

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
February 6, 2008

The work session of the Stafford County Planning Commission of Wednesday, February 6, 2008, was called to order at 5:30 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

Members Present: Fields, Di Peppe, Mitchell, Rhodes, Carlone, Kirkman and Howard

Members Absent:

Staff Present: Harvey, Judy, Stepowany and Hamock

Declarations of Disqualification

None

UNIFINISHED BUSINESS:

1. COM2700707; Comprehensive Plan Amendment - Stafford Nursing Home and Retirement Community – A proposed amendment to the Land Use Plan map component of the Comprehensive Plan. The proposed amendment would redesignate Assessor's Parcel's 44-119M and 44-106C (portion) and 44-107 (portion) consisting of 22.69 acres Light Industrial and Resource Protection Land Use to Urban Residential and Resource Protection Land Use, located on the east side of Berea Church Road between Stafford Industrial Park and England Run within the Falmouth Election District. The proposed amendment would be for the purpose of developing a Life Care/Retirement Community (LC). **(Time Limit: February 16, 2008) (Deferred to February 6, 2008 Work Session)**

2. RC2700639; Reclassification - Stafford Nursing Home and Retirement Community - A proposed reclassification from M-1, Light Industrial Zoning District and A-1, Agricultural Zoning Districts to LC, Life Care/Retirement Community Zoning District to allow for the development of a retirement community that includes a nursing home, independent living units and assisted living facility on Assessor's Parcels 44-119M and 44-106C (portion) and 44-107 (portion) consisting of 22.69 acres, located on the east side of Berea Church Road between Stafford Industrial Park and England Run within the Falmouth Election District. The Comprehensive Plan recommends the property for Light Industrial and Resource Protection uses. The Light Industrial designation would allow light industrial, light manufacturing and office uses. The Life Care/Retirement Community designation would allow a continuous care retirement community. See section 28-35 of the Zoning Ordinance for a full listing of permitted used in the LC Community Zoning District. **(Time Limit: March 17, 2008) (Deferred to February 6, 2008 Work Session)**

Mr. Stepowany presented the staff report. He stated revised proffers have been submitted and the Commission should have received a copy along with owner affidavits for each of the three owners of the property.

Mr. Fields asked if any of the owners were partners of Smith-Packett.

Mr. Stepowany stated no, they are the current owners of the property. He stated Smith-Packett was

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the contract purchaser. He reviewed each of the proffer changes with the Commission, and discussed each change. He stated the applicant was present to answer questions.

Mrs. Carlone stated the proffer concerning transportation, which was item five on page three, was in her opinion, something the county should not be responsible for. She stated she did not feel the county should be responsible to obtain right-of-way for the applicant.

Mr. Fields stated he did not think the county should condemn land in order to acquire right-of-way for private individuals. He asked if the county has condemned land for obtaining right-of-way.

Mr. Harvey stated the county started obtaining land for Garrisonville Road, but VDOT staff acquired the right-of-way.

Mr. Judy stated it would be necessary to indicate that the authority may be the county or it may be the Commonwealth through VDOT. He stated Berea Church Road was a prescriptive easement which means VDOT does not necessarily own the right-of-way, it may be owned by the adjoining properties. He stated in order to effectuate the condemnation, to increase the right-of-way, the property would have to be purchased.

John Riley, Kimley-Horn, stated his company did the traffic analysis for the applicant. He stated the additional lane off of Route 17 would only affect one property owner, and no discussions with that property owner have taken place. He stated there are a number of other improvements that are being proposed, such as stripping, milling and overlay, stop sign relocation and overhead lighting, are all part of the proposal. He stated the proffer was written with a dollar amount in mind and it was the intent to provide that dollar amount to the county.

Mrs. Carlone stated she did not feel the county should get into the condemnation process.

Mr. Rhodes asked Mrs. Carlone if she would suggest there not be anything in proffer five and leave the transportation proffer as an aggregate amount.

Mrs. Carlone stated she does not feel the county should get into condemnation.

Mr. Stepowany stated the primary intent was to have the applicant do the work themselves, but if the applicant could not satisfy the proffer, the money would be set aside for the county to do such work, if it was deemed necessary.

Mr. Di Peppe stated there were two scenarios presented and it was his understanding that the best possible improvement was to install the additional lane, but the fall back was the applicant would move ahead with the second scenario.

Mr. Riley stated that was correct. He stated the lane would help smooth out the jog in the intersection. He stated VDOT did not ask the applicant to look at the intersection, that was a concern by county staff.

Mrs. Carlone asked if the dollar amount of the proffer would cover either option.

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Mr. Stepowany stated the Office of Transportation has confirmed the cost estimates that were submitted.

Mr. Fields asked when the \$1.4 million was due, and in what kind of increment.

Mr. Riley stated the proffers were to be paid as the building permits were pulled for the independent living units.

Mr. Fields stated the proffer states “acquire the right-of-way within one year”, and stated he does not feel the applicant would be building the 240 units within one year.

Mr. Riley stated that would be a credit toward the total proffers.

Mr. Fields stated that was not spelled out in the proffers.

Charlie Payne, attorney for the applicant, asked Mr. Fields if the question could be clarified.

Mr. Fields stated what he was reading states the proffers would be paid at \$7,995 per unit as the building permit for each unit was pulled. He stated however, it is implied that Smith-Packett may use their own funds in order to obtain the right-of-way and then obtain a credit against the proffer. He asked where that was spelled out in the proffer. He stated he has seen things that are not spelled out in the proffers, sometimes fall through the cracks. He asked how do we credit them on the proffer and how are they sure that they are getting properly credited.

Mr. Harvey stated Mr. Fields was correct, it was implied, but not stated there was a credit.

Mr. Payne stated they would be happy to add the credit language to the proffer.

Mr. Di Peppe stated his concern was to have the road improvement before the additional traffic. He asked if there was anyway to tie the proffer money to the occupancy of the independent living area.

Mr. Payne stated the proffer language was not at the certificate of occupancy.

Mr. Rhodes stated proffer five seems to indicate the improvements would start almost immediately, because it states the right-of-way within the year of the rezoning and that would be all the transportation improvements. He stated it was implied the applicant would do the road improvements within the first year of the rezoning.

Mr. Payne stated the applicant would obtain the right-of-way within the first year, and the road improvements would come with the proffers. He stated the proffers would be paid with the building permits issued not the occupancy permits.

Mr. Di Peppe asked if there was enough money for the improvements with the first section.

Mr. Fields stated the building permits are strictly market driven. He stated there was no guarantee

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those proffers will accrue in any sort of a timely fashion.

Mr. Riley stated they have committed to do the right-of-way improvements with the \$582,000 upfront and receive a credit as building permits are pulled for the independent living units.

Mr. Fields stated the language needs to be crafted better.

Mr. Payne stated Mr. Fields was correct, the proffers were not written that way, but he would make a change to the proffers to state the applicant would make \$582,000 of improvements upfront. The others are covered by proffers.

Mr. Judy stated there was no proffer to do the actual road improvements, and he felt that was what the Commission was looking for.

Mrs. Carlone asked if the applicant would phase the assisted living and the Alzheimer nursing home.

Mr. Riley stated that was correct. He stated all levels of care would be offered. He stated it would be probably two to three years before a building permit was pulled, based on the process.

Mrs. Carlone stated there are several independent living facilities in the area, but there was an immediate need for the Alzheimer units. She stated she would like to see it in the proffers that the project be phased.

Ms. Kirkman stated the Certificate of Public Needs (COPN) for the nursing facility beds was obtained through an emergency process. She stated she had concerns if the nursing home was not built first to preserve placement for the thirty-three residents of Brooke Nursing Home, and those residents have already been disrupted.

After a brief discussion between Mr. Riley and Ms. Kirkman concerning Medicaid and Medicare and the financial responsibility of each, Mr. Riley stated he could not commit to the nursing home being built first.

Ms. Kirkman stated when the COPN was issued to relocate beds, it was for a project located in Celebrate Virginia, she asked if the applicant had obtained a Significant Request change.

Mr. Riley stated it has been approved at the Health Planning Agency, and it was before the State to be approved.

Ms. Kirkman stated there are at least four letters of intent filed with the Department of Health to relocate 90 beds to various counties. She asked if there was any intent to relocate any of the beds from Stafford.

Mr. Riley stated he was referring to the Seven Hill Facility in Richmond, Virginia which was closed approximately sixty days ago. He stated Smith-Packett applied for several letters of intent to locate

beds to other parts of planning District 15, which was Richmond. He stated this was planning

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District 16 and you cannot cross the planning district lines.

Ms. Kirkman asked if the applicant would proffer that they would not relocate the ninety beds outside of Stafford County.

Mr. Riley stated the Certificate of Need was issued for Stafford County, and the State approved the Certificates of Need for relocation of beds. He stated the beds can not be moved unless approved by the State.

Ms. Kirkman stated the applicant has filed four letters of intent with the idea of moving from one county to another in the same planning district. She asked again if the applicant would proffer that the ninety beds remain in Stafford County.

Mr. Riley stated yes.

Mrs. Carlone stated there was a problem with dementia or Alzheimer patients wandering. She asked if there could be some type of security for the fencing area.

Mr. Riley stated he thought Mrs. Carlone was referring to the Alzheimer's wing, within the assisted living area and having a secure courtyard. He stated that area has a fence that would be eight feet high and something the residents can not get out of. He stated her concern has been addressed.

Mrs. Carlone stated on 24A it should read "will be designed", not "shall be designed".

Ms. Kirkman asked if the impact analysis was done to the maximum use of the property.

Mr. Stepowany stated the Zoning Ordinance permits fifteen units per acre.

Mr. Zuraf stated it appears that the traffic study was based on the development proposal.

Mr. Payne stated the study conducted was for the proffered units.

Ms. Kirkman stated a traffic impact analysis should be based on the maximum use of the land.

Mr. Zuraf stated the proffers limit the maximum use of the land.

Mr. Judy stated the proffer has created the maximum use. He stated if there was a proffer amendment a new traffic impact study would have to be submitted and that would reflect a higher use of the property. He stated if the proffer states the maximum use of this property now was 240 units, then they have met the intent of the law if that was what their report was based on.

Mr. Fields stated he had a concern regarding proffer six, shuttle bus service. He stated the applicant may transfer responsibility for operation to the Homeowners Association (HOA) for the retirement community. He stated he thought that was a large responsibility for a Homeowners Association of

240 senior individuals to maintain. He asked if Smith-Packett was the operator of the three units or

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were they different entities.

Mr. Hedrick stated it was not unusual for properties that they have done to have the condo association have a budget for different service provided. He stated Smith-Packett as the residual owner would fund the shortfall until the condo units were filled.

Mr. Fields asked how many vehicles would be needed.

Mr. Hedrick stated the condo units would have one and each of the other buildings would have their own.

Mrs. Carlone asked if all of the units were rental or leased units.

Mr. Hedrick stated the condo units would be purchased.

Mrs. Carlone asked if the applicant would proffer the Alzheimer's and the nursing home built first.

Mr. Hedrick stated he was agreeable as long as there was competitive financing available at the time of the building permit.

Ms. Kirkman stated the fiscal impact analysis shows 120 nursing home beds but only a minimum of 60 beds have been proffered.

Mr. Hedrick stated the proffer includes 120 nursing home beds.

Ms. Kirkman stated that was a maximum, but there was a minimum of 60 proffered.

Mr. Hedrick stated the first phase would be 90, which meets the certificate of need.

Ms. Kirkman stated the fiscal impact statement was written to assume 120 nursing home beds, but you do not have a COPN for 120 beds.

Mr. Hedrick stated that was correct, the build out would be 120 beds.

Ms. Kirkman stated you only proffered a minimum amount, which means you could do a range, you do not have to build 120 beds.

Mr. Hedrick stated there are 120 beds proffered.

Ms. Kirkman stated this was something that needs to be fixed in the proffer, because she did not read in the proffers that 120 nursing home beds would be built.

Mr. Hedrick stated that was the maximum capacity that was being proffered.

Ms. Kirkman stated proffering a maximum amount was not the same as saying you would build the

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maximum amount.

Mr. Hedrick stated that was correct.

Ms. Kirkman stated the fiscal impact statement was based on building that maximum amount, so the fiscal impact statement does not match what would necessarily happen, because the maximum amount may not be built.

Mr. Hedrick stated that was correct, but they planned on the maximum amount.

Ms. Kirkman asked if there were 52 assisted living units.

Mr. Hedrick stated yes, there were 52 units.

Ms. Kirkman asked if they were rental units.

Mr. Hedrick stated yes.

After a brief discussion between Ms. Kirkman, Mr. Fields and Mr. Hendrick, it was decided rental units are assessed according to market forces.

Ms. Kirkman asked if the 168 independent units were all rentals.

Mr. Hendrick stated the assisted units have been increased to 76 and the independent units have been decreased to 144.

Ms. Kirkman stated she would like to point out the fiscal impact analysis appears to be incomplete because a comparison was not generated to compare to the current use of the property under the current zoning.

Mr. Hedrick stated the information from Bob Carter when the economic analysis was done was approximately \$3.8 million and the net present value of the built out project verses \$700,000.00 by right use.

Ms. Kirkman stated her concern was clarified as that was based on assumptions that may or may not happen, primarily the creation of 120 nursing home beds.

Mr. Hedrick stated there would not be any proffers for the by-right use.

Ms. Kirkman stated that was why a fiscal impact statement was required.

Mr. Di Peppe asked about the wording for the proffer concerning when the transportation improvements would occur.

Mr. Hedrick stated it was agreed that the right-of-way improvements would happen upfront for

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credit of the proffer payments.

Mr. Harvey stated when this issue was adjourned, the applicant would have a chance to amend the executed proffers and present them back to the County Attorney for review. When the regular meeting session was held those changes would be reviewed to verify that the changes caught the intent of the Commission.

Mr. Di Peppe asked if the vote would be withheld until the regular meeting.

Mr. Harvey stated the Commission would defer action until the regular meeting.

Mrs. Carlone stated she wanted phasing.

Mr. Di Peppe stated the applicant was willing to note that, with the condition of obtaining the loans two year out.

Mr. Payne stated he understand the concern of the Commission, but under the guidelines of the Ordinance there was a required number of assisted living beds and nursing home beds to be built based on the number of independent living units.

After a discussion by the Commission and Mr. Payne concerning the requirements of the ordinance, Mr. Harvey stated staff would make copies of the ordinance and present to the Commission at the regular section.

Mr. Di Peppe made a motion to defer to the regular meeting. Mr. Rhodes seconded. The motion to defer to the regular meeting passed 7-0.

3. SUB2600748; McCarty Forest, Revalidation, Preliminary Plan - A revalidation of an approved preliminary subdivision plan for 12 single family residential lots, zoned A-1, Agricultural, consisting of 51.24 acres located on the west side of McCarty Road at the intersection of Colebrook Road on Assessor's Parcels 59-12 and 59-13 within the George Washington Election District. **(Time Limit: April 3, 2008) (Deferred to February 6, 2008 Work Session)**

Mr. Stepowany stated staff has met with the applicant and revised plans have been presented to the Commission. He went over in detail changes to the plan and concerns of the Commission from the previous meeting. He stated Mr. Alexander was present to discuss the existing culvert and the drainage easement. He stated the applicant was present to discuss the street lighting system.

Mrs. Carlone asked about signs where the road would cut through.

Mr. Stepowany stated signs are a requirement for future roads. He stated proposed roads have a VDOT requirement of a twenty-five foot radius from the edge of pavement to be improved with a barricade.

Mrs. Carlone asked about fill in.

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Mr. Stepowany stated the owner was working on a brochure to go with the homeowners documents.

Ms. Kirkman asked if the Best Management Practices (BMP) facilities slope toward the road.

Mr. Stepowany stated Mr. Alexander, engineer for the project, was present to answer questions.

Joe Alexander, Alexcom & Associates, stated the road drainage splits and the BMP structures make up for that.

Mr. Judy asked if the two stub streets are dedicated as right-of-way.

Mr. Stepowany stated yes.

Mr. Fields asked if the applicant would agree to forgo the potential hook up to water and sewer.

Charlie Payne, attorney for the applicant, stated there was an ordinance which requires the connection to water and sewer if brought to your site.

Ms. Kirkman stated she would like to thank the applicant for adding the additional buffer to the CRPA.

Mrs. Carlone made a motion to discuss at the regular session. Mr. Di Peppe seconded. The motion passed 7-0.

ORDINANCE COMMITTEE

Mr. Fields stated time did not allow the discussion of the ordinance committee.

ADJOURNMENT

The meeting was adjourned at 6:56 p.m.

Peter Fields, Chairman

STAFFORD COUNTY PLANNING COMMISSION MINUTES
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The regular meeting of the Stafford County Planning Commission of Wednesday, February 6, 2008, was called to order at 7:30 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the Stafford County Administration Center.

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

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Judy, Hamock, Ansong, Forestier, Stepowany, Baker, Zuraf, Wheatcraft, Hornung and Hess

DECLARATIONS OF DISQUALIFICATIONS:

None

PUBLIC PRESENTATIONS:

Patricia Kurpiel stated she had two requests of the Commission. She asked the Commission to consider putting audio of the meetings on the web site. She stated there are many in the county that do not have cable, can not attend the meeting, but would enjoy listening to the meeting from the web site. She stated her second request was when the Commission was considering a rezoning with a change to the comp plan, to consider spreading the public hearing out over two weeks because the change to the comprehensive plan never gets any attention. She stated two public hearings were frequently put together and the speaker only addressed the rezoning. She stated she thinks the Comprehensive Plan was just as important.

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS

Mr. Fields stated he would like to change the order of the agenda, moving McCarty Forest Revalidation, item 4, to be discussed first.

4. SUB2600748; McCarty Forest, Revalidation, Preliminary Plan - A revalidation of an approved preliminary subdivision plan for 12 single family residential lots, zoned A-1, Agricultural, consisting of 51.24 acres located on the west side of McCarty Road at the intersection of Colebrook Road on Assessor's Parcels 59-12 and 59-13 within the George Washington Election District. **(Time Limit: April 3, 2008) (Deferred to February 6, 2008 Work Session)**

Mr. Fields stated the Commission discussed McCarty Forest in the Work Session and feels there are no issues. He asked if the other Commissioners had questions or comments.

Ms. Kirkman stated the work session ended on the note of discussing the mandatory hook up for water and sewer. She stated when the future homeowners buy the properties they would see well and septic and not realize that this was in the Urban Service Area. She stated once water and sewer is provided in that area, they are required by law to hook up and they would have to pay that cost. She asked if the

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applicant would note on the deed that when water and sewer is provided it was mandatory to hook up and at their expense.

Charlie Payne, attorney for the applicant, stated he felt it should be in the restrictive covenants that run with the property.

Ms. Kirkman stated her concern was they would not realize that the area was slated for water and sewer and would have to pay out of their own pocket the hook up. She stated this was not about enforcement, but an informed buying decision.

Mr. Payne stated the application before the Commission was a preliminary site plan. He stated in his opinion, the applicant was not required to tell future homeowners that they need to pay for water and sewer.

Ms. Kirkman stated she understands the applicant was not required, that was why she was asking if the applicant would be willing to do it.

Mr. Payne stated he would like to discuss that with his client. He stated the issue was should the future buyers be notified that the property was within the Urban Service Area and there are requirements that they should be aware of, that would not be a problem. He stated he feels there are a lot of issues and that was not what this process was about.

Ms. Kirkman asked Mr. Fields if the Commission could defer to allow Mr. Payne time to discuss the request with the applicant.

Mr. Fields stated he did not have a problem with that, there were other issues like that that have to do with information. He stated the pump and haul policy states any pump built after 1997 was not eligible for pump and haul. He stated in this area specifically, several people came to him with drain field issues and they do not understand the ramifications.

Mr. Payne stated he felt deferring this for something that was not part of the legal basis for approval was not appropriate.

Ms. Kirkman stated there was a time limit of April, and asked Mr. Judy if the Commission was under obligation to act on this item before the time limit.

Mr. Judy stated if the applicant has met all the requirements of the Subdivision Ordinance with regard to preliminary plans, and there are no other issues with regard to those requirements, he would find it difficult to defer to wait for the applicant to agree or disagree with a request to do something outside of the requirement.

Ms. Kirkman asked about the legal obligation to act prior the deadline. She stated both the state code and the local ordinance give a maximum time frame in which to act.

Mr. Judy stated he would like to remind the Commission that their position with regard to preliminary plans was a ministerial one. He stated once staff has presented to the Commission all the issues and they have met all the requirements it was either an approval or disapproval. He stated the time frame

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was set up for the benefit of the applicant, so they would not have to wait forever for a decision. He stated the Commission was obligated to vote either up or down if the applicant has met all the requirements.

Mrs. Carlone stated Mr. Payne has not had a chance to talk to the applicant, and asked if he would discuss with the applicant now.

Mr. Payne stated the issue was not relevant and he would advise his client to talk to him about it at some other time and not at the meeting.

Mr. Rhodes made a motion to approve McCarty Forest Revalidation Preliminary Plan SUB2600748. Mr. Mitchell seconded.

Ms. Kirkman asked Mr. Judy to show her the requirements in the Subdivision Ordinance.

Mr. Judy stated he did not say the Commission could not defer the item, what he said was if the Commission did not have a reason to defer regarding the requirements for preliminary plan approval, if there was something missing or something that needs to be clarified with regard to the requirement, then certainly it could be deferred again. He stated what he was hearing from the Commission members the only reason deferment was considered, was to wait for the applicant to agree to something that was not a requirement.

Ms. Kirkman asked Mr. Judy to show her in the Subdivision Ordinance where it states the legal obligation was to vote this up or down as soon as we feel all the issues have been met.

Mr. Judy stated he did not say "as soon as". He stated if all the obligations were met, he was not sure of the basis to defer it again.

Mr. Fields stated he would strongly request to the applicant to get the information out to the purchasers.

The motion to approve SUB2600748 passed 7-0.

1. SUB2600625; Williams Subdivision, Preliminary Subdivision Plan - A preliminary subdivision plan for 13 single family residential lots, zoned A-2, Rural Residential, consisting of 14.55 acres located on the north side of Enon Road approximately 1,500 feet west of Wyatt Lane on Assessor's Parcels 45-125 and 45-125B within the Hartwood Election District. **(Time Limit: February 28, 2007) (Deferred to February 20, 2008 Regular Meeting at the applicant's request)**

Mr. Fields stated Williams Subdivision was deferred to February 20, 2008.

2. COM2700707; Comprehensive Plan Amendment - Stafford Nursing Home and Retirement Community - A proposed amendment to the Land Use Plan map component of the Comprehensive Plan. The proposed amendment would redesignate Assessor's Parcel's 44-119M and 44-106C (portion) and 44-107 (portion) consisting of 22.69 acres Light Industrial and Resource Protection Land Use to Urban Residential and Resource Protection Land Use,

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located on the east side of Berea Church Road between Stafford Industrial Park and England Run within the Falmouth Election District. The proposed amendment would be for the purpose of developing a Life Care/Retirement Community (LC). **(Time Limit: February 16, 2008) (Deferred to February 6, 2008 Work Session)**

3. RC2700639; Reclassification - Stafford Nursing Home and Retirement Community - A proposed reclassification from M-1, Light Industrial Zoning District and A-1, Agricultural Zoning Districts to LC, Life Care/Retirement Community Zoning District to allow for the development of a retirement community that includes a nursing home, independent living units and assisted living facility on Assessor's Parcels 44-119M and 44-106C (portion) and 44-107 (portion) consisting of 22.69 acres, located on the east side of Berea Church Road between Stafford Industrial Park and England Run within the Falmouth Election District. The Comprehensive Plan recommends the property for Light Industrial and Resource Protection uses. The Light Industrial designation would allow light industrial, light manufacturing and office uses. The Life Care/Retirement Community designation would allow a continuous care retirement community. See section 28-35 of the Zoning Ordinance for a full listing of permitted used in the LC Community Zoning District. **(Time Limit: March 17, 2008) (Deferred to February 6, 2008 Work Session)**

Mr. Harvey stated the Life Care Ordinance was being passed around to the Commission.

Mr. Payne stated he has provided to Mr. Judy has his only copy of the proffer changes.

Mr. Harvey stated he would read the code sections that apply to the earlier discussion. He read to the Commission from page 4 of the Ordinance, 28-39 subsection 3. He stated from an administrative standpoint, when they submit the site plan, they would have to show how they are meeting the code requirement.

Mr. Fields stated in doing research on these types of facilities, the only part that was age restricted was the independent living units.

Bruce Hedrick stated there could be people under the age of 62 residing in the assisted living units or the nursing home. He stated these were for short term stays only.

Mr. Fields asked who would enforce the age restriction.

Mr. Hedrick stated there are covenants and restriction that cover the sale or resale for the 62 and over clause.

Ms. Kirkman asked staff at what point would the project be done. She stated there was no proffer stating when the project would be complete. She stated there was no timeline specified.

Mr. Harvey stated the Ordinance specifies all three types of units, independent, assisted and nursing homes and provides the minimum number of beds up to fifteen percent of the total number. He stated it does not specify how it would be implemented.

Ms. Kirkman asked how would you know and when would you say, you have to do it now.

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Mr. Harvey stated they would be required to submit a site plan to show all the buildings required. He stated the site plan was only good for five years, so if the site plan would lapse, they would be in violation of zoning.

Mr. Di Peppe asked Mr. Hedrick how long it took for construction of the facilities he has built.

Mr. Hedrick stated it was typically five to eight years.

Ms. Kirkman asked Mr. Hedrick if he would consider proffering a timeline.

Mr. Hedrick stated the nursing home has an expiration date.

Mr. Mitchell stated he read in the Washington Post that Phoenix Arizona had 16 foreclosures. He stated the market there was not strong. He stated the applicant was here to build it and there was a need for the facility.

Mr. Judy read to the Commission the changes to the proffers.

Mr. Rhodes asked Mr. Judy to read proffer 3 again.

Mr. Judy read the proffer in its entirety.

Mr. Payne stated he would like to clarify, the applicant would build the nursing home before they get to building 2 of the independent living.

Mr. Judy stated if they change occupancy to construction permit would change the intent and meet what the Commission asked.

Mr. Hedrick stated construction of the nursing home would begin before the second independent living unit.

Mrs. Carlone stated she was concerned that commercial M-1 property would be lost to the nursing home. She asked the applicant to relocate.

Mr. Di Peppe made a motion to move COM2700707 to the regular meeting. Mr. Rhodes seconded. The motion passed 7-0.

Ms. Kirkman asked Mr. Di Peppe if he would consider doing the items separate.

Mr. Di Peppe stated no, he would like to vote on them tonight. He made a motion to recommend approval of COM2700707. Mr. Rhodes seconded.

Mr. Fields stated this as a piece of land use would not be acceptable. He stated it was isolated on a substandard road, it is not a place to walk and not sustainable. He stated he felt this was not a good choice of land use and he would like to caution his fellow Commissioners, that when it was done it was done. He stated based on that, he would not be supporting this application.

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Mr. Di Peppe stated the Commission makes a lot of decisions and the decisions affect lives. He stated one of the most fundamental things decided was where and how people live. He stated there were not enough opportunities for people from the area, to age in place. He stated this afforded them the opportunity so they would not have to take their parents to Richmond or Washington. He stated it was an overarching reason for this type of plan, because it gave the community an opportunity for parents to be part of their children's and grandchildren's lives. He stated since it was in his district, he was glad to see the project, with the aging population and the projections from the Commonwealth of Virginia, how much our age population was going to grow more than any other county in the state. He stated as a planning commission, we have to look over the horizon and he felt there was a need and this company builds quality projects. He stated he learned early on that you will never satisfy every objection to every project. He stated even the best projects in the best places have downsides, and he believed we needed this project and that was why he supported it.

Mrs. Carlone stated she recognizes the need for the project, but she sees several problems such as the road. She stated the placement of the nursing homes was not recommended. She stated she could not support this project.

Ms. Kirkman stated she asked Mr. Di Peppe to consider dividing the question.

Mr. Di Peppe stated there would be two separate votes.

Ms. Kirkman stated it was important to her to know ahead of time if you would consider taking more time on the rezoning. She stated, in her opinion, the project was getting closer to the fixable range. She stated the fiscal impact analysis that was required has not been done to meet the requirements in the ordinance. She stated for those reasons she would have to oppose the project.

Mr. Mitchell stated he supports the project, and believes there was a need and thinks as planning commissioners we have to make land use decision. He stated the need was in Stafford, our population is aging.

Mr. Fields stated this vote was for COM2700707. The motion to recommend approval passed 4-3 (Mrs. Carlone, Ms. Kirkman and Mr. Fields voted no).

Mr. Fields stated item 3, RC2700639.

Mr. Di Peppe moved for recommendation of approval. Mr. Rhodes seconded.

Mr. Di Peppe stated this was with the amended proffers.

Mr. Judy stated the proffers are in order and are also not materially changing, they are acceptable.

The motion to recommend approval passed 4-3 (Mrs. Carlone, Ms. Kirkman and Mr. Fields voted no).

5. SUB2700649; Poplar Hills Section 5, Preliminary Subdivision Plan - A revalidation of an approved preliminary subdivision plan (220331) for 39 single family residential lots on well and septic, zoned A-1 and A-2 consisting of 182.99 acres, located on the north side of Brooke Road approximately 100 feet west of Marlborough Point Road on Assessor's Parcel 40-57

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within the Aquia Election District. **(Time Limit: April 14, 2008) (Deferred to March 5, 2008 Work Session)**

Mr. Fields stated this item has been deferred to the March 5, 2008 meeting.

6. Comprehensive Plan Update – A summary of the work completed on the Comprehensive Plan, including future remaining tasks.

Mike Zuraf presented an update on the Comprehensive Plan revision. He stated he wanted to specifically go over the timeline of events that have occurred and some of the accomplishments, go over the draft plan and some of the elements and format of the land use plan, and some of the remaining tasks. He stated this process began about two years ago. In the spring of 2006 the initial steering committee was created and the initial meetings with the Comprehensive Plan consultant occurred. He stated that through July 2006 data collection occurred which involved collecting existing land use, natural resources, community facilities, conducting a community survey, conducting the first public input meeting and also holding focus group meetings. He stated in the summer of 2006 the steering committee felt it was important to get a better understanding of all the issues involved with the Comprehensive Plan and weekly steering committee meetings began. He stated in August the steering committee began work on crafting goals and objectives for the document. He stated in October 2006 a second public input meeting was conducted with the consultant, and in November 2006 the land use mapping development was initiated by the steering committee which continued for several months. He stated going into 2007 as the land use mapping continued, the steering committee also worked on developing policies on the different aspects that go into this plan. He stated in May 2007, a draft comp plan was provided by the consultant and at that same time the plan was handed over from the steering committee to the Planning Commission. He stated the Planning Commission began review of the document piece by piece and made it through most of the document. He stated as they were collecting information and meeting with the Planning Commission, staff had a specific discussion of urban development area guidelines with guidance from the State and it was in the State Code that Stafford County had to designate urban development areas which caused the land use map to be adjusted some and being further refined. He stated the accomplishments through this process include extensive public input in the form of two public forums, six separate meetings, a community survey, focus group meetings with different interests and regular input was provided at the weekly steering committee meetings. He stated there was always a chance for people who were in attendance to provide comments. He stated some of the documents that were prepared include goals and objectives, policy statements, and a land use map was developed. He stated during the process several different subcommittee meetings were held on different issues including transfer development rights and the fiscal impact model, and also a subcommittee on public input and how to get as many people as possible to their public meetings. He stated that the steering committee met a total of 42 times on this process. He stated the purpose of the plan was to provide the general goals and methods that would shape the growth of Stafford over the next 20 years. He stated it was a document that was general in nature and did not get down to being parcel specific, but that they see it as a unifying document that brings all the various issues and elements of the Comprehensive Plan together that would affect growth in the county. He stated they have several different documents and the Comprehensive Plan centers around what was the land use plan and they see this as one document that can bring it all together. He stated they would get into more detail regarding land use and transportation. He stated after this plan they see a need for follow-up revisions to the more detailed plan elements such as land use plan, utilities plan, Parks and Recreation plan and others. He stated the Comprehensive Plan addressed

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several elements including land use, housing, population, transportation, economic growth, natural and heritage resources, community facilities, infrastructure, Parks and Recreation, and implementation. He stated the plan would be consistent with the State Code guidance on urban development areas. He stated the general growth pattern recommends in-fill development and redevelopment within the two primary growth areas in the county being North Stafford along 610 and along Route 1 and South Stafford in Falmouth and along Route 17. He stated new growth was recommended on the largely undeveloped areas within those two areas in the center of the county. He stated with this plan there was limited expansion of the urban services area in the rural areas and an overall reduction of the current urban service area. He showed examples of the boundaries and existing development. He stated many of the land use categories within the urban services area are mixed use areas which are low, medium or high density, and he showed examples. He showed examples requested by the Planning Commission of expansion of areas being brought in. He stated some of the specifics with the densities in the mixed use areas within the urban services areas they are recommending as low density, 4 to 6 dwelling units per acre, medium density, 6 to 8 dwelling units per acre, and high density, 8 to 10 dwelling units per acre. He stated the urban development area guidance from the State states that urban development areas must have a density of 4 dwelling units per acre which was where they started from the low point and went up. He stated business and key-note employment recommends a 0.4 Floor Area Ratio (FAR) which was also consistent with the State guidance. He stated rural areas have recommended 10 acres per lot and that would be reflected in the build-out. He discussed the build-out over the next 20 years and he stated staff did have more work left to do on revisions to the entire document including the text and the maps, and specifically with the text incorporating the comments that have been received from the Planning Commission and staff to date. He stated they would seek more guidance and information from the Planning Commission on chapter two which was the land use plan information. He stated chapter three, existing conditions, they would have to go through and make sure the existing condition data was current since the draft plan was now several months old. He stated they wanted to refine all the maps. He stated they would want to get additional input from the Planning Commission regarding an overall vision for future development in the county. He stated that staff felt the need to meet with the appropriate departments to make sure all the different elements were in line and the big element being worked on now was completing a transportation model which would allow them to use that to evaluate the impacts of the new land use plan on needed improvements to the road network. He stated he thought it would be good to have another public information meeting to get the word out on what has been done. He discussed the timeline beginning in February, working on the revisions to the document, through July, having the public hearings.

Mrs. Carlone stated she was very concerned about adequate information as they go along, with the public information hearing being held in June. She asked if it would be possible to have their schedule published in the paper because so many people are not online.

Mr. Zuraf stated he would look into what would be needed to set up a regular notice.

Mr. Howard asked if the planning of the schools' location was part of the Comprehensive Plan.

Mr. Zuraf stated they have not gone into the specifics in this document as to pinpointing where schools were needed.

Mr. Howard asked if mass transportation was part of the plan or just roads.

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Mr. Zuraf stated this would generally focus on just roads.

Ms. Kirkman stated it was her understanding that it was a transportation plan, not a road plan, and they needed to pay more attention than in the past to multi-model transportation.

Mr. Zuraf stated he could contact the transportation consultant to see if that was being worked into any of his assumptions.

Ms. Kirkman stated the current contract did not have any provisions for modeling mass transit.

Mr. Zuraf stated if any of the Commissioners not on the Comp Plan committee have specific issues that they think should be included in this plan, please let him know.

Mr. Fields stated these committee meetings were open to the public and open to all the Planning Commissioners who would want to show up, however, they do not have a public input stage.

NEW BUSINESS:

7. SUB2600045; Beck Ridge, Preliminary Subdivision Plan - A preliminary subdivision plan for 12 single family residential lots, zoned A-1, Agricultural, consisting of 39.39 acres located on the east side of Richards Ferry Road approximately 4,000 feet southwest of Warrenton Road on Assessor's Parcel 35-16 within the Hartwood Election District. **(Time Limit: May 6, 2008)**

Kathy Baker presented the staff report. She stated each lot would have private well and septic and the primary access would be from Richards Ferry Road. She stated wetlands would be located on lots 2 through 7 and 9 and RPA would be located on lots 5, 6, 7, and 9. She stated staff believes this plan was in compliance with all of the requirements of the Subdivision and Zoning Ordinances and recommends approval of the preliminary subdivision plan.

Mrs. Carlone referenced the point going to Coakley Lane and stated the remainder to be transferred to part of Burgess Property. She asked if this would be part of the project.

Mrs. Baker stated if would be excluded when the applicant comes in with final plats the boundary lines would be adjusted to give property to adjacent parcel.

Mrs. Carlone stated she would like to see this project go into committee and set up a meeting to discuss some of the drain field placements.

Mrs. Baker asked if there were additional items besides the drainfields that staff should look at as well.

Mrs. Carlone stated she had looked at some of the lots and had a hard time trying to find the drain field on lot 9 and found it leading over to lots 7 and 8. She stated there would need to be some type of realignment of the lots.

Ms. Kirkman asked how staff determined the applicant met the width and depth ration with peculiar lots. She stated that did not need to be explained at this meeting but would like to have that addressed

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in the work session and would like to review the ASOE soil evaluations. She stated this plan was very complicated and agreed this item should go into committee.

Mrs. Carlone made a motion to send item 7 to the March 19, 2008 work session. Mr. Di Peppe seconded. The motion passed 7-0.

8. Amendment to the Comprehensive Plan – A proposed amendment to adopt an updated Economic Development Plan, dated July 2006, as a component of the Comprehensive Plan in accordance with Section 15.2-2229 of the Code of Virginia (1950), as amended. The purpose of the proposed plan is to assist the County in attracting new businesses and industries to aide in community growth; to provide employment closer to home for its residents; increase tax base diversification; and further enhance the strong quality of life. The plan would replace the current Economic Development Plan, dated December, 1994. **(Time Limit: April 5, 2008)**

Tim Baroody stated the current Economic Strategic Plan was completed in 1994 and stated there was a need for a revised plan in 2006 with the assistance of the Economic Development Authority (EDA). He stated Ted Hontz as well as the EDA was very active in the update of the new Economic Strategic plan. He stated the previous plan discussed an area of shrinking federal government, down sizing of the military, industrial incubators and popular tools that would not be very useable at this present day. He stated population growth and September 11 had changed the landscape growth and now there was more focus on retail, homeland security and contracting. He stated in 2006 the Economic Development Department met with Basille, Bauman and Prost who were the lead consultants on the project including several departments, Planning Commission and private sector and help craft a plan that would make sense for the future of Stafford County. He stated the new plan was endorsed by the EDA and presented to the Board of Supervisors in September of 2006. He stated at that time a case was made to the County Administrator and full master planning began. He stated the previous Planning Commission did endorse the plan at the November 2007 meeting and was happy to be able to present to the new Planning Commission. He stated the report was approximately 100 pages and comprehensive in nature and discussed various aspects of the local economy, conditions and policy that we now work under. He stated the plan discussed using incentives to bring businesses to the county. He stated visions were created to include the Southern Gateway, Falmouth, Courthouse Area and Boswells Corner. He stated the report summarized 51 different recommendations and stated BB&T identified Economic Development as Proactive Economic Development Community and complimented the website which was dramatically updated and receiving about 25, 000 hits per month. He stated there were obviously infrastructure opportunities and stated staff would recommend CMSS to the Board for approval to lead to the master plan effort. He stated the Technology Zone Ordinance has been drafted to offer various incentives to industries that are targeted and in March there would be a discussion in the Board of Supervisors work session to see if Technology zones could be created. He stated since the plan had been accomplished that nearly one million square feet of new commercial space was completed in 2007. He asked if there were any question.

Ms. Kirkman asked if the Technology Zone Ordinance and tax abatements included local property tax abatements.

Mr. Baroody stated yes.

Ms. Kirkman stated this was getting a little out of the realm of land use planning but she asked Mr.

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Baroody to help her understand how Economic Development had been so successful in attracting businesses of \$36 million since 2002.

Mr. Baroody stated \$36 million was the commercial impact that the Commissioner of Revenue did for them. He stated that was total commercial, all taxes combined in 2002, and since then have grown to \$54 million in fiscal year 2007.

Ms. Kirkman asked since businesses were attracted with tax incentives and the plan describes how affluent Stafford County was, why does the county need to pay businesses to come here.

Mr. Baroody stated he would put it forward to the Board of Supervisors because it would be an important tool for Stafford County to have. He stated he was not imperative to give away money but would like to county to be prepared if a large company comes to the county with job opportunities.

Ms. Kirkman stated in the plan there are significant land use decisions. She stated typically a master Comprehensive Plan would be established with the guidance of Economic Development and then work on the land use component such as roads, economic development and water and sewer. She asked if was any reason to rush through the land use components and make this an official part of the comprehensive plan at this time.

Mr. Baroody stated the plan was presented to the Board of Supervisors in 2006 and believed with that interaction that there was an agreement for the plan. He stated in mid 2007 it came to his attention the plan needed to be adopted formally. He stated the reason this plan was important was there was great progress on the vision and great tools while working with the private sector and have helped will getting interesting prospects to Stafford County. He stated the intent was not to direct the land use plan with the visions but to create good ideas for what could happen in the four important areas. He stated it would better for the plan to move forward. He stated there was no effort by Economic Development to get ahead of the Comprehensive Plan but just to keep pace.

Mr. Mitchell asked if there was feedback and asked about the progress regarding Quantico Corporate Center.

Mr. Baroody stated Quantico Corporate Center was making good progress and the first of seven buildings had been completed. He stated the building was mostly leased and the Silver Company had already started the site plan work for the second building. He stated looking to invest money in Boswell's corner would help revitalize that area very quickly. He stated Boswell's Corner would see additional growth in a positive way for Stafford County.

Mr. Howard asked if the county benchmarked itself against any other counties or municipalities and how did that compare.

Mr. Baroody stated the Economic Development did some analysis on Stafford County versus Virginia versus the Nation on various job categories with the cluster analysis. He stated the EDA and their 2007 Annual Report of Stafford County did some analysis on Stafford County versus other counties and understood that Stafford from 2001 to 2006 was number 2 in producing new businesses by percentage and number 7 in producing new opportunities in the Commonwealth.

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Mr. Howard stated if there was a way to understand what direction northern counties were going and if the county understood it.

Mr. Baroody stated this plan was to improve the 1994 plan and was not the time for a technical report but hopes the county could evolve into a more technical report in the coming years. He stated the plan was to be updated every 4 to 5 years and intends to do that if allowed by the Board.

Mr. Di Peppe asked what the Board of Supervisors was specifically requesting of the new Planning Commission since this was presented to the old Planning Commission in November 2007.

Mr. Baroody stated there was no request of the Board other than presenting the report again for the benefit of the new Planning Commission members.

Mr. Harvey agreed that the plan was coming back to the Commission to be presented to the new members.

Ms. Kirkman stated she wanted to comment regarding timetables and speeding up the process for site plan review and stated having looked at plans for approximately 5 years in the planning office and having yet to see a plan submitted that meets all of the requirements of the application. She stated the applicant could make the biggest difference in regards to how fast the process works and even in the meetings with the Planning Commission. She stated her concern with the plan being reviewed by the applicant, staff and management and still not being complete and missing required pieces of information. She stated she was hesitant to endorse speeding up the process when the Planning Commission was not getting complete applications. She stated something that would have been more helpful would be a list of things staff would be looking for regarding land use because the details provided in the report was not very specific. She stated people may have a more specific notion in mind than articulated in the report and if she was to endorse the report she would like to know what exactly she would be endorsing. She stated during the presentation there was no particular land use recommendations in the Economic Development Plan and stated that was a concern of the Board of Supervisors because there were far reaching land use implications in the plan.

Mr. Baroody asked if Ms. Kirkman was speaking to the vision specifically or the 100 page plans.

Ms. Kirkman stated the 100 page plan.

Mr. Baroody stated the plan was not intended to direct land use policy for the county and stated the county would look for highest and best use of the four particular areas. He stated he was given directions by the Board for at least two of the redevelopment areas to make additions. He stated he does not expect the document to direct land use for the county.

Ms. Kirkman stated once this would be made part of the Comprehensive plan which was what the vote would accomplish then it would make it land use.

Mr. Fields stated the Comprehensive Plan had a general horizon of 20 years and stated the report did not look to be a 20 year plan.

Mr. Baroody stated no and would like to see it revisited every 4 to 5 years.

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Mr. Fields stated the 1994 plan did not make it to 10 years before it seemed like it was written in 1894 as opposed to 1994. He stated he would be a little concerned with something that we have as part of the Comprehensive which attempted to make a 20 year horizon forecast an Economic Plan that could not go out 20 years and would encourage some long term scenarios projections for the document that would be components of the Economic Development Plan as well. He stated by going out 20 years from the current date there would be multiple scenarios on a global macro economic scale that could affect the economy. He stated as a strict component of Economic Development that the County looks reducing the environmental impacts of future development incentives and did not see it mentioned in the plan. He mentioned the incentives and stated regarding what other localities give up to have businesses was overwhelming and stated generally there would not be much in return when you give up a lot. He stated he thought by getting something on a far reaching benefit in terms of environmental impact and would be something to consider on a longer range plan.

Ted Hontz stated all subject brought up were good ones and in cases where a key business could grow there was a discussion of how much would be given up to get businesses to come here. He stated he had read some of the same studies and was aware that often when you give something up to bring a business to the county there was often no return. He stated Economic Development had been working hard to get a Germanna campus in Stafford County and that would make a difference to businesses coming to the area. He stated Economic Development was looking to get a Germanna Campus by possibly renting a space of about 10,000 square feet and teach in a warehouse for a while the community builds the funds to build a building like the Fredericksburg Campus. He stated the comments made by the Planning Commission were great comments and there had not been a discussion of the EDA like the discussion had by the Planning Commission of the land use component but the Strategic Plan has Land Use implication which he was not qualified to talk about. He stated all the comments were positive and could use them going forward.

Mr. Fields stated there needs to be a vote to pass to the Board of Supervisors and requested that the motion that would be made include the comments made at the Planning Commission meeting and forward with the recommendation to the Board of Supervisors.

Mr. Baroody stated that would not be a problem to take the comments back to the Board of Supervisors.

Ms. Kirkman asked Mr. Judy if this document was adopted at the meeting since there were specific land use recommendations in the document and asked if that obligated the Planning Commission to incorporate in the Comprehensive Plan.

Mr. Judy stated the Planning Commission would make a recommendation to the Board of Supervisors to adopt the plan. He stated the Commission could pass the recommendation to the Board as is, recommend denying the plan, or recommend sending to the Board with recommendations. He stated if the Commission was concerned about some of the language, he suggested that some of that language may be adjusted to soften trying to engage in specific land use issues and environmental impacts and could indicate to the Board that the document may be better served if those items were dealt with and may be able to amend if that was what the Board decides.

Ms. Kirkman asked if the Board adopts this plan does that obligate the Commission to incorporate the land use recommendations in the document.

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Mr. Judy stated that would not obligate the Commission but suggested the need to be taken into consideration.

Ms. Kirkman stated she would be comfortable acting on this tonight if they could get a commitment from Economic Development to come back to them before they were too far along in the Comprehensive Plan process with pulling out of here the specific land use, zoning and subdivision ordinance changes that they were going to be looking for.

Mr. Fields stated that was a good suggestion and did not want to stall the current efforts. He stated in the bigger pictures there was no better solution then more at place employment and functional communities are communities where people live and work in the community. He stated the concerns raised by the other Commissioners are valid concerns.

Mr. Di Peppe made a motion to send this item to the Board of Supervisors with the comments provided by the Planning Commission. Ms. Kirkman seconded. The motion passed 7-0.

ORDINANCE COMMITTEE:

#1 – Heritage Protection Zoning District

Wendy Wheatcraft updated the Commission on the Heritage Protection Zoning District. She provided a revised copy to the Commission and stated that the additions were in bold. She reviewed the changes to the ordinance. She stated that the preservation brief mentioned within the ADA Compliance was Preservation Brief Number 32, which was available online and the public has access to it. She stated that the briefs are something that preservationists use. She stated that this was specifically about ADA Compliance and, with historic properties, what kind of character-defining features need to be taken into consideration before they start to put on a wheelchair ramp or start retro-fitting the doors.

The committee had a lengthy discussion concerning docks, piers, lighting, parking and Archeological Integrity, and Mr. Fields made a motion to retain this ordinance in committee. Mrs. Carlone seconded. The motion passed 7-0.

Ms. Kirkman stated that the two issues to work out that she heard are the language around the lighting, etc., and the issue about constructing something, whether it is a special exception process or something so that there can be some possibility without going through an onerous process of getting the docks and piers.

#2 – Stone and Mulch Sales

Jamie Stepowany presented the Commission with an overview of the Stone and Mulch Sales. He stated this ordinance was in response to the direction from the Board of Supervisors that amends Table 3.1. He stated that if you went to a nursery and garden center and you took away all the trees and shrubs and plants, then what they would have left was what the intent of this ordinance was to permit that type of sales in the A-1 as a by-right use.

Mrs. Carlone stated that she does not think it should be by-right, that it should be a Conditional Use Permit (CUP).

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Mr. Stepowany stated that he was speaking from the guidance which Mr. Judy has given, the direction to create the ordinance to make it a by-right. He stated that the Planning Commission would have three options at a public hearing to recommend approval, recommend denial or recommend denial with considerations of other options. He stated that they still need to send this to public hearing and that they cannot change this ordinance to require it to be a CUP in the A-1 because the direction from the Board of Supervisors was to have an ordinance to make it a by-right use in the A-1.

Mr. Judy stated that at present it was a CUP.

Mr. Di Peppe asked if there was a history behind why all of a sudden this was being changed. He stated that it seemed to be broad to let anyone in the A-1 to start one of these businesses.

Ms. Kirkman asked if there was a resolution from the Board of Supervisors.

Mrs. Carlone stated that regardless of whether the Board of Supervisors directed this, it should not be by-right and it should continue as a CUP.

Mr. Judy stated that they are going through a lot of exercise that should be gone through when they decide to have a public hearing on the issue. He stated that right now all they needed to do was get it going in the right direction.

Ms. Kirkman asked what the resolution said and if it had the language.

Mr. Judy stated the Commission would need to schedule a public hearing.

Ms. Kirkman stated that the Board sent this specific language.

Mr. Judy stated that it was just proposed language drafted by the Planning Department.

Ms. Kirkman stated the Board did not send this specific language.

Mr. Stepowany stated that the direction was to prepare an ordinance to permit stone and mulch sale.

Ms. Kirkman asked if the Board gave a time limit on this.

Mr. Judy stated that he did not know if the resolution had a time frame on it, that by statute the Commission had a limited period of time and that the one hundred days was measured from the time that it was directed.

Mr. Di Peppe stated that he thought they should hold the public hearing.

Ms. Kirkman stated that she did not think they had to hold a public hearing.

Mr. Judy stated yes they do have to have a public hearing.

Mr. Howard stated that Resolution R07-517 stated the Stafford County Board directed this Planning Commission to prepare an amendment to zoning ordinance that would allow mulch and landscape

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stone sales as a by-right use in the A-1, Agricultural district, and to hold a public hearing on the proposed amendment. He stated that the reason there was a ninety (90) day timeframe on it was that there are two businesses in jeopardy that operate and employ about 150 people in total, they are good for the county, they thought they were operating under a grandfathered zone which apparently does not exist, they have been contacted by the county apparently, and that their businesses are apparently in jeopardy. He stated that they are in somewhat of a legal issue and that they have retained counsel, however, one of them does not have the money to continue. He stated that he did not know if they had a choice in terms of debating this at this moment and that in the future they would.

Ms. Kirkman stated that language applies when there was an ordinance that says if the Planning Commission does not act on it then it is deemed approved, but if the Board has not sent an ordinance, she asked what was it that would be deemed approved at the end of the ninety days if they did not act.

Mr. Judy stated that the code section stated that all they have to do was ask that the Planning Commission draft an ordinance, to have a public hearing and to send the recommendations back to them, and that was what they have done and the Commission would need to follow their orders.

Ms. Kirkman asked if they could amend the language.

Mr. Stepowany stated that he did not think they could change it to be a CUP in the A-1 zone.

Ms. Kirkman stated that they could define the use.

Mr. Stepowany stated yes, that they could define the use. He stated that they tried to make it clearly to be what they referred to as landscaping material sales as a by-right use in the A-1 zone which was the direction from the Board but he understood how some feel it needed to be a CUP, however, they cannot change it to a CUP.

Mrs. Carlone stated, in her opinion, this opens up the agricultural area to this for two companies.

Mr. Stepowany stated that he understood what she was saying, that it might be more suited for a CUP. He stated that the direction was to have a public hearing on an ordinance to make it a by-right use, and that if there was additional language that they wanted in the use category under landscaping materials, they could make modifications to the list of landscaping materials to be included, but he did not think the Commission had the authority to change it from a by-right use, as it was written, to a CUP in the A-1.

Mrs. Carlone stated that there was nothing on there that should be in an agricultural district.

Ms. Kirkman asked if the resolution specified mulch only.

Mr. Stepowany stated that it was stone and mulch sales.

Ms. Kirkman stated they could say landscaping sales and stone and mulch sales, without including sand or topsoil, and that Mr. Stepowany had expanded the list that was on the resolution sent to them by the Board.

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Mr. Stepowany stated that they had talked to a couple of the different property owners and got an idea of what they were actually selling to make sure that if the Board of Supervisors adopted such an ordinance that it still would not put them in jeopardy.

Ms. Kirkman stated that was not what the resolution stated.

Mr. Judy stated that the Commission has before them nothing more than proposed language, that if they want to make changes to it, give them the language that they would like to see and staff will work on it.

Ms. Kirkman asked if they could get a copy of the resolution

Mr. Di Peppe stated that they will retain this and bring it back at the next meeting.

Mr. Fields stated that it sounded like they were not interested in passing it and he wondered, given the direction of the Board, how much time they wanted to spend on something that they have very little discretion on. He stated that it seemed to him that the discretionary point that they had was to hold the public hearing, listen to peoples' comments, discuss it among themselves, say the Planning Commission thought this was the worst idea in the world in the history of Stafford County land use and their recommendation to the Board was denial 7-0, and then they can deal with it.

Ms. Kirkman stated they also have the discretion of the language that they can put in it and what types of materials it includes and they cannot decide that tonight because they have not been given a copy of the resolution. She stated that she did not want to go any broader than they have to as directed by the Board.

Mr. Di Peppe asked how much time they had, if it was ninety (90) days. He stated that the Commission needs to be careful in what they do because they would have to ask for more time.

Mr. Stepowany stated that the general guidelines state that they have ninety (90) days from the date the Board approved the resolution which was on December 18, 2007.

Ms. Kirkman stated that was ridiculous with not knowing the time limits on something and not having a copy of the resolution.

Mr. Di Peppe stated that he agreed but that he just wanted to be careful if the clock started in December and they defer this.

Ms. Kirkman stated that what she would like to know was the timeframe that they had on that.

Mr. Judy stated the Commission had one hundred (100) days after the first meeting of the Commission after the proposed amendment or re-enactment had been referred.

Ms. Kirkman stated that the one hundred days would have started that second Wednesday in January.

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#3 – Proposed Ordinance Potomac River Overlay District

Jamie Stepowany presented the proposed ordinance and stated that the number was changed from R08- to O08- because it was an ordinance. He stated Ordinance O06-15, which was better known as the Water Resources Ordinance, was attached as reference. He stated it appeared that the ordinance sent to them was modeling the Water Resources Ordinance. He stated to those who were not familiar with the Water Resources Protection Overlay District, it was referred to the Planning Commission by the Board of Supervisors in October 2005. He stated that it was originally called the Sensitive Resources Overlay District and initially included regulations for wildlife migration corridors and threatened and endangered species habitat. He stated it was reviewed by the Planning Commission and a Planning Commission subcommittee was established which included representatives from the building community, the environmental community, and the subcommittee removed references to threatened and endangered species and wildlife corridors and revised the ordinance to focus on extension of Resource Protected Area (RPA) to include steep slopes, erodible soils and intermittent streams and renamed it to the Water Resources Protection Ordinance. He stated that the Planning Commission held a public hearing in April 2006, and on May 17, 2006 it was voted 7-0 to forward the ordinance to the Board of Supervisors without a recommendation. He stated that the ordinance had been deferred to the Comprehensive Plan to evaluate the specific language, and in front of them was an ordinance called the Potomac River Protection Overlay. He stated that staff had reviewed the ordinance and that he had received sixteen (16) comments from staff with concerns with the ordinance. He stated he had also received an email from the environmental section of Code Administration with very similar comments. He stated that due to the lateness of the meeting, instead of reviewing all comments and notes, he asked that they retain this in committee and that he would provide the Planning Commission the staff notes. He stated that the main question was that if they already had the Water Resources Ordinance going through the process of being reviewed and evaluated as part of the Comp Plan, then why would they want to move forward with this ordinance.

Ms. Kirkman stated that Mr. Woodson asked her to introduce this legislation as it was a direct result of the issues that they have encountered over the past year in the course of meeting with constituents, particularly in the Griffis-Widewater area. She stated that one of the commitments made in his campaign was to take immediate action to stop mud from getting in the creeks in that area. She stated that the county was also committed to investing as much as \$38 million of taxpayer dollars in another area around the Crow's Nest peninsula. She stated that in reviewing the Water Resources ordinance, she thought that bringing that up now was nothing more than an attempt to muddy the waters and delay action on the Potomac River Resource Protection Overlay District which has been kicked around for years. She stated that action was taken to deliberately kill that ordinance and that this was a new ordinance, that staff was not asked to comment on the Water Resource Overlay, that they were asked to work on this particular ordinance. She stated that she was suggesting they go forward with it and that she would like to know from staff why she was hearing twenty-one (21) concerns that night that staff had when she met with Ms. Baker and four (4) were articulated to her. She stated that she was not willing to delay this without at least hearing what those concerns were.

Mr. Stepowany discussed and read the twenty-one (21) concerns from staff and Code Administration.

Mrs. Carlone asked when the comments were compiled.

Mr. Stepowany stated within the last couple days. He stated that the ordinance was not prepared by

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staff and it was sent to the office with the direction to send to the Ordinance Committee that night.

Ms. Kirkman stated that so far the issues that have been raised are policy issues and that she did believe it to be the role of the Planning Commission to set that policy and she did regard it as somewhat bordering on interfering with the affairs of the Planning Commission when staff began to raise policy issues like the Rappahannock river.

Mr. Rhodes stated that he appreciated it when they raise issues and then they can make a determination as to how to handle them. He stated that he thought it was in the best professional position of staff to raise the issues they see and then they can deal with them. He stated that he did not think they needed to attack staff for raising things that stand out to them.

Mrs. Carlone stated that she would rather not go through the list.

Mr. Di Peppe stated that Ms. Kirkman did not want to delay it until she heard all comments and he knew Mr. Stepowany could discuss them briefly.

Mr. Harvey asked that they defer going through the list as it has not been fully discussed at the staff level and he thought they needed to get a clear recommendation to the Commission in writing so they could consider it prior to a meeting so that they could discuss it more thoroughly.

Ms. Kirkman stated that she would like to hear the list as they are in a working draft stage and that perhaps those things could be easily addressed.

Mr. Stepowany continued discussing the list of comments.

Ms. Kirkman stated that every one of the comments was very easily fixable had staff contacted her in advance regarding them and that when she met with Ms. Baker they discussed some of the comments and she thought staff would be bringing language around a number of the items. She moved that they direct staff to address the specifics to the ordinance and that they bring it back at the next Ordinance Committee meeting.

Mr. Di Peppe stated that he thought part of what staff was doing was raising issues so that the Planning Commission could give them direction. He stated that they need to actually sit down and review it where staff raises concerns and address it. He stated that he did not know if they could get staff to do the language if they are raising the issues.

Ms. Kirkman stated that she would fix the language and that the part that felt obstructionist about that was, for instance, she sent staff examples of codes from other localities that contained some of the exact language so she was surprised to hear it raised as a question. She stated that if staff cannot do it without further direction then she would be glad to do it.

Mr. Fields stated that the Planning Director would like to integrate the comments of the staff in the various ranges and be able to provide them with a professional and comprehensive listing that they can look at in writing.

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Mr. Mitchell stated that trying to press an overlay into one meeting would be unfair to thousands of people. He stated that he did not know what the Commissioner of the Revenue would say if they put an overlay on property as far as the valuation of the land. He stated that it would need an economic impact study, something that would tell the county that if they are going to pass it what would affect them dollars and cents wise. He stated that they have an overlay over several thousand pieces of property and the problem he saw was that he personally could not jump up and try to vote on an issue like that because it was so comprehensive and it covered two major magisterial districts. He stated that he would like to know what it would cost the county because if he had a piece of land there and his land was devalued, he would protest his land evaluation.

Mrs. Carlone asked if they could make it back in time for the next meeting.

Ms. Kirkman made a motion for the specific issues to be addressed in a re-write of the ordinance and be brought back to the committee for the next work session on February 20, 2008. Mrs. Carlone seconded. The motion passed 5-2 (Mr. Mitchell and Mr. Howard opposed).

#4 – Buildable Lot Ordinance

Jamie Stepowany presented and discussed an ordinance for minimum net buildable area or buildable area that a lot has to have a minimum area exclusive of flood plains, wetlands, RPA, steep slopes graded fifteen (15) percent, drainfields and setbacks. He stated that Section 22-143 in the subdivision ordinance so the first question from staff was raised concerning if this should also be in the zoning ordinance or should there be provisions in the zoning ordinance. He stated that staff also had concerns about the minimum area being ten thousand (10,000) square feet and included setbacks. He stated that the question regarding the minimum area being ten thousand (10,000) square feet – he showed the various zoning districts that allow lots with less square footage than ten thousand (10,000) square feet so this ordinance would automatically make all those lots at least a minimum of ten thousand (10,000) square feet. He stated that the other issue regarding setbacks, after it was mailed out and which they discussed further because at first they thought it was a good idea to include setbacks as an item to be excluded, however, if you exclude setbacks it increases the minimum lot size for that zoning district. He showed slides of the different size lots and the buildable area. He stated that by not allowing the setbacks to be within the buildable area of a lot you have more than doubled the size of the lot, and that an ordinance was being created that was increasing the minimum lot size of the zoning district, and that was where they got into more of a legal issue as to how it affects the overall development rights of a property and do they have to notify every single property that was subject to this because it was in the subdivision ordinance. He stated that they have not even addressed what happened to townhouse lots. He stated that the Board of Supervisors brought up that they did have an ordinance that required a thirty-five (35) foot setback from the RPA so if the intent was to create a feasible area between the building and the RPA, that ordinance was developed for that purpose.

Ms. Kirkman stated that the ordinance came into being after some discussions she had with Mr. Judy and Mr. Harvey and, somewhat to their surprise, they did not have in their ordinance a minimum buildable area required for lots and if you search the subdivision ordinances of many localities they do have language like that. She stated that Mr. Judy directed them specifically to the Spotsylvania County language and that the intent of this ordinance was really a consumer protection ordinance so that people know when they are buying a half acre lot that they are getting some amount of usable area with that lot. She stated that additionally that was very different than the RPA buffer ordinance, which

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that ordinance was not about creating minimal buildable areas, it was about the location of the primary building and it had a very different intent. She stated that she and Mr. Stepowany had gone through a number of different ordinances and that there must be a model ordinance because the Spotsylvania language pops up in a lot of different ordinances. She stated that this might be something to take back to staff and that Mr. Judy may have to weigh in on what the legal implications are and figure out the notification requirements.

Ms. Kirkman made a motion to defer this to the February 20, 2008 work session. Mr. Fields seconded. The motion passed 7-0.

MINUTES:

November 7, 2007 Work Session

November 7, 2007 Regular Meeting

November 28, 2007 Work Session

November 28, 2007 Regular Meeting

Mr. Di Peppe made a motion to accept all the minutes. Mr. Rhodes seconded. The motion passed 4-0 (Mr. Howard, Mr. Fields and Ms. Kirkman abstain).

PLANNING DIRECTOR'S REPORT

Mr. Harvey stated that the Board of Supervisors referred the Courthouse Area Comp Plan and Rezoning issue back to the Planning Commission for sixty (60) days. He stated that they asked that the Commission take a look at economic impact for the overall proposal and also to look at the intersection of Wyche Road and Courthouse Road for LOS information and list all the current proffers that may exist on existing zoned properties. He stated that the Board referred RPA setbacks ordinance back to the Planning Commission, specifically, they wanted the Commission to take a look at economic impacts to coordinate with the Commissioner of Revenue to see if he would see any impact of how properties would be assessed if they adopted the ordinance. He stated that the Board resolved that they would hold a commuter parking summit and that the Board directed staff to draft an ordinance that Planning Commissioners be certified. He stated that the Board renamed a portion of the unnamed road to Primmer House Road and referred additional street namings to the Planning Commission, in particular, naming the stretch of road that currently goes from Route 1 to Leeland Road and includes Layhill Road, Forbes Street, a portion of Morton Road, and to name that whole section Primmer House, and the section of Forbes Street from Layhill Road to Dogwood would be renamed Forbes Court, and the section of Jefferson Davis Highway from where Dogwood Airpark is on Route 1 up to Centerport Parkway would be renamed Cambridge Street. He stated that staff would put together a map to further describe the area, and that on the one stretch of road once the bridge was opened it would be one continuous street name. He stated that there would be several properties impacted and they would have to notify them during the public hearing process. He stated that they had a meeting Monday and confirmed that February 19 at 1:00 p.m. would be a joint transportation work session with the Board.

Ms. Kirkman stated that the motion they had regarding the Courthouse comprehensive plan and reclassification was voted 7-0 was to tie it to the comprehensive plan process and she was wondering how it turned into a resolution with a time limit of sixty (60) days since that was not the stated intent of the motion passed by the Planning Commission.

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Mr. Harvey stated that the version that Planning staff had prepared specified the Commission's desires and it was not until the day before the meeting that he read the resolution and it had the sixty days.

Ms. Kirkman asked that if Planning staff did not put it in then who did.

Mr. Harvey stated that was what he needed to determine.

Ms. Kirkman asked who else worked on the ordinance other than Planning staff.

Mr. Judy stated that he did and he decided that he needed it to comply with State law which says that when the Planning Commission was dealing with a comprehensive plan amendment they have sixty (60) days to report back to the Board of Supervisors and that there was no other option except less than sixty (60) days if the Board so directs them to.

Ms. Kirkman asked what the time limit on reclassification was.

Mr. Judy stated that reclassification was one hundred (100) days but that they were talking about the comprehensive plan amendment.

COUNTY ATTORNEY'S REPORT

Mr. Judy stated that their office was directed to prepare an amendment to the Administrative Code dealing with Planning Commission requirements, specifically, asking that it become a requirement that Planning Commission members become certified through the Virginia CPEA or a similar organization that provides certification. He stated that the Board directed that the ordinance not apply to any existing Planning Commission members, that it be prospective in its treatment, however, that program was well thought of and very instrumental and he recommended that the Commission go through it whether they are required to or not. He stated that they would be drafting that ordinance and sending it to the Board of Supervisors. He stated that the ordinance would state any Planning Commission member who was appointed after January 2, 2008, would be required to take the course and complete it within two years of their appointment.

SECRETARY/TREASURER REPORT

No report, however, Mr. Mitchell stated that he was elected Secretary but that the agenda showed Secretary/Treasurer. He stated that seeing he does not keep any money, he asked if they could strike out Treasurer and Mr. Fields agreed.

STANDING COMMITTEE REPORTS

No report

CONSENT AGENDA

No report

SPECIAL COMMITTEE REPORTS

No report

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CHAIRMAN'S REPORT

Mr. Fields stated that they had a transportation meeting with the Chair of the Board of Supervisors and staff to look at the division of labor on the transportation issues and stated he would send a memo summarizing the meeting.

Ms. Kirkman stated that there was a time sensitive issue at the meeting regarding the SSYP. She stated they had talked about a possible course of action which was that the Transportation Committee meet between then and the second meeting in February and bring recommendations for consideration of the full Planning Commission. She stated that at the second meeting in February they could have a public comment period on what people would like to see in the SSYP.

Mr. Fields stated that they were looking at a regular typical Planning Commission public hearing because of time constraints on the Board of Supervisors requirement to approve precludes them from having an advertised public hearing. He stated that he thought it was determined that since that was not a required public hearing under code, that they could advertise a public input session on the SSYP.

Ms. Kirkman stated that the time constraint was that they have to provide it to the Board of Supervisors by their first meeting in March. She stated that she did not know what the requirements were of notice of subcommittees but if they chose a date, would it meet the notice requirements.

Mr. Judy stated that for a public announcement there needed to be a five (5) day notice before the meeting of the subcommittee.

Mr. Rhodes stated they could schedule the meeting for February 18, 2008, at 10:00 a.m.

Mr. Fields stated they discussed process, that if the Commission considers it, they may want to rethink how they organize their meeting times. He stated that Mr. Harvey had presented some options on how they could reorganize committee and regular meeting times, etc. He stated that by working with the standing committee process they might be able to change it so that everybody would not have to be there at 5:30 and that there might be an earlier start on the days of the standing committee that each belong to meets and that they begin the regular business around 7:00. He stated that there are other options also, and that he would like to see it streamlined and/or make more efficient use of the standing committees and make more efficient use of time and make the workload on staff as flexible and less onerous as possible.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 11:06 pm.

Peter Fields, Chairman