better it is going to be, so there is a logic... that makes sense. But where the knee in the curve of the benefit is, on average soils as far as what would leach in or through, is it at 150 feet, is it at 100 feet? There is no science on that?

Mrs. Forestier: There are no studies on that; even in our own county there is going to be a great difference between the coastal zone and the piedmont.

Mr. Rhodes: Right. There are very few things that always maintain a complete linear benefit to distance; somewhere there is a knee in that curve.

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Mrs. Forestier: Right, and there is a difference between how much nitrogen and how much phosphorus will be taken in as well. I believe one of the papers I did write, and I think I have a copy of it, was a study that was done where they tried to compare buffers but it was more on the types of vegetation. But they did discuss how the range of buffer sizes within the federal code went from about 300 feet to 25 feet. So there is a large range there that people have used. I am not sure if anyone has actually done any studies.

Mr. Rhodes: Okay.

Mrs. Carlone: There is just not hard science from our last discussion and what it says here, discuss the science behind. When you say science, you think in terms of absolutes or proven, but you had mentioned about the different types of trees that are there or the absorption rate of the underbrush. I think 200 again is reasonable, the EPA backs it up, it was approved back in 1988, and I think we are just reinventing the wheel to keep this going. The 200 foot is nothing, really. I mean, each foot does count for a certain amount of absorption of the rainwater but, to me, this has been reasonable; especially the EPA here backing it up.

Mr. Rhodes: I am not necessarily challenging it; I am surprise with over all this time there is not really any science to give some indication to it. And there is science within a degree of confidence associated with it, it seems like it can be done. And who is to say that at 225 feet, if we didn't pick that number, you can assure ninety-nine percent of all potential impact or, it would be nice to be basing our number on something more than more generally is better. Which is common sense and maybe that is all that we've got.

Mrs. Forestier: Or up to a point.

Mr. Rhodes: Up to a point, yes, that's right. So from 300 to 1,000 you make no difference so you would never have it outside 300 but what is a degree of impact that is in there and then we could pick a reasonable amount. That was the discussion last time was get some sense of that if there was anything.

Mrs. Carlone: Again, it's the topo, the steep slopes, it's the tree areas, vegetation; that's pretty hard to come down to a figure. And people seem to elude to the fact that it's an arbitrary figure, but I think it's a safe figure. Especially 1988, EPA recommendation from Utilities, I think it all comes together here.

Ms. Kirkman: I think its best in this situation to realize that this is really a practical compromise, that there is very strong science about the curing of pollutants and contamination of waterways. But to expect individual property owners to do the calculations and the soil studies and the hydrology studies, to derive the perfect size buffer on a parcel by parcel basis really would be imposing a terrible burden on individual property owners.

Mrs. Carlone: It would be a hardship.

Ms. Kirkman: So, I think we should just acknowledge that this is a practical compromise based on what has been recommended for the past twenty years.

Mr. Harvey: Yes, Mr. Chairman, in 2006 when we looked at the Water Resource Overlay District, that was one of the issues that Ms. Kirkman stated was a problem because it came down to water quality has a major impact when you have erosion. And the best way to alleviate erosion is to minimize

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disturbance on slopes with unstable soils. So, the end result came out that the best way to determine what the buffer widths would be would be to require soil borings on various locations on pieces of property which got to be very cost prohibitive, there was uncertainty as to how it would affect individual properties and other similar types of issues that just made it not really a viable option.

Mr. Fields: So, from a practical matter, while the science is determined by the exact conditions on each property, from a practical matter as a matter of public policy, determining in general a buffer width is about the only way to achieve any lasting result. Yes, Mr. Di Peppe?

Mr. Di Peppe: And I think you have to ask the question whose science? We have been recommending for twenty years we shouldn't build on over twenty-five percent slope, we build on thirty-five percent slope. And we have know for a long time there are agencies of the federal government that define a steep slope as fifteen percent. We build on thirty-five. So, if I was going to err, I would like to err on caution when we are dealing with clean drinking water for the population. I don't think that, as long as the particular provisions aren't erroneous to the property owner and no matter what we do some people are going to complain, but if we are trying to represent the County in general, that's not a huge buffer. And I think if you want to look to science, our own federal government recommends 200.

Mr. Fields: Okay, so... does anyone want to make a motion on the buffer? Has everybody's questions been answered on this?

Mr. Howard: Well, I would just want to add that the quality of drinking water is, of course, the most important part of this, but also we want to be able to articulate to the Stafford County residents some of what we just said, the strategy behind why it's 200 feet. And I think that was one of the points. So, whether it's science or it's a strategy or methodology, it needs to be articulated in this ordinance as to what some of the why's are and what some of the expectations are. So, I think that is all anybody was really asking. So I would challenge us to kind of rethink how we are wording the rationale behind the 200 feet and make it more, I will say evidence based but it's not evidence, it's more what Mr. Rhodes said; it's just common sense. Two hundred feet certainly will give you a cleaner... should give you cleaner drinking water over a period of time. I think most people know that. Mr. Harvey mentioned to mitigate erosion; if erosion is one of the leading causes of the contamination of water, it should be articulated that this is designed to mitigate the erosion which in turn will get us better drinking water. I think people just need to understand that. I don't think we have been clear about that.

Mr. Rhodes: And I have had no concern necessarily about going 200, but it was being able to answer that question. And I think what we are finding is that there is not a hard definitive science that can identify it. I think that is what we are generally coming to the conclusion of, but there are some indications that... well, at least you have the EPA thing that says "hmmm, the more is better so go with the higher amount, 200". And we just need to be able to capture how we got there. So, there is no absolute hard science about doing site by site and, therefore, this seems to be most prudent given the importance of what it is we are talking about.

Mr. Fields: Right. That's well put. Do you want to make the motion?

Mr. Rhodes: So moved on the (inaudible).

Mr. Fields: To include the 200 foot buffer, and with Mr. Howard's suggestion that we make sure the language of the ordinance clearly articulates the rationale for 200 feet which I think we have done a

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pretty good job here between staff and everybody on the Commission of getting to why 200 feet is better than 100 feet.

Mr. Di Peppe: Second.

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

Ms. Kirkman: Just a word of caution is I think we need to be careful about putting rationales in ordinances rather than preambles to the ordinance. And, so, if the attorney's office... if we veer into doing that, the attorney's office should look carefully at the language.

Mr. Fields: They will yank our collar before we fall off the precipice there. All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Very good. Okay. Can failing drainfields be fixed? Why, of course they can. So, does that bring us to... the only thing we are awaiting now is the meeting with the extension people on the manure and animal issue, right? Other than that we have direction on all the remaining issues for staff to come back with language?

Ms. Kirkman: Do we have a time limit on this?

Mr. Fields: Yeah, there is. It's January 29th.

Ms. Kirkman: And we have to have held a public hearing on it by then and made a recommendation to the Planning Commission by then? I mean to the Board of Supervisors?

Mr. Fields: Is that the implication, the time limit? We have to re-advertise and hold another public hearing?

Mr. Harvey: My recommendation would be that the Commission work through an ordinance and refer it to the Board and tell them this is our recommendation, please let us know if you want us to proceed with what we have come up with.

Mr. Fields: Okay, so I think we have until January 29<sup>th</sup> to make our recommendation back to them. And then the projectory for public hearing would be subsequent to that.

Mr. Harvey: That would be my suggestion.

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Mr. Fields: Okay, that makes sense to me.

Ms. Kirkman: But that does mean we have to have somebody here at the next... at the first meeting in January.

Mr. Stepowany: We will.

Mr. Harvey: Yes, in order for us to develop any ordinance language based on their comments.

Mr. Fields: Right, okay. Very good. Well, that worked out just fine; seven o'clock, we will break for dinner and then come back and get back to work.

2. Clustering in Agricultural Zoning Districts (**Scheduled for December 2, 2009**) (**Time Limit: January 29, 2010**)

Discussed at the regular meeting.

3. Groundwater Management Plan Ordinance

Discussed at the regular meeting.

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

5. 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

None

REVIEW OF PENDING SUBDIVISION PLANS

None

REVIEW OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

6. Amendments to the Comprehensive Plan (**Time Limit: January 20, 2010**)

Discussed at the regular meeting.

OTHER UNFINISHED BUSINESS

None

ADJOURNMENT

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

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End of Work Session Agenda

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**7:30 P.M. REGULAR MEETING**

The regular meeting of the Stafford County Planning Commission of Wednesday, December 2, 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, Howard, Carlone and Kirkman

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Baker, Zuraf, Stepowany, Hess, Baral, Hornung, Forestier and Bullington

DECLARATIONS OF DISQUALIFICATION

Mr. Fields: Any declarations of disqualification? Alright. Is there any member of the public that wishes to address the Planning Commission?

PUBLIC PRESENTATIONS

Paul Waldowski: Greetings. I'm here to bring up again stormwater management; it's something I'm not going to let go on the wayside. I brought you some more facts to make you aware of. I am one of the 107 owners in Cabin Creekwood that owns a stormwater and it's ironic; tonight it probably has a lot of runoff. From the 160 homes that are in Woodson Ridge, which was the subdivision built after Cabin Creekwood, and the thirty-three homes built in Shenandoah from 1977 to 1980 before Cabin Creekwood. I want to remind you that last decade, Hurricane Fran came through Stafford County, Hurricane Isabelle came through in this decade and we are only twenty-nine days away from the next decade. And, if you didn't see, tonight there is a National Weather Service flood watch where we could get two to two and a half inches of rain that could create some flood. I don't know what's in your Comprehensive Plan; I am sure water and sewer is in there. I don't know how you prioritize, but it's something that I really think you need to think about. I am tired of taking care of the fences around the stormwater which I had to have up there because when my boys were two and four I wanted to make sure they didn't drown, and I don't want anyone else's kids to drown. And I don't want to be responsible for dredging out stormwater ponds; that's everyone's responsibility in this County, not just mine. Water is the thing that affects us all. I know you deal with transportation and other issues, however, transportation only affects the population if you are sixteen years old and if you can renew your license when you are eighty. But water affects us all. Even a judge just ruled against the stormwater mispractices in New Orleans against one of the best group of engineers probably in the world, not just in the country, the Army Corps of Engineers. So, I hear you talking about using USGS and all these other neat little government services but, I want to remind you that one of our most precious natural resources is education. And there is a lot of grad students out there that would be loving to write a thesis or dissertation of the County where George Washington grew up, and I wonder if any of his cherry trees are still out there because... you know... that great magnolia tree where that second 7-Eleven is off 610 and put us in the Guinness Book of Records, that's just another aspect of storm runoff that even Walmart was smart enough to not even build in that area. And let me just close by saying that I think the staff does a great job but I would like to see some topology diagrams follow the storm ponds and who owns them and maintains them. Thank you very much.

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Mr. Fields: Alright, are there any other members of the public that wish to address the Planning Commission? Alright, if not, we will close the public presentations. I would like to recognize a member of the Boy Scouts is here tonight. I'm not putting you on the spot but we would be happy for you to introduce yourself and tell us what troop you are from.

Charlie Brown: I am Charlie Brown. I am a member of Troop 1717 of Hartwood, Virginia. We meet at Hartwood Presbyterian Church. We are one of the largest troops in the Aquia District which is over Stafford County and Quantico. We have probably around sixty members. And right now, why I am here, I am working on citizenship in the community, finishing up this so I can get my Eagle.

Mr. Fields: Very good. Congratulations. I am sure your Supervisor will look forward to being at your Eagle ceremony. Thank you for being here. Alright. Well, let's essentially pick up where we left off. In answer to the gentleman's questions, I do believe we have a great deal of detail on a lot of the stormwater ponds, don't we?

Mr. Harvey: Yes, we do. As far as topo maps of each facility, I am not sure if we have that fully in the GIS system identifying all the facilities. I would have to check with the Public Works Department, because I know, as part of our NPDS permit for pollutant discharge, we have to identify where all of our outfalls are in the County. That may be the source, so I can try to get Mr. Hubble in contact with Mr. Waldowski and see if we can get him that information.

Mr. Fields: Okay, that's good. That's a good start. Alrighty, let's pick up where we left off. We're to the Clustering in Agricultural Zoning Districts ordinance.

2. **Clustering in Agricultural Zoning Districts (Scheduled for December 2, 2009) (Time Limit: January 29, 2010) - From work session**

Mr. Stepowany: Thank you Mr. Chairman. The Planning Commission had a public hearing on September 16<sup>th</sup> on the proposed Ordinance O09-27 for Cluster Subdivisions in the Agricultural Zoning District and forwarded their recommendations to the Board of Supervisors. The Planning Commission recommended denial and requested the Board refer the ordinance back for some changes. On October 6<sup>th</sup>, the Board sent the proposed ordinance back to the Planning Commission to consider the following changes: specify that required buffers do not count toward the required open space and specify individual lots cannot contain more than twenty-five percent RPA buffers. The Planning Commission's recommendation shall be submitted to the Board at its February 2, 2010 meeting. Staff has concerns with specifying that buffers do not count towards the required open space as directed by the Board. Cluster subdivisions require a percentage of the overall tract to be open space which is in the ordinance known as required open space. RPA buffers, landscape buffers and cemetery buffers would not count toward the required open space requirements if following the direction of the Board. The RPA buffers could not be included within a preservation area, as in the proposed ordinance, which are areas specifically designed to protect resources. As proposed, the preservation area can only be within a preservation lot and/or common open-space. If the RPA buffer is not within required open space or a preservation area, there are no regulations to prevent the RPA buffer from being located on lots. Buffers on individual lots may be more likely to be compromised or encroached upon than buffers in common open space or on preservation lots. If the required open space is exclusive of any buffers, the land more suited for lots may be needed for the required open space. By using land less suited for lots may require larger lot sizes, decrease the number of lots permitted in cluster subdivisions and discourages the incentive to cluster a development. Staff also has concerns with specifying that individual lots have no greater than twenty-five percent of their land area comprised of RPA buffers. As noted in the past, the proposed ordinance prohibits any RPA buffers on individual lots. With reconsideration of the ordinance, staff recognized inconsistencies within the subdivision ordinance regarding the regulations for open space, i.e. the submittal process for a cluster subdivision,

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contents of a cluster subdivision plan, intent of cluster subdivisions, and how the use of pipe stem lots applies to the development of a cluster subdivision. Staff recommends the following modifications to the proposed ordinance to resolve those inconsistencies. Attachment 1 is the ordinance that went to public hearing and attachment 2 is the ordinance showing the following modifications as recommended by staff. Move the definitions from Section 22-267, which deals specifically with cluster subdivisions, and incorporate them into Section 22-4, which is definitions of the subdivision ordinance. Modify and expand the open space definitions by adding a definition for tot lot and changing the definition of lot to match the definition Section 55-337 of the Code of Virginia. Add Section 22-55 to list the purpose of a preliminary subdivision... or is that preliminary cluster subdivision? 22-55? Add pipe stem lot information to the required content of preliminary subdivision plans and plats in Section 22-58 and Section 22-87, respectively. Require consistency with required plans by clarifying the legislative intent of clusters in Section 22-266, move definitions in Section 22-267 and add filing requirements for cluster concept plans, which currently do not exist in the subdivision ordinance, and move the open space regulations in Section 22-268 and creating "required content" for the review of a cluster concept plan. Move the contents of the open space regulations to Section 22-269. Remove Section 22-269(2) and correct deficiencies in the language. Change Section 22-270 from the provisions for pipe stems to maintenance and ownership of open space and correct deficiencies in the language. Change Section 22-271 from review and approval of cluster subdivision plans to provisions for pipe stem lots. Modify the provisions for pipe stem lots so they are allowed only in cluster subdivisions in the agricultural zoning districts to meet the intent of clusters and pipe stems. Add a purpose and move the specific requirements to Section 28-77 of the Zoning Ordinance. And what that means is we took the pipe stem regulations out of the Subdivision Ordinance and put them in the Zoning Ordinance where you would have regulations because it's the Zoning Ordinance that defines regulations for lots, how lots should be, minimum lot size and width. And pipe stem regulations are similar to that and that was moved to the Zoning Ordinance. Add Section 22-272 to include the requirements for review and approval of cluster subdivision plans. Add and modify definitions to Section 28-25 of the Zoning Ordinance in order to be consistent with the Subdivision Ordinance. And add Section 28-77, Provisions for pipe stem lots, to the Zoning Ordinance. And I know it's lengthy, but that is an overview of what is being presented to the Planning Commission. And I will be more than happy to answer any questions that the Planning Commission has.

Ms. Kirkman: As I recall the history of this, the original ordinance was sent to us word for word by the Board of Supervisors. We had a timeframe within which we had to act and we requested an extension on that timeframe. Where does that leave us in our ability to make any of these changes because the Board has not authorized any of these changes. They sent this to us...

Mr. Stepowany: The Board authorized...

Ms. Kirkman: I would like to hear from the attorney.

Mrs. Roberts: Well, actually there seems to be a little discrepancy. The Resolution that was passed clearly says you are authorized to make any technical or clerical amendments to the proposed ordinance, which clearly the substantive changes would not be allowed. The minutes of the meeting just talked about, the motion and then a couple substitute motions, just talked about giving you the authority for text amendments. Right now I think you have to abide by the Resolution, but you have a couple options: (1) asking for an extension and clarification what text amendments, because it is very possible this could have been pulled up. And sometimes they do put this language in there. It could have been pulled up and accidentally used and they may have intended. And I spoke with Mr. Howard before the meeting and he thought his recollection of the discussions were the last vote did want to

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give you some authority to make some amendments. But that is not how the Resolution was typed and signed.

Mr. Fields: So, where does that leave us?

Mrs. Roberts: Well, it leaves you to have a public hearing and voting on it how it is and sending up your recommended changes, how you frequently do, or asking the Board for clarification on if it was only the technical and clerical amendments or if you could make other amendments and ask for an extension.

Mr. Fields: Okay. Does that answer your question?

Ms. Kirkman: Sort of. But, the other thing I recall, didn't we hold the public hearing on this?

Mr. Stepowany: Yes you did; September 16<sup>th</sup>.

Ms. Kirkman: Did we vote on it?

Mr. Stepowany: You voted to deny.

Mr. Fields: We voted to recommend denial.

Ms. Kirkman: So, and as I recall, I know I remember my assessment of the ordinance then and my continuing assessment of this ordinance is that it is a mess and that it would be very hard to tinker with to fix it. And, actually, I would like to suggest that this just simply be withdrawn.

Mr. Di Peppe: I agree on the withdrawal. My problem is that I don't understand why we are writing an ordinance to have the cluster development in the A's with so much of the A's being outside the Urban Service Area and we have not addressed a huge problem of how do you do the septic systems in clustering. I mean, I just don't know how you would do that if you cluster those houses unless you had very wealthy homeowners and you clustered maybe ten very large homes that could sustain and support a system for those ten homes... maybe. But in general I just think the whole concept is faulty because it doesn't recognize the serious problem with clustering and taking care of sewage. So, I am going to vote against anything that has anything to do with it. I just don't think it's a workable idea.

Mr. Fields: Any other comments?

Mr. Howard: Mr. Chair? Jamie, what was the origin of this? I mean, I do remember it was sent to us but what's the history? Why did somebody feel, and Mr. Harvey maybe you can answer if Mr. Stepowany doesn't know, where did this come from? What's the thinking on this?

Mr. Harvey: The initial proposal started with the Board of Supervisors committee of Mr. Crisp and Mr. Brito.

Mr. Howard: Well, what I really should be asking you was what was the goal or what was the intent of this? What were they trying to solve for?

Mr. Harvey: The goal and intent is to allow someone to reduce the area where development may occur on a tract of land and preserve other areas in open space. It could be an act of farming; it could be a

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forest. In doing so, the attempt is to allow the landowner to achieve the same potential number of lots that they could under a conventional subdivision, but not all the property would be divided up into lots.

Mr. Howard: Okay, I think I understand that. Thank you.

Mr. Fields: That is true. This reduces minimum lot size.

Mr. Harvey: Yes.

Mr. Fields: Let's say the idea is if you could get three acre lots, obviously you have to subtract for different things, but let's say thirty on 100 acres, if you could put them on a more compact space, in that 100 acres you could preserve more open space and still get the same lot yield.

Mr. Howard: So, it wasn't more buildings, it was to preserve more open space.

Mr. Fields: Correct. Because there is no density bonus in this cluster ordinance.

Mr. Harvey: No density bonus.

Mr. Fields: Just for background, Mr. Howard, the problem has been a lot of times in cluster ordinances that have been successful is there has usually been, a lot of times, some sort of density bonus because this obviously is a more complex process to go through than the conventional. That's been one of our chief problems in the agricultural area, is it has been relatively simple because it is by-right at three acres since you don't have to pay proffers and you don't have to do most of which you have to do in residential zones, the incentive to build out there is that is has been fairly low cost and simple compared to other more intensive development. So, to get somebody to want to do this, that's kind of one of my questions about it is what's the incentive for the developer to want to go through many, many extra steps. I mean, the people that want to do it, as we saw in Mr. Schercliff's development here I think a couple months ago, right, if a developer actually wants to do the right thing and create a development that is more ecologically and environmentally sound, they can do it under the current ordinance to a certain degree. They can't get smaller lots but they can do a lot. My concern with this is where is the incentive to do this other than somebody simply wishing to do it. And that's what I am not clear on in this ordinance, is how this creates an attractive option versus the current by-right process in A-1. And I am happy to hear from either staff or Commissioners that might have an insight into that.

Ms. Kirkman: Well, the only thing I would add is that in other localities that do have cluster ordinances, they also have very different agricultural lot sizes and rural lot sizes. They usually start at ten acres and many of them are at twenty-five or even larger. And in that context, moving from a ten acre lot to a smaller cluster makes a lot more sense. They also have much stronger protections around what cannot be built on in any circumstance, particularly slopes of twenty-five percent or greater, so that in that kind of regulatory environment, cluster subdivisions, there is an incentive that exists. Actually you can get a cluster in the ags and the way you do it is you rezone from A-1 to A-2; I mean, that's how you would do it. And you can get a much smaller lot size. So, I just feel like this is... we don't have the other things in place that make this kind of ordinance make sense.

Mr. Fields: Well, I think when we go back through our average, I think that under the current three acre zoning the average lot size that has been developed has been four and a half acres because of requirements for wells and drainfield construction. And, like Mr. Di Peppe says, and with all due

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respect to Mr. Crisp and Mr. Brito, certainly I know that their intentions were good here, I've said it before but just for the record in this meeting when I was the George Washington Supervisor I worked with the then Hartwood Supervisor, Mr. Snellings, and we worked on a cluster ordinance... the former and now incoming Hartwood Supervisor... on a cluster ordinance and we came up against that same stone wall of reducing lot sizes. To make it relatively applicable across the board, you will have to come up with some alternative mechanism to every individual lot drainfields and that, as we all know, opens up a can of worms that nobody wants to open up which is some version of master drainfields or onsite community systems. Like I said, we studied a cluster provision that Fauquier has for that but they only allow it in areas slated for future expansion of their water and sewer authority and they only allow it as a full, basically I think, treatment plant which Mr. Di Peppe was referring to. Not to characterize Fauquier as universally an upscale county, but there is quite a bit number of people in Fauquier that have a lot more money than I do and they envision it as applicable, possibly attractive, there in subdivisions where you are talking about million dollar plus homes. Basically Mr. Snellings and I said okay what about if these systems were under the purview of the utilities department and the utilities people... because we were Supervisors they couldn't really tell us what they thought of us, but they basically as politely and professionally as they could told us where to take that idea. In other words, they felt that was, from an administrative technological and engineering perspective, impractical. That has always been my frustration with this. I understand... I mean, obviously it makes more sense to preserve open space. I am not sure without onsite sewage disposal and, well articulated by Ms. Kirkman, the other regulatory framework, it is the same story with all these ideas, TDRs and things like that, they have worked in situations where there was far less ability to build in the ag areas and therefore there was an incentive to move towards these things. With three acre by-right, I'm not sure...

Ms. Kirkman: That is clustering.

Mr. Fields: Well, everybody, most people consider three acre to be a cluster, already a cluster, so I think that's part of the problem. So, I don't know where we want to go with this. It sounds like everybody has some reservations. Yes, Mr. Mitchell.

Mr. Mitchell: Mr. Fields, everything we've discussed tonight I don't disagree with anything that has been said. But me personally, twenty-three years I drove into Woodbridge and I saw my first pipe stem lot. And it's the most... terrible. One house, when the man and his wife walks out, is looking at the back of another house, and that is not conducive to good neighbors, to good relationships. You know, I think it was Robert Frost that said "good fences make good neighbors" but in this case there's not even a chance of a fence because you have a zig-zag. So, the pipe stem lot, I've said it before and many of you remember it, but the pipe stem lot is not conducive to good planning, in my opinion, in that it makes such a terrible footprint for two people to live. And, again, one man and his wife and their children could be playing in the back yard and they are basically playing in the front yard of this other man and his wife. The whole layout is, I think, a travesty.

Mrs. Carlone: I certainly agree with Ken on that. Pipe stems are something that I think really should be eliminated altogether in the County, which doesn't set well with some people. But for clustering, it just is not appropriate to have it there. Ken is right; it just makes for problems, for parking, it's just not a good idea. If you talk with some people in Green Ridge where there is quite a few, and this is in a higher density area, but it's really been bad news for the people. That's all; I just really don't think there should be pipe stems I the cluster.

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Mr. Fields: Okay. Mr. Rhodes? You haven't had anything to say on this; we've all voiced our opinion. Given a generally emerging skepticism on the efficacy of this ordinance by everybody, I would say that at least my first suggestion was that we send a request to the Board of Supervisors to say that we are having a hard time being able to craft anything. The Planning Commission is just not seeing the value of this ordinance as it sits in general to the County and would they consider simply just withdrawing the ordinance. At least a first shot. If they require us to, we will proceed through the public hearing and our recommendation of denial. We were 7-0, as I recall, last time denying it for a variety of reasons. Unfortunately, nobody on this Planning Commission can find the reason to be supportive of this which, again, that is with all due respect to Mr. Brito and Mr. Crisp and staff's work on it. I know that it's a difficult problem and they were attempting to grapple with some things that they felt were important, and so I respect that. I just think that since our job is to look deeper and harder at land use than the Board of Supervisors has the time to do, which is hopefully why they entrust us with that, I think it seems... and certainly someone speak out if I am wrong... I think it seems there is a consensus that we would request them to maybe just sort of drop this idea and move on with something else. Does that fairly get everybody's feelings on it?

Mr. Howard: Sounds like it's the will of the Commission.

Mr. Fields: We can take a formal vote on that.

Ms. Kirkman: So moved.

Mr. Fields: So moved? Well, let's make a vote on it.

Mr. Di Peppe: Second.

Mr. Fields: Second. Okay, discussion? Alright, so the motion is to request the Board of Supervisors to I guess abandon...

Ms. Kirkman: Withdraw... let's not use the word abandon. How about withdraw?

Mr. Fields: Withdraw? The General Assembly has a great way of getting out of how to do something. They have something called PBI; pass by indefinitely, which is the same as just giving up on it but it sounds like they are actually doing something.

Mrs. Carlone: I did have a comment. I wanted to reiterate thanking staff for doing that, going through here. Now, is there any area though where the consideration is that we can go ahead and approve or are we just going to recommend total deferral?

Mr. Fields: This whole ordinance is, as it sits, we are simply going to request that they drop it and then maybe if we have individual concepts in here that we want to explore, let's maybe go concept by concept and do that. Does that make sense?

Mrs. Carlone: Okay, yeah.

Mr. Fields: I mean, that seems to be a better way to do it. I know, I feel bad for staff. You guys put a lot of work into this. Alright, a motion is on the floor. Any further discussion? All those in favor signify by saying aye.

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Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. Sorry Mr. Crisp and Mr. Brito.

Mr. Harvey: Mr. Chairman? Can we get clarification on who made the initial motion please?

Ms. Kirkman: I did.

Mr. Fields: Ms. Kirkman.

Mr. Di Peppe: And I second.

Mr. Harvey: Thank you.

Mr. Fields: Thank you. Alrighty, Groundwater Management Plan Ordinance.

3. Groundwater Management Plan Ordinance

Mr. Baral: Mr. Chairman and members of the Planning Commission, this is the Groundwater Management Plan Ordinance. On November 18<sup>th</sup>, staff provided a synopsis of the other counties' groundwater management ordinance to the Planning Commission. On October 21<sup>st</sup>, staff provided background information on the suggested model ordinance. And today, what staff is suggesting is set a regulation that could be done in our County Code. I have seven points written in here and I would like to briefly go over that. The first one is to set aside more open space. Open space is very valuable for better groundwater recharge, and some modification could be made to the Zoning Ordinance so that more open space could be required. Similarly, the second one is to provide incentives for environmentally friendly designs such as pervious pavers. If pervious pavers are encouraged in the County, it will contribute to better groundwater recharge and better groundwater management. For example, driveways could use pervious pavers. Similarly, retrofit old systems. We have existing buildings or commercial structures and there is no incentive in the ordinance to bring them to current standards. If they are brought to the current stormwater management ordinance, that will also help improve the groundwater situation. Another one is to establish a stricter floodplain regulation.

Mr. Fields: Excuse me, may I ask a question there on number 3? When talking about retrofit, are you talking about both residential and commercial or primarily commercial?

Mr. Baral: Both.

Mr. Fields: Okay, thank you.

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Mr. Baral: You're welcome. And number 4 is the floodplain ordinance. The purpose of floodplain management regulations is to improve water quality and quantity recharge. It also does improve the situation of flooding but a wider floodplain helps improve the water quality situation. And the other one is establishing buffers to intermittent streams. Perennial streams do already have a requirement of buffer and if a buffer is required on intermittent streams, that would definitely help improve groundwater situations. And number is about the minimum number of parking lots. The Zoning Ordinance already establishes a certain requirement but certain commercial development goes beyond that to meet their corporate needs. And if those additional parking lots are done with pervious pavers, that would help again for the groundwater management. And another one is to encourage structural parking, multi-level parking. Current regulations don't allow that but if a multi-level parking decks are constructed, several cars could be parked in a limited footprint. And that way impervious areas could be decreased or preserved. And also, one of the suggestions made by the Planning Commission in the previous meeting was about what the State was doing. I was able to get information about the Regulatory Advisory Panel from the State level and I have included five points of what their meeting item was. And our Deputy County Administrator is one of the members of that Regulatory Advisory Panel. This is a synopsis of the report and if there are any questions, I will be more than happy to answer.

Mr. Fields: Those are five fairly significant statements.

Mr. Baral: They are.

Mr. Fields: That's not good. I'm not an expert but I know that that's not good.

Ms. Kirkman: Mr. Chair, my concern is that while all of those are very good suggestions and certainly things that have been tried to be moved before, none of them address some of the very specific recommendations from the study and the policy that was adopted by the Board. And, specifically, the areas of requiring hydro-geologic testing where a certain amount of water is withdrawn, and that is particularly important in terms of protecting well water quantity and quality in the rural areas, and that's not addressed at all in these five suggestions. And then, while these are generally good things for protecting water quality, they are not the kinds of specific things that are recommended for protecting wellheads and the recharge areas. So, that's my concern about these suggestions, although I support every one of them, none of them address specifically what was raised by the study that was done for the County. And that's what we had actually requested was an ordinance that did those things that were recommended by that study.

Mr. Fields: Okay. Are there other questions or comments on this issue? Mr. Di Peppe.

Mr. Di Peppe: I would like to see special criteria or special emphasis right up the middle of the County where our Urban Service Area is, and it's also the recharge for one of our aquifers. I mean, I think we need some very specific detailed recommendations because we've got two diametrically opposed problems. We have this is where the water goes and this is where we have our most intense development. So I would really love to see the County come up with an ordinance that part of it specifically addressed that our recharge area is directly on top of exactly where we say we want our most intense development. I think that is so important and that is one thing I would like to see in the future as we move forward.

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Mr. Fields: Are there any other questions or comments? Mr. Harvey, could you address Ms. Kirkman's questions?

Mr. Harvey: At the last meeting we had some discussion about the requirement for withdrawal studies. Currently we don't have staff on hand to be able to deal with that type of measure. With the hydro-geologic studies you will need to have someone prepare the study and then someone review it to make sure it complies with the standards. We have civil engineers but not any that are really focused on that area of expertise. Presently, our department doesn't have any funds to hire outside consultants to do that type of work as well. The only other option we could potentially have is if we charge a fee to offset the cost for doing that type of review. But that would have to be something we would have to account for in the future budget because you would have to identify it as a revenue as well as an expenditure for the budget amount.

Ms. Kirkman: That shouldn't keep us from developing the ordinance because that ultimately is something that the Board of Supervisors could implement at the same time as the ordinance if they chose to implement it. And it could be handled very much like our stormwater reviews use to be done, which was basically the fee for the stormwater review covered the fee for hiring the consultant to review it for the County. So, I don't see that as an obstacle to moving forward with the ordinance. The Board would have to make a decision whether they wanted to adopt the ordinance and how to implement it.

Mr. Harvey: And that would be the key as far as making sure that there's a budget that goes along with that in order to implement it.

Ms. Kirkman: But the Board has the authority to charge fees equivalent to the cost.

Mr. Harvey: Yes.

Mrs. Carlone: We discussed this at the last meeting and I had mentioned about USGS, and I see that they have some data. I don't know how much is available from USGS but surely they have data or a process or a procedure for doing this rather than hiring someone from the outside or no money available to do that or internally any personnel to do the study. But I would think that USGS would have data to help the County set up the procedure.

Ms. Kirkman: There's a very specific kind of testing that has to be done to ensure that the water withdrawal rates are not going to affect wells in the nearby area and that is not anything that can be taken off the shelf. That is a very site specific study that has to be done.

Mrs. Carlone: Again, what we had several years ago, and it was only for a year's time, was a study of some of the wells withdrawals, but an example of what you're mentioning is that the golf course... I forgot the name of the golf course off 610... anyway, there was a problem with the well's withdrawal affecting the neighbors. But this to me surely if this group, this advisory panel, did get with USGS and yes I understand that it is on a case by case, well by well basis, or area by area, but I would think that they would be a good source of information.

Mr. Harvey: The Regulatory Advisory Panel right now is currently looking at only the Coastal Plain areas. They are not looking at the Piedmont areas because the Coastal Plain areas are where you have more challenges for depletion of groundwater on a larger scale, as well as more chances for pollution, because Coastal Plain soils tend to be looser sediments which allow water to move more rapidly in that

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area compared to the Piedmont, where the Piedmont is more fractured rock and clay layers that are tighter and more confined. With the Piedmont, you typically have issues with the fractured rock area where someone may drill into that same fracture and draw off of you where that is where you get the well influence issue. It's a little different in the Coastal Plain because of, again, you usually have a wider area of water influence, but you can have again some big users that end up really having some impacts on the water table level.

Mrs. Carlone: Also, we had mentioned, just very briefly, was about the possibility of funding available from an outside agency. Remember? We had discussed that very briefly that there was a possibility of maybe looking into that.

Mr. Harvey: I haven't checked into that yet. I apologize for not getting to that. I know you had asked about USGS and to see what baseline information they had and also if they had any other funding grants or whatnot available.

Mrs. Carlone: Or another agency I think you had mentioned to look for funding. Okay, that's it.

Mr. Fields: As I recall, part of the thing when the Draper Aden study was done, the results presented, one of our concerns at that point on the Board of Supervisors of what was the overall picture, was the Piedmont was a difficult area to be specific about, but in general it was their assessment, their hydrologic assessment, you can't get site specific because obviously you have to drill each well to see where the water is and how it's going to get there. That's part of the problem with the Piedmont. But in general that the Piedmont area, that the County had a potential yield of over forty million gallons a day which is more than we get from our reservoirs. So, the availability of water in the Piedmont area does not seem to be the problem. Ms. Kirkman is actually right on the money. The problem is well by well, this well on this parcel of land, is it going to interact with the well next to it and that you can't do unless you test... because every one of those aquifers is in a separate strata and so there is no way... policy-wise, our concern during the drought and everything, was there an actual in general endemic lack of sufficient water supply in the Piedmont area of the County. And it certainly, at least the Draper Aden study, indicated that there is not. There is enough water there, it's a question of making sure that the wells are sited properly and are not somehow tapping into. Also, the problem and I assume that the hydrologic testing shows the range of influence because the range of influence that your well will have on a well tapping the same aquifer is completely relational to the rate of withdrawal of the well because basically you have like this pipe of water and as it moves through the aquifer it's like a cone. The faster you move the water out, the wider the cone of withdrawal or influence of that single well. So, is that what you are talking about? Where the testing would set applicable rates and then see where at what rates of withdrawal you are going to affect your neighboring well?

Ms. Kirkman: Well, Rishi will be able to comment on this with far more intelligence than I can, but there are actually two issues. And one is the deep wells that draw from aquifers and then the second issue is the affect of increasing pervious areas on the ability of shallow wells to recharge from surface water. And then with both of those types of wells, the issue is besides water quantities, the quality of the water and contaminants reaching whatever the water source is. So, that's the understanding that I have of sort of like the difference of the issues, but there are two different sets of issues relating to the types of wells and how they recharge.

Mr. Fields: Understood. Do our current stormwater regulations, particularly since LID is the law of the land as it were, I assume that that recharge of re-infiltration of stormwater into the ground is part of something that is... do we actually have a calculation for that? I mean, if we're not doing it, it

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certainly seems like the process itself is already leaning towards that definition of the water table for the shallow wells, is that correct? I mean, aren't we already in that direction with the LID process?

Ms. Kirkman: Well, as I understand our LID process, it really doesn't address what the impact of the run-off from a particular property is on recharge of adjacent wells. It's really is it travelling to the right place at the right speed.

Mr. Baral: LID practice is what it does basically is it mimics the predevelopment situation. Although a pervious area is created, the hydrology is mimicked to the predevelopment situation so that there is not net impact creating impervious area to the nature. That is what LID is doing. But what groundwater recharge is, is a little more than that. For example, one is quality and the other is quantity. In Coastal Plain, because the aquifer is very closer to the surface, quality contamination problems are very likely. But in Piedmont region, because of the location or depth of the water level, quality contamination is very less likely. But quantity, depending on water withdrawal, in both areas quantity will be affected. LID definitely is a very good approach for groundwater recharge but we may need to go a little beyond that for the best groundwater recharge.

Ms. Kirkman: Also, our current regulations do it in the aggregate. So, on average, the retention of water is the same before and after, but it doesn't do it specifically to where the water... so water may ultimately leave the site in a very different kind of way than it left the site before.

Mr. Baral: But quantity will be calculated, it will be measured that higher quantity doesn't leave the site after development is built.

Mr. Fields: So, in theory, right, if you have a parcel of land of eight acres and it has forest or meadow and it's recharging most of the water that falls on it eventually seeps into the water table, and then post-development with the LID, my understanding has always been that post-development hydrograph means that the same amount of water infiltrates as if it were forced through the use of the different types of devices. So, I am not saying we are achieving that, I guess what I was trying to get at is, is that the start of being able to extrapolate what the impact is to local shallow wells that rely on the water table. Can you extrapolate from the existing LID calculation from that or does that involve a whole other set of calculations and studies?

Mr. Baral: We could extrapolate from that but water is lost from different approaches, not only creating impervious area. For example, human consumption, evapotranspiration. What LID does is it mimics the pre-deliverance situation but if water was consumed but no impervious area was created, even in that situation, there would be some depletion in the groundwater supply, groundwater situation.

Mr. Fields: Okay, even an LID with a post-development hydro-glide, you are still going to see a negative impact on the water table.

Mr. Baral: That's correct.

Mr. Fields: Okay. And is it possible to calculate, then, to study and calculate what that impact is to the water table surrounding the development?

Mr. Baral: We would need to have better information about groundwater condition, we need to have wellhead established, we need to have a profile of that and in the previous meeting we discussed about

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that a little. And the direction we got was to prepare some report on what would not cause or require more manpower in the County. And that's how this report was prepared.

Mr. Fields: Sure.

Ms. Kirkman: Sorry, I wasn't present for that.

Mrs. Carlone: Mr. Chair, the grass pavers are an excellent idea. This is just maybe for something later; as far as the asphalt that one car dealer is using that will also collect the water and let it drain through, are there any studies on how much we can save? Is there any kind of idea? They said it couldn't be used for regular road surface but it could be used for parking lots. So, if you have any data on that, that would be good. Now, another issue is that we already discussed that a water study really and truly should be for the aquifers and the water, according to the USGS, should cover a five year period. And we mentioned this before about coming up with a baseline of where we are and using either abandoned wells or other wells that are not abandoned but are not being used. But, really to have some meaning it should be about five years. And this is, again, "USGS". And I really feel there is so much more we can do, not you all but the County in general with businesses to promote this green and that seems to be becoming more prevalent. But I think we could do a lot more especially in here about the water run-off from the roofs and such like that. But, anyway, thank you and if you could just, or all of us, consider that five year baseline... I mean to come up with a baseline.

Mr. Baral: Sure. A grass paver is one of the innovative approaches for stormwater management which is very good. And I don't have the report in front of me right now and I will also get a report as to what USGS has for groundwater management.

Mrs. Carlone: Okay, thank you.

Mr. Howard: I have a question Mr. Chair. My first question, I guess, is I don't know enough about the particular ordinance, but rooftops. Have we looked at Stafford Marketplace or just pick any 10,000 square foot building or above; is there any requirement that the water that is discharged from those roofs that that has to go into a dry well or something where it actually forces it back into the ground. And at some point that capacity is large enough so it displaces itself over a period of time.

Mr. Baral: Rooftop is an impervious area and the current stormwater management (inaudible).

Mr. Howard: But does it go into the stormwater management of the same, where the parking lot is required, so the run-off goes... it all goes to the same place?

Mr. Baral: Yes it does.

Mr. Howard: We're not doing anything different with that?

Mr. Baral: Yes it does. In a very limited situation it may go to a different drainage area, but in most cases it will have to go to the same drain area.

Mr. Howard: So, when they are engineering the layout of a very large retail area, what is the science behind where they are putting those recharge basins? How is that thought through so if you are funneling all the water into an area where it's not really benefiting the groundwater, do we know that or we don't know that?

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Mr. Baral: We definitely know that and engineers do a vigorous computation to approve that a higher amount of water does not leave the site. And the study point will be certain downstream of the project area and in that study point post-development discharge could not exceed pre-development discharge. And in order to achieve that, the engineer will have to design a stormwater management pond...

Mr. Howard: A pond that stays onsite and handles that water differently.

Mr. Baral: Yes.

Mr. Howard: Okay. Go back to Mr. Di Peppe's comment, if we are going to require Route 1, that whole corridor, to all of a sudden be developed, I think his question was should we be thinking differently about those types of requirement when we are building.

Mr. Fields: Since we are already at LID, it's hard to figure out... maybe you could address if we're at full LID implementation, would there be things we could do beyond. If you re-infiltrate all of the stormwater that falls on a site, then there isn't more that you can infiltrate because you have infiltrated it all. Is there something more that we could be doing on that aquifer recharge zone along the fall line above our current LID ordinance?

Mr. Baral: Basically there is because even in the previous condition, we are not fully integrating. A certain percentage of the water actually infiltrates to the groundwater depending on the soil condition. Twenty-five percent to sixty percent will infiltrate to the groundwater and other will go as inflow, some of them will go surface run-off. Surface run-off is the discharge we see flowing through the surface of the earth, and inflow is similar to surface run-off which flows a certain level below the surface but still doesn't go underground. It flows and finds the path of least resistance and goes downstream. A hundred percent is not percolated, even in the previous condition.

Mr. Fields: I see. Is that due just to resisting soil and geology type?

Mr. Baral: Yes it is.

Mr. Fields: So, is it possible that we could actually improve over nature so to speak?

Mr. Baral: We could, but it would be difficult to achieve.

Mr. Fields: So, I guess I'm confused. Is there something that we could be doing through development regulation to do a better job of infiltrating than we are doing now?

Mr. Baral: That's possible from an engineering point of view, that's possible.

Mr. Fields: How so? Can you give us an example?

Mr. Baral: Oh sure. Actually, LID requirement is to...

Mr. Fields: By the way, you are doing a great job. I would just like to say that Rishi is the answer man in Stafford County. I have to just say that we are throwing thousand of technical questions and you don't even blink; you've got an answer for everything. So, we really appreciate all your work. I am very impressed. Keep going, thanks.

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Mr. Baral: LID mimics the pre-development condition but, like I said, in pre-development condition 100 percent of the rainwater is not infiltrating. Some percent is going away, some percent is evaporating, some percent is captured in the atmosphere, and in order to percolate an amount of water that was done in the previous condition we have to go beyond mimicking pre-development condition. Sizing larger LID's would be the best way to achieve that. But as far as I know, I don't see any jurisdictions attempting to go beyond pre-development conditions.

Mr. Fields: I see. So that would be pretty groundbreaking to attempt.

Mr. Baral: It would be.

Mr. Fields: Well, we were the first County in Virginia to adopt LID so maybe we will be the first to do better than that.

Mr. Di Peppe: What do we have for monitoring? Once there is an LID system in place, what does the County do other than complaint driven? Is there any way to monitor? For example, I've seen rain gardens and things or honest attempts to try to get the water back in but the LID isn't maintained. It's set up correctly, but two, three, four, five years down the road it's not functioning the way it was originally intended to function. It was set up correctly, or as correctly as it could have been at that time, but as we move out we learn things. We find better ways, just like there are new and better technologies coming along; there are new and better ways of getting water back into the ground. Do we have any system that checks our existing or past LID provisions to make sure that five years out they are still functioning? And how much of a problem do we have with deteriorating? I know we haven't been doing it that long. But as we move forward, is there a way to check to make sure that those LID systems that were put in our still functioning the way they were intended.

Mr. Baral: Let me try to answer that question this way. When stormwater management regulations came in about thirty or forty years ago, several stormwater management ponds came in. And maintenance, from the very beginning, has been a problem. No matter if it is a transitional pond or LID, maintenance always has been an issue. There are regulations. We have identified as to who the responsible part is. But still proper maintenance remains a question.

Ms. Kirkman: We do have an inspection system now for stormwater facilities, right Mr. Harvey?

Mr. Harvey: Yes, we do, and part of our MPDS we have to do inspections and monitor our discharge. So, there is a process which they go through on a schedule as far as when you are required to have your maintenance inspection. All developments in the County, when they build these facilities, they have a maintenance agreement that is signed with the original developer which passes in the chain of title with the property and it specifies what the specifics for the maintenance are for the individual facilities.

Mr. Di Peppe: Do we have problems though with, say, homeowners associations going out of existence and they're the ones that were responsible for the LID or the stormwater maintenance?

Mr. Fields: Also, the cluster problem this gentleman brought out, you have one party responsible for a pond that suddenly is getting run-off from other parties that don't have any responsibility.

Mr. Harvey: Certainly, there are challenges out there.

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Mr. Fields: I will interject at the risk of raising a political point. I spent eight years on the Board of Supervisors' Stormwater Utility. There is a way to solve all of these problems and solve them very well, and that is to have a Stormwater Utility where the County takes over the inspection and maintenance of all the stormwater structures in the County. A fee is charged based on impervious surface. In our study it was projected to, depending on the level of what you want to achieve, anywhere from two to four dollars per month per household and then a fee per thousand square feet of impervious surface. Most urbanized counties, many, many urbanized counties, have a Stormwater Authority and it becomes basically like a utilities department for stormwater. A lot of people have ideological resistance to it. To show you how long I worked on it, the first Stormwater Utility Committee on the Board of Supervisors was myself, Linda Musselman and David Beiler. So, that's how long and I never could get more people to agree with me. So, sadly enough, not to beat that dead horse, but I still think I would hope that the current Board would consider rethinking some version of it because I think it is a problem as this gentleman continues to point out. Allowing both conventional, and he's talking about conventional stormwater pipe and pond type of thing with the ponds or the LID structures, some groups do better than others but even with well-intentioned homeowner groups, there is simply not the expertise and resources to see that these things are done. I think that a utilities is the only way you are ever going to see that that is properly addressed; which maybe needs to be really the next step before whether we consider new regulations or not is to ensure that the functionality of all the existing structures is at its peak.

Mr. Di Peppe: Couldn't the Planning Commission though suggest...

Ms. Kirkman: We can suggest a utility but we have no authority to draft legislation regarding that...

Mr. Fields: No, that's way beyond our scope.

Ms. Kirkman: But all that is absolutely true but nonetheless it doesn't address the consumption side of things or protecting wellheads. And I want to get back to that because that actually is what we originally started talking about. And I do think there is a simple solution to the problem of not having staff which is we handle it the way that it was handled for stormwater for years which is that you charge a fee that is based on the fee of the person doing the review so that it is completely cost neutral to the County. Because, right now, the best stormwater management ordinance in the world is not going to address what happens when there are large withdrawals from the recharge area. So, I'd like us to somehow get back to that and then also talk about wellhead protections. I know particularly when we are looking at small wellheads, we've looked at some in our subdivision plans where it met all the requirements but boy we sure wondered about the well being located directly down slope of something that was not nice. So, you know, I'd like us to remember that there is another side to this as well and try and talk about what we can do on that side.

Mr. Fields: Is it plausible then to at least sort of start on a theoretical ordinance, understanding that you don't have the resources but would require if the Board of Supervisors so inclined authorizing the use of external resources? Is it possible to proceed along that assumption?

Mr. Harvey: We can take a look at some of that. Rishi was about ready to say something; I'm not sure what it was but I know we did provide you with some copies of other jurisdictions' ordinances in your last package. Do you have anything more Rishi?

Mr. Baral: No.

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Mr. Howard: Mr. Chair, could Ms. Kirkman just expand a little more on the wellhead and how that would tie into the ordinance if, in fact, an ordinance were to be drafted?

Ms. Kirkman: Well, so, there are some specific recommendations from the report and that's in the very first... I think that was in the October 21<sup>st</sup> packet we got. So, rather than read those off... I mean, it's similar in some ways to some of the stuff around the reservoir protection so that you regulate certain land uses in critical areas that...

Mr. Howard: Around where the wells are located.

Ms. Kirkman: Yeah.

Mr. Howard: Okay.

Ms. Kirkman: Or the recharge area, depending on what you are talking about.

Mr. Howard: Okay, I got it now. Thanks... thank you.

Mr. Fields: Alright, so with that, at least can we see... can staff work on hydro-geologic studies and wellhead protection?

Ms. Kirkman: Wellhead/recharge.

Mr. Harvey: We will put something together for the Commission for your next meeting.

Mr. Fields: Okay.

Ms. Kirkman: And I do want to be clear. I think we are talking, as all of the existing ordinances do, about larger scale developments; we are not talking about single lot building construction. That's not the level at which we are talking about.

Mr. Fields: So, major subdivisions and above.

Ms. Kirkman: Yeah.

Mr. Fields: So, not minor or family subdivisions.

Ms. Kirkman: And I would think not even some of our major subdivisions are anything five lots or larger? And we may even be talking about something larger than that.

Mr. Fields: Probably. I think a couple wells I don't think are going to... even ten or fifteen are probably going to... I don't know, maybe fifteen. Hard to say I guess. Alright, anything else on this? Okay, elimination of preliminary subdivision plan. Has that just drifted away now forever and ever? Is that passed by indefinitely? Okay. So, we're at the Comp Plan. And, you weren't here Ms. Kirkman at the last meeting but, while it certainly is recognizing the reality of things that this is the last meeting for this current incarnation of the Planning Commission, Mr. Howard felt that rather than to simply just pass by at least there would be an opportunity I guess for this current Planning Commission to sort of weigh in, as it's constituted now to weigh in one last time on the Comp Plan before things transition. So, that's where we're at.

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6. Amendments to the Comprehensive Plan (**Time Limit: January 20, 2010**) - *From work session*

Mr. Zuraf: Good evening Mr. Chairman and members of the Commission. Mike Zuraf, Principal Planner with the Department of Planning and Zoning. I'm here for maybe the eighty-fifth time to talk to you about the Comp Plan. What's one more time. At your last meeting on November 18<sup>th</sup>, the staff did provide a briefing on all the comments that were provided at the October 6<sup>th</sup> joint public hearing. And out of that, specific issues were identified that the Commission wanted to have further discussion on. Staff has provided those specific issues in a memo to you and has included some commentary on some of the issues and then also some supporting documentation to back up some of the information that was previously discussed and provided some new information. We can go ahead... I don't have a power point tonight but I do have some of our mapping to bring up, if needed. We do have GIS data available if we need that to assist in the discussion. So, Mr. Chairman, at this time I would probably recommend that we maybe go through the issues one at a time and maybe have discussion at each point, as opposed to me going through everything and then forgetting about what I said at the end.

Mr. Fields: Right. That sounds good. I mean, we have until January 20<sup>th</sup> so it will be a different Planning Commission that probably takes the final vote on this. I assume, Mr. Howard, you were simply making sure that you wanted the discussion... one last discussion on the record to take place?

Mr. Howard: Yes. And to capture everyone's comments also.

Mr. Fields: I think that's the key, to make sure everyone's comments are on the record because I think the... we could vote tonight but I don't think that's what we intend to do or would be productive.

Mr. Howard: No, I don't think so.

Mr. Fields: But we do want to make sure that everybody has one last bite of the apple as it were. Okay.

Mr. Zuraf: The first issued identified was one of the more major issues seen with the Comp Plan was the request to discuss the overall general discussion or general direction of the Urban Services Area that is going to be recommended in this new Comp Plan. And we have provided you the latest and greatest version of the Urban Service Area map and I don't really have anything more; I think it was more of a discussion point that was brought up by you guys so I will turn it back to you.

Mr. Fields: Mr. Di Peppe?

Mr. Di Peppe: Just a quick comment.

Mr. Fields: This is your last shot.

Mr. Di Peppe: Yeah, my last shot. I'm afraid that there is going to be a tendency with looking at the Comp Plan in the new year to vastly extend the Urban Service Area. When we started the process so many years ago, one of the first things we recognized was that that current Urban Service Area that we worked under for so long was huge. And it is still quite large. But I'm afraid there is going to be a tendency in order to support development wherever it wants to go to redraw those lines. All those compromises and discussions, everything we went through for all that time, I'm afraid will completely

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be reopened to the detriment of the County because when you increase that Urban Service Area, you increase the need for services which increases the need for infrastructure which, pay attention tax payers, increases your bill. And that's all I will say about it.

Mr. Fields: Mrs. Carlone, your last shot at the Urban Services Area.

Mrs. Carlone: And I have a lot to say but I will be brief.

Mr. Fields: Please. This is your time. There is no other time past tonight so if there is anything you have been holding back for four years. I better not say that.

Mrs. Carlone: Oh, no. Anyway, what, it's been three, three and a half years on this? And I really am concerned, when some of us are off the Commission that politics and other issues will affect this Urban Service Area. And, as Arch said, also increase the area. We just cannot afford to go beyond what we can afford, and we really cannot afford too much right now. But I just hope that people look at the long range aspect of this. Most of the time we don't really look into the long range affect. We really haven't. And this is from twenty-six years of being here and listening, watching and participating. But I just hope that people will do some thought on this. And this isn't just the meetings over the years have brought out people to provide comments. They did have a chance to make comments on this. I think the last time the Supervisor said that there wasn't enough public input, but there has been that opportunity. And this has been thought out. This is, I think, the most intensive Comp Plan within my time here that's been done. So it's not just arbitrary drawing lines.

Mr. Fields: Are there any other comments on number 1?

Ms. Kirkman: I would like to thank the Supervisor from Hartwood for putting us in this position.

Mr. Howard: I actually have two comments and I think they fall under the Urban Service Area, to give you some perspective as I was going through this. And I would reiterate I think the staff has done an outstanding job, as well as some of the members on the Planning Commission who worked on the various committees over the years. It has been at least three years in the making and a lot of hard work and effort and I don't think anyone has a desire to see this working effort go away. So, one example, and I don't know if everyone has their book or not, but it's 2-2, it's Goal 1, Manage growth and development in a sustainable manner. Just a simple little bullet on the end of 1.1.3 as a suggestion. Pete, when we were talking last time this is what I was thinking. If people had comments to add about something specific that they would either want to change or know, don't ever take this section out and here's why. But, in this case, my example is a simple one. I think one of the bullets under 1.1.3 should say "promote economic development". It doesn't say that. So, as I look at it from my business perspective as well as a resident, I want managing growth in a sustainable manner to also promote some economic development within the County over the next twenty years. So, that was one thing on my lens. The second section I looked at in this particular area is 1.2 and then when you get to 1.2.3, just adding a simple bullet, not changing any of the language except I do want to look at the "shall"s and "may"s and all that stuff, demonstrate that the extension will reduce the impact of residential unit discharges on the watershed. So, have we thought about if we are not going to expand the Urban Service Area, that's fine, but have we thought about are there areas impacted that if we don't fix or do something with that, they are going to increase the residential unit discharges into the watershed. Which is one of those examples where, okay, we were thinking the right way because you want to control the sewer and control where you want your growth, but maybe there's these other areas. And what made me think of this is we had two homes before us this past year on Courthouse Road where

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their systems were failing and they weren't part of the Urban Service Area on the map at that time. And we ended up allowing them to extend the sewer to those two homes because they had no other choice, there was no other alternative. So, by putting a bullet in there, at least it allows people to think about that. I'm not saying expand it but think those things could happen in twenty years and we should be thoughtful and understand. So, those are my two comments on that section.

Mr. Fields: Okay, very good.

Ms. Kirkman: You do know we have a whole section on economic development.

Mr. Howard: I understand.

Ms. Kirkman: Okay.

Mr. Howard: That's why it was only four words; that particular section.

Mr. Fields: I think maybe up front, and I'm sorry I don't have my full copy with me. Because we worked on a strategic plan several years ago and we worked on creating a definition of sustainability. Do we have that up front here in the book? Because I think sometimes that might be something that we want to make sure is presented in a sometimes a little more obvious manner. It is very easy when you work on this stuff for a long, long period of time to simply assume that you know what sustainable means and everybody else knows what sustainable means. I have always gone on the basic definition, and I think it addresses your concerns, but a well constructed definition of sustainability usually has this idea that there are three components; they could be phrased differently but it's usually something that is environmentally sound, economically viable and socially just. And, so, I like your suggestion, it may be to either add a section on economic development or make sure we have what I consider a truly accurate definition. At least in the work I've done on the sustainability future is that the economic viability of a situation is a component of its sustainability. It's not sustainable if it's not economically viable.

Mr. Howard: Right. And this is a futuristic twenty year view and things are going to come in and out. And it's sustainable, by the way, at a point in time, right? One other example is 2-5, when it came to the compact mixed use development meeting a certain criteria, I wanted to add it also must pay for itself. So, if we are going to get into the dense compact mixed use developments which seem to make sense along the one corridor that has been identified, these things should be, again using that same word, sustainable but they should pay for themselves over a period of time. So, that's how I was thinking about that.

Mr. Fields: I gotcha. Okay.

Mr. Howard: And I have a ton of comments but we don't have to do it tonight. I really wanted to let... my thoughts were anyway to allow everybody the chance to, if there were things like that, that would be great to hear.

Mr. Fields: I'm still, and I know I still have more to say, but I would still say I still think we have a problem and I will say that I think it's driven by compassion and desire to solve problems. But the idea of these areas physically disconnected discreet units westward of the Urban Service Area, I just think are fraught with more problems than they solve. I am still concerned about that. Because they are not independent units, they will have to be connected by sewer lines and water lines to the ones

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adjacent to them, and once you've got that connection out there it's usually only a matter of time before you start to fill in the dots. I still have concerns with that. I'm thinking that maybe we need to look at it different. Since the dis-contiguous westward expansions appear, like Lake Arrowhead, etcetera and the Hartwood Elementary School, are attempts to solve a specific problem for...

Mr. Howard: Yeah, that might be a better way to do that.

Mr. Fields: That's what I'm thinking. Rather than make them a part of the Urban Service Area. That's what I would like to see is...

Mr. Howard: That helps the County control the growth and steer it in the right direction.

Mr. Fields: Yeah. I think a contiguous compact Urban Service Area, particularly with regard to sewer, you just can't really read a book on urban planning and not see that come up, I don't think. Is there anything else on number 1 that we want to do before we move on? Okay.

Mr. Zuraf: And, Mr. Chairman, also the page 2-1, the first sentence under Sustainability says "sustainability refers to a balance between resource protection and consumption that can be maintained indefinitely".

Mr. Fields: Okay. And we might want to... sometimes those are good definitions. I've always operated on that one like I articulated. It's not one I made up but it's pretty common. It's one that I think is fairly easy to grasp and make sure people understand. Sometimes sustainability... it's like a lot of words that get charged with lots of meanings depending on the context of how they are used. Sometimes sustainability in some peoples' minds pushes a button of a, let's say a radical conservationist approach, it isn't really the thrust of what I consider the mainstream sustainable movement. People have to be able to be profitably engaged in businesses and jobs for something to be sustainable. So, the question is just, you can't do that at the expense of the other two; it's a balance between all those three. I know that the Board of Supervisors did articulate a definition; we had that for a long time, right? We used to have it up here. I remember, right, we had it pasted to the front dais. We had the definition of sustainability, right?

Mr. Harvey: Yes.

Mr. Fields: So it exists.

Ms. Kirkman: Mr. Chair, I wonder how much sense it makes for us to spend a lot of time on this tonight. And I really do say that in the spirit of recognizing that the current majority on the Board had their opportunity to move forward their vision about how to solve the problems of responsibly managing growth and balance with the need to encourage economic development. They could not or would not do that. We now have a new majority on the Board and it's really up to them to put forward their solutions to those problems. So, I really... which will probably look very different and so I just don't know how much sense it makes for this Planning Commission to go into a lot of detail tonight about these things.

Mr. Howard: It was more just to capture if anyone that may not be here in January, if they wanted to reinforce...

Ms. Kirkman: Say their last words?

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Mr. Howard: Well, no, reinforce their points that we have it on record that we can go back to it.

Ms. Kirkman: Sure.

Mr. Fields: Sure. Well, we could actually to that. If that's really the intent, we can... maybe we can sort of segway a double setup. I would to, before the very... I hate to do this at the end because then everybody is like ready to go home... I will, with your indulgence, break for a slight second because I do want to recognize to make sure people of the public, people watching, understand that this will be the last meeting for Mr. Di Peppe and Mrs. Carlone. And I can't tell you what a privilege it has been to serve with you guys for two years. I have known you both for a long, long time and I know that not only has it been an honor to serve with you on the Planning Commission, it has been an honor to have you as my friend and you both were indispensable to me when I was running for Board of Supervisors both in 1999 and 2003. You guys have been in the trenches and at the barricades of the future quality of life of Stafford County for far longer really than almost anybody here in this room. And I was so happy for both of you when you were appointed to the Planning Commission to finally have the opportunity to be in a more consistent policy-making role. Your contributions, your thoughtfulness, your care for the people of the districts you represent, your care for the people of Stafford County, is unquestionable and almost without parallel in my experience in Stafford County. And, so, I certainly wanted to... I think we all extend our incredibly warm wishes and heartfelt thanks for your service to this County. I can guarantee you, despite all of the things that go on in politics and that sort of thing but I would defend to the death anybody that would try to say that Stafford County is not a better place today because of the efforts of Arch Di Peppe and Ruth Carlone.

Mr. Rhodes: Here here.

Mr. Di Peppe: Thank you.

Mr. Fields: So, with that I think if you guys have any last comments on the Comp Plan, the floor is yours. We don't really have to, I think, go blow by blow; we just want to make sure that you guys are on the record one last time. If there is anything else that you wanted to say about it at this point, please do.

Mrs. Carlone: Mr. Chair, I do. The first part will be directed to Mr. deLamorton. On Truslow Road, we really need a high priority on that. As a collector road, 17 has gotten to a standstill at some times. It must be about an F in some areas but, whatever, D or F. But anyway, I hope that there is consideration about the priority on that because before the land gets developed, there is still a lot of land that is available. And then, as a parting comment, it's been a pleasure working with staff. Maybe sometimes we don't agree on the approach and stuff, but you are very hard working and it's very much appreciated. And, for the rest of you guys, I think we've been pretty civil overall; except my one little outburst at an attendee. But, it's been a pleasure and four years went by so fast and it's been quite a learning experience. And that's all.

Mr. Fields: Mr. Di Peppe. Since you have theoretically announced your retirement from Stafford politics, this is your farewell address and your last shot.

Mr. Di Peppe: Completely. I don't care if the Martians land. But, seriously...

Mr. Fields: There's no retirement like a Brett Favre retirement.

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Mr. Di Peppe: No, no. I think all in all, between activism and public service, it's like fourteen years straight. So I am looking forward to a break. First, thank you very much for your generous and kind words. It's been an absolutely tremendous experience. I want to thank the staff for all they, everybody... especially in the beginning you are completely overwhelmed when you assume a position like this because there is so much to know. And one of the difficult things is your term begins, then you have to start making policy decisions and recommendations about things that you are trying to get your mind around. And I cannot commend the staff enough because there wasn't a situation a single time that I didn't go to them and I didn't get just absolute yeoman service to help me. And I felt that it really helped the County. So, first and foremost, I would like to thank staff, all of you, for what you've done. Secondly, one of the greatest things about being on the Planning Commission is getting to know people you would have never gotten the chance to know. There is a wide variety of political beliefs in the County and I think the strength of this Commission is that we represent all of it, from one end of the spectrum to the other. And I've said this before and I mean it, there isn't a single person I know that serves on this Planning Commission that does not love Stafford County and want to do the best possible things they can do for the sustainability of Stafford County. But the great thing is, like I said, I've made friends with people I would have never had a chance to meet and to know. And, in becoming friends, they've broadened my perspectives on what I thought were the best things to do and I have always felt, and I've said this a number of times, that my opponents in the best possible world, the people I might disagree with politically, are essentially and should be my conscience. To know that there are other intelligent, well meaning, well disposed people who look at the exact same set of circumstances that I do and come up with a different solution, and I think that's the strength of this Planning Commission is that we are so diverse and, for the most part, get along so well. And I think that's great. It has been an honor and a privilege to serve. I'm not leaving with rancor or disappointment. I've had my victories and defeats, and anytime you step into the public arena invite criticism you better have a thick skin. Because one of the things you'll find out, and my advice to new people coming in, is that no matter what you do, no matter how well meaning or how well thought out, about half the people don't agree with your decision. So, what you do is, no matter what, you do what you believe in your heart of hearts is the right thing to do. Always tell the truth, do your constituent work, rely on the staff, rely on the other Planning Commissioners and you'll do fine. But, in the end, I would like to thank each and every one of you for being my friend and being my teacher. And this isn't goodbye, we will see each other again. Thank you.

Mr. Mitchell: Mr. Chairman, could I follow up with the two comments? I was trying to do the math and I think I've known Mrs. Carlone somewhere between seventeen and eighteen years. I was trying to do the math and, like I say, Ruth and I have known each other a long time and I respect her. We've been on opposite sides of the issue and we've been on the same side of the issue, and that's the way it works on the Planning Commission. I first met Arch standing on the other side of that podium...

Mrs. Carlone: He was a fireball.

Mr. Mitchell: Oh, he had his hand in the air, I assure you. And Arch, I think, was a good indication of how he felt and he was always honest and sincere. Having gotten to know Arch a lot better the past years has been a privilege and an honor for me. Ruth, I'm not pushing you to one side, I am just saying I've known you for eighteen years and Arch I've really only known a shorter time. And in that time, I've developed a friendship, a kinship and a total respect for the man that I would not have been able to receive had he not served on this board with us. And I think Arch said it very plainly, I think each person comes to this board with the respect, with a love of the County, with a love of making things happen, and each of us get criticism for how we feel. But you always do it in the best of

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sincerity and honesty and I think Arch was that kind of person. And I know Arch will be back and I hope he does stand before the podium and I hope to see him again in this room. So I want to thank him for his friendship and I want to thank Ruth for her friendship and, like I say, it has been a pleasure, it has been an honor to have served with both of these individuals and to have been a member of this Commission also.

Mrs. Carlone: Thank you.

Mr. Di Peppe: Thank you.

Mr. Rhodes: Mr. Chairman, if I could ask the indulgence of the fellow members here just for a few general comments.

Mr. Fields: Please.

Mr. Rhodes: We have just ended a period of time, a holiday, where we tend to reflect and on that we are thankful for. I am sure, as with many of you, I am thankful for my children and those that I love. I am thankful for the men and women of this nation who volunteer to wear the uniform and protect us and allow us the privilege of being Americans. I am thankful for the men and women of this County who choose to wear the uniform of law enforcement and fire and rescue to provide our safety. I am thankful for the tremendous staff that this County has in the Planning Department, for what they do and what they provide. We are getting ready to enter another holiday season, one that is very, very important to people of many faiths. Quite frankly, it's important to people of those who have not necessarily declared a faith. It's a time of renewal. It's a time of reflection. It's a time of revelry. It's a time of just respect and care. And I hope everybody, all my peers up here and those on the staff and those of this County, get the opportunity to enjoy it and be able to renew and reflect and re-energize. And I hope they do so safely because they are just too important to us. And as we get back together again at our next opportunity on the 6<sup>th</sup> of January, I want to see everybody back here healthy and able to just start sprinting along again and doing this important business. And with that I would just like to lastly say, I've got to tell you, I continue to... you made the comment about some staff tonight... I've got to tell you, I continue to be just amazed and impressed on the fly with this advice and support and commentary we get from our Planning Director, Jeff Harvey. And so I thank him for his efforts, I thank him for the tremendous team that he leads and the staff, we've got Fulton out here, just the folks that are trying to make it better, and we couldn't be more lucky. And with that, it leads me to folks who will spend three and a half, almost four straight years working on a Comp Plan, folks that will do all those TRC meetings, like Ruth... I mean, what a tremendous privilege it is to know you folks and to get to work with you. And so, I wish you all the best in this holiday season and from there on. Thank you Mr. Chairman.

Mr. Fields: Thank you Mr. Rhodes.

Mr. Howard: Mr. Chair? Mike, I would absolutely thank you for those comments and I certainly would repeat many of those. But I want to focus on talking about Arch and Ruth; two very smart people. Two people politically who we probably have nothing in common in terms of how we think about politics, but that's okay. But we have a lot of things in common. And one of them, and many people may or may not know, but not only is the County lucky to have both who serve our County in the capacity of Planning Commissioners and represent their districts very well, they do a lot around the County volunteering. They do a lot not only around Stafford County, but they both are very actively involved in Fredericksburg as well and I know this because they've talked to me about things they are

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involved in. I have actually gone on site with them on a few different things behind the scenes, and it's truly a pleasure to work and serve with you, serve the citizens of the County, but to find people who have that much care and hope and desire to influence change and make a difference in peoples' lives. And press forward, recognizing you've got your own personal struggles that you are fighting through as well that you leave behind you, and you come out here in the public arena and you do things not only for the County in a public way, but you do it in a private way that a lot of other citizens just don't do. We don't have enough people volunteering and stepping up and doing the things that the both of you do behind the scenes. While we may not agree politically, from a personal perspective there is a lot of alignment in our values. And I take that to heart and I take that very serious when I make a friend or colleague and you sort of befriend one another and you develop good relationships. So I am very thankful that we have been able to do that with each other and I am grateful for your service to the County and also for your friendship. So, thank you.

Mr. Fields: Thank you Mr. Howard. Alright. Well, I think that brings us to the conclusion of what we have before us tonight. Just in closing, I have extended my thanks and appreciation, of course, to Arch and Ruth. And, once again, as always, I want to thank all of the Planning Commission for another year of your faithful service to the citizens of Stafford. This is not easy stuff that we do and everybody has done a tremendous job. And I thank you once again for your support as your Chairman. We will have some new members next year and I guess we will begin again. Hopefully, one of the things I think will be helpful with some continuity is we won't have as many new members as a couple times in the past. So that may give us a little bit of a heads up to bring the new members along a little faster that way. But, once again, you guys are all tremendous and I reiterate the words of everybody... you're not just my colleagues, you're my friends. And even though we have different points of view, I would like to thank everybody on the Commission for a year of thoughtful work and a year of, I think, work in a very civil way that shows our respect for the seriousness of the problems and our respect for the citizens of Stafford. As always, I thank Jeff Harvey and Mrs. Roberts and all the legal staff and all of the planning staff for a tremendous amount of hard work that you put in, sometimes chasing ideas that we have. Our moments of at least imagined inspired brilliance where we go "what about this" and you guys are so polite because you aren't going "oh, no, I know that this is five weeks of my life right here". And you very diligently and respectfully and professionally work through it until we come to the conclusion that you knew we were going to come to five weeks ago which is "maybe that won't work so well". But, quite often it does and obviously the percentages are that every now and then, I am assuming the Planning Commission does get it right and we come up with a good idea. So, I appreciate your unerring support in pursuing all of our thoughts and notions and helping to create and foster what I think is what has had its challenging moments I think has been a constructive relationship with the Board of Supervisors as well. You guys have done a very great job of doing what can be somewhat difficult in terms of translating between two different groups like that. Because I know, though you work so hard for us, you also have to work just as hard or harder for the Board of Supervisors. That's a lot of bosses to have a lot of responsibility. And so I thank you all for that. And speaking of the Planning Director, we do actually have a Planning Director's Report on the agenda.

PUBLIC HEARINGS

None

UNFINISHED BUSINESS

None

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NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. I will make mine brief. I want to tell the Commission that the staff and I appreciate working for you this year; it has been a pleasure. We have worked hard. We have gotten a lot accomplished and a lot more to accomplish. We are here turning the page within the book of the Planning Commission so to speak. We will be starting another new page next month and there will be new people and new challenges. I want to thank Mrs. Carlone and Mr. Di Peppe for the last four years. It has been quite a journey and quite a pleasure. And I know I have seen you on the other side of the podium before and, like it was said, I will probably see you again on the other side of the podium, but this time we will have known each other better and be able to probably talk on a different level. So, thank you.

Mr. Fields: Thank you Jeff. Alright, anything else? If not, once again, as Mr. Rhodes iterated, everybody have a safe and productive, happy, peaceful and enjoyable holiday season and we will see you back here next year.

COUNTY ATTORNEY'S REPORT

SECRETARY'S REPORT

COMMITTEE REPORTS

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

None

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:13 p.m.

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Gordon Howard, Chairman  
Planning Commission