

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
April 16, 2008

The work session of the Stafford County Planning Commission of Wednesday, April 16, 2008, was called to order at 5:37 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

Members Absent: Howard

Staff Present: Harvey, Judy, Schulte, Stepowany, Hudson, Kaminsky, Ansong, Hubble, Faroughi and Stinnette

Declarations of Disqualification

None

UNFINISHED BUSINESS:

1. 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) (Deferred to April 16, 2008 Work Session)**

Natalie Kaminsky presented the staff report. She stated this item was deferred from the last meeting due to the applicant being hospitalized. A denial letter was received yesterday from the Health Department stating lot 7 did not meet the new drainfield ordinances.

Mr. Harvey stated it was the same layout as initially presented to the Commission.

Mr. Fields stated it was his understanding that lot 7 did not meet the requirements under the new drainfield ordinance but the other lots were viable.

Ms. Kaminsky stated correct.

Ms. Kirkman stated, under the acreage table, it looked like they were dependent upon getting two property transfers and a right-of-way easement and asked staff if that was correct.

Ms. Kaminsky stated yes, a right-of-way dedication and the boundary line adjustments.

Ms. Kirkman asked if there was any documentation from the property owners stating they were in agreement.

Ms. Kaminsky stated no.

Ms. Kirkman asked whether or not the frontage on lot 6 met the requirements and there were mathematical terms there that she wanted to make sure she understood correctly. It said the minimum frontage shall be 50 feet measured on the cord of the arc of the bulb and asked staff to

***Planning Commission Minutes
Work Session
April 16, 2008***

show her where that was on the map. She stated she wanted staff to explain since they were the ones who determined it met the requirements.

Kelly Brown of Bowman Consulting showed her on the map.

Ms. Kirkman asked if that met the 50 foot requirement.

Mr. Brown stated yes.

Ms. Kirkman stated it would have been helpful if staff knew how to point that out. She stated there were wetlands on lot 3 going into lot 9 and, in fact, the maps show a continuous water course going all the way down onto adjacent properties but there was no RPA boundary around that and she was wondering where the documentation was that this delineation met the guidance that was provided by CBLT in December 2007.

Ms. Kaminsky stated she could get it as she did not have it at the time.

Ms. Kirkman asked if any staff knew if this had been determined to meet the new guidelines.

Mr. Harvey stated yes, staff had reviewed the current standards that were in effect today. Staff reviewed the study and concurred with the findings of the current study for the Chesapeake Bay regulations.

Ms. Kirkman stated she was particularly concerned about the contiguous piece which the county map showed as going all the way through the lot but the map there showed the RPA ending halfway into the lot. She stated maybe they could get the wetlands delineation and see what the determination they made particularly in light of the guidance that was issued in December.

Mr. Harvey stated he understood there was a field investigation that staff conducted and verified that this was the location of the RPA based on perennial stream locations.

Ms. Kirkman stated there was additional guidance on wetlands adjacent to perennial streams and that was the piece she was concerned about, not the perennial stream part but the wetlands part. She asked if staff could get the documentation for that during the break.

Mrs. Carlone stated she could not come up with the 39.39 acres but the biggest concern to her was splitting lot 8 so to allow for a septic field. She stated they would lose lot 8 but they would have a septic field for lot 9 on site and they both would gain property. Then they could take care of where lot 7 did not meet the requirements and wondered if the applicant would consider that.

Mr. Brown stated as far as lot 7 went the AOSE who did the work had gone back in the field and enlarged that drainfield enough to meet the new requirements. They had not submitted it to the Health Department yet basically to come before the Planning Commission and have this discussion at the work session to make sure there were no other issues that they needed to resolve so that when they submit the drainfield plat to the Health Department it would resemble

Planning Commission Minutes
Work Session
April 16, 2008

the preliminary plan that they were going to ask to have approved. He stated the lot 7 drainfield was capable of being big enough to meet those requirements.

Mrs. Carlone asked if they would consider, if things did not work out, doing it diagonal across so you would have a drainfield for lot 9 because it did not have a drainfield, a perk site. If there was a drainfield failure on lot 7, according to the diagram showed lot 9 drainfield on lot 7, if there was a failure then lot 9 was up a creek because they would not have a drainfield or alternate area to use.

Mr. Brown stated the drainfield that was shown for lot 9 was big enough for a primary installation and a reserve.

Mrs. Carlone asked if there was a report coming in from the AOSE.

Mr. Brown stated yes.

Mrs. Carlone stated it was sloppy paperwork but between the different documents one document dated 2006 showed 12 lots and then 2 different ones showed 9 and 10 but there were inconsistencies with the amounts.

Mr. Brown stated they submitted this plan to the planning staff on five occasions and during that process it changes from 12 lots to 9.

Mrs. Carlone stated on page 2 it stated ten single families.

Mr. Brown stated it should say nine on page 2.

Mrs. Carlone stated the planning application was for 12 lots and it had not been updated so there were differences in the lots. She was concerned about the total acreage. She stated there were two points that were going to be dedicated to other lots and then there was a small portion on lot 1. She asked what the 39 acres encompasses. They were coming in with 39.39 acres and she asked if the two parcels would be taken out of the 39.

Mr. Brown stated yes.

Mrs. Carlone asked so they were actually applying for 39 because after you take those out then there were not 39 anymore. They did not have the AOSE report.

Ms. Kirkman stated she had the soil reports for all the lots.

Mrs. Carlone stated this was where he was resubmitting and asked if that was correct.

Mr. Brown stated yes, lot 7 had been revised.

Ms. Kirkman stated she would prefer to take this to vote tonight.

Planning Commission Minutes

Work Session

April 16, 2008

Mrs. Carlone stated she was very concerned. She thought maybe they would be willing to split lot 8 to take care of this. She had never seen a 35 foot trail over to the drainfield and then adjacent to it was the drainfield for 7 and she thought they might do well even though they might have to lose another lot they would be splitting it between the two so they would have a drainfield on site for 9 in the actual lot.

Charles Payne, representing the applicant, asked if they were asking them to remove a lot.

Mrs. Carlone stated yes and asked if there could be a diagonal division across lot 8, that way they would have an actual drainfield on the actual lot 9 then also there would be room for the 100 foot backup on site for 9. She stated she was concerned about those people on lot 9, if there was any problem on lot 7 with both those drainfields adjacent, would be out of luck. She asked what the actual area of the subdivision was minus the two dedications to some other property.

Mr. Brown asked if the tabulation should be written to see what the final area would be.

Mrs. Carlone stated she had tried every way of adding up each lot separately then putting back in those two dedications. She had also asked if they had considered making any changes but nobody wanted to do that. She stated she was just not happy with this.

Ms. Kirkman stated she also wanted to point out, and this was why she wanted to see this go to a vote tonight, because she thought this plan was so fundamentally flawed that they would really need to start over, that lots 2, 3, 4, 5, 6, 7, 8 and 9 do not meet the code requirements of Section 22-146, Side Lot Lines. That section stated that side lot lines shall be at approximately right angles or approximately radial to the street line, and all of those lots have side lot lines that actually were parallel to the street line or not radial to it. She believed that hardly any of these lots complied with that section of the subdivision ordinance and they really needed to start over with this. She stated that was why she suggested they go ahead and bring it to a vote tonight and that her colleague from Hartwood consider that.

Mrs. Carlone stated yes she would.

Mr. Di Peppe stated it appeared the drainfield for lot 4 was on the other side of the wetlands from the house and asked if that was correct.

Mr. Brown stated that was correct.

Ms. Kirkman stated the wetlands that did not have an RPA and she was concerned actually should be an RPA.

Mr. Di Peppe asked if they had a drainfield through the wetlands.

Mr. Brown stated the drainfield was on the opposite side of the wetlands.

Mr. Di Peppe stated the house was on one side of the wetlands and the drainfield on the other.

***Planning Commission Minutes
Work Session
April 16, 2008***

Mr. Brown stated it would be pumped under.

Mr. Di Peppe asked if you could disturb the wetlands.

Ms. Kirkman stated you could not if they were in the RPA.

Mr. Di Peppe stated they were saying there was no need for an RPA.

Ms. Kirkman stated they were waiting on the documentation.

Mr. Brown stated when they submitted this plan, one of the submissions the RPA that they had shown went across Beckridge Lane and over onto lot 4, the county planning staff went out and reviewed this site and actually gave them this delineation.

Ms. Kirkman asked when they went out and reviewed the site approximately.

Mr. Brown stated late last year but he did not have the exact date.

Ms. Kirkman requested the date from staff as it may have been prior to CBLT issuing their guidance regarding contiguous wetlands.

Mr. Di Peppe asked if the wetlands in lot 3 go right to the road as it appeared.

Mr. Brown stated yes.

Mrs. Carlone stated she was looking at the drainage because right above that was the RPA. It was hard to believe it ended abruptly. She stated she thought they could do a lot better job as it took her a long time to come up with the acreage. She stated the RPA was mentioned and asked if it should be included.

Mr. Payne stated there were various questions across the panel and asked if they could have an opportunity to respond to Ms. Kirkman's questions regarding the configuration of the lots.

Mr. Fields stated he would be able to respond to all questions but since Mrs. Carlone was the Hartwood Commissioner he was letting her finish with whatever issues she had.

Mrs. Carlone stated she had more issues but had to find her notes.

Mr. Fields asked about the right-of-ways stating it was a little unusual and wanted to know how it would work if for some reason he would have an approved subdivision plan but were not able to obtain the necessary right-of-ways. It was stated up front that they had yet to purchase or obtain the necessary right-of-ways or easements to get from Richards Ferry Road to the subdivision and asked if that was correct.

Planning Commission Minutes

Work Session

April 16, 2008

Mr. Brown stated the piece of property did actually come to the road and the triangular piece was going to be swapped for the long piece that ran along the right all the way back to lot 9 with the adjacent property owner through a boundary line adjustment plan.

Ms. Kirkman asked, for the right-of-way for the turn at the entrance, did they have any written agreement from the adjacent property owner for that land.

Mr. Brown stated so far they only had verbal agreement, nothing in writing.

Ms. Kirkman asked about the acquisition, that it looked like according to the tabulation there was an acquisition of right-of-way that needed to take place.

Mr. Brown stated the right-of-way in the tabulation was how much area was being dedicated the right-of-way.

Mr. Di Peppe asked Mr. Judy if they did not have in writing the right-of-ways or easements, would that not be required before they could go forward with the preliminary plan.

Mr. Judy stated it did not appear in the subdivision ordinance with regard to preliminary plat approval that you would be required to have, but in order to obtain a grading permit they would have to have VDOT approval which means they would have to have those right-of-ways and site distance easements in place. He did not think there was any specific requirement that they already have the necessary right-of-way at the time of preliminary plat approval. He stated when you talk about preliminary plat it was sort of a view of what they intend to do but it did not give them permission to do it.

Ms. Kirkman stated Section 22-186 stated it would have to meet state highway department standards and without those easements in place they could not meet those standards.

Mr. Judy stated VDOT had apparently signed-off on the plat and if she would like to talk to VDOT and ask them why, she could.

Mrs. Carlone stated they needed assurance that all this was in line. She was concerned they were given stuff that was so inconsistent and then to get the letter tonight from the Health Department. She stated she would like to send it forward to the regular meeting for a vote up or down.

Ms. Kirkman stated staff did pull the update to the wetlands delineation and that was done in the Spring of 2007, well before the new guidance from CBLT.

Mr. Payne stated with regard to lot 7 and the drainfield, he thought they needed to be fair in the contemplation whether to vote it up or down tonight and not defer it. An ordinance was recently passed that kicked out the drainfield and the ordinance was passed while this was being deferred for work sessions. He thought it would be fair to the applicant to allow a deferral since the applicant's engineer was saying to them that the AOSE can reconfigure that drainfield so they would be in compliance with the ordinance that was just recently changed less than a month ago. He stated having some clients impacted by that he was well aware of the fact that you could lose

Planning Commission Minutes
Work Session
April 16, 2008

some lots. In regard to the lot 9 configuration his client was in compliance with the code and that had been confirmed by staff. It did have a drainfield that was in compliance with the Virginia State Health Department. He stated if the preliminary plat was not in compliance and the Planning Commission raised fair questions and they were not able to answer those questions, then that would be a different thing. He did not think that was the case here. He stated it was the dislike of the configuration of the plat. To him the only open issue was lot 7 and the drainfield they were trying to address, as they have said, because of the new ordinance that was recently passed they felt the AOSE had told them they could reconfigure that to be in compliance with the ordinance.

Mr. Brown stated with the issue of the side lot lines where they leave the right-of-way they were basically at 90 degree angles to the road. As far as the code went, they did submit this plan and the county staff did approve it based on their code.

Ms. Kirkman asked Mr. Judy to clarify in the state statute, who it was that would have authority to determine whether or not a preliminary subdivision plan was in compliance with the code.

Mr. Judy stated he was not sure he understood the nature or tone of her question.

Ms. Kirkman stated it kept getting pointed out to them that staff approved this and her understanding was based on the state code that the only entity that would have the authority to make a determination was the Planning Commission.

Mr. Judy stated the only thing staff had done was recommend approval.

Ms. Kirkman stated there were some misstatements made by the applicant.

Mr. Judy stated the approval was the decision of the Planning Commission.

Mr. Rhodes stated he did not think there had been a purposeful misstatement and he did not think they needed to attack people in that way and that was the way he sensed the questioning. They were saying they had worked with the staff and staff, who had done a great job he thought in the 2 ½ years he had been working with them, had given them their best advice. He stated he did not think they should characterize it that people were trying to mislead or misstate, they were stating the fact.

Mr. Fields asked if there were any other questions. He stated the letter of the code was as the lot lines meet the right-of-way they must be perpendicular but the common practice had been that they angle away then to accommodate topography and other realities. He asked as they moved the lots away from the perpendicular, from an engineering perspective, were they generally looking at issues of topography.

Mr. Brown stated issues of topography, issues of where the drainfields would be located and unfortunately they tend to be located along the ridgetops in subdivisions and it was hard to configure them all with just a single lot line down the side. They configure them to make sure

Planning Commission Minutes
Work Session
April 16, 2008

there was a decent building site for a house and they also have to have a location for a well that would meet the setback requirements from the house and from the drainfield.

Mr. Mitchell arrived at 6:09 p.m.

Ms. Kirkman stated she would like to point out the way the ordinance read, "side lot lines shall be approximately at right angles or approximately radial to the street line except at cul-de-sac terminal points". It did not say only where it intersects.

Mr. Fields stated technically the ordinance stated that the common practice sort of allows some variation from that. There did seem to be some divergence between the technical letter of the code and what had been the practice in these subdivisions. He asked what the will of the Commission was, if they wanted to move this to the evening session.

Mrs. Carlone stated there was a fairness that comes into play for people that were going to be living there and they were going to be selling at a profit and lot 9 should have had a drainfield on the actual lot. They were saying technically there was a 35 foot that went over to a drainfield on lot 7 that had 3.1 acres and said they would not be willing to split that so lot 9 would have its own drainfield and a back-up drainfield. She stated she would recommend this go to the full Planning Commission. Ms. Kirkman seconded.

Mr. Judy stated before they vote on that he wanted to suggest to them that they had a date already set for when this matter would have to be determined, which was May 6. In the process, when a preliminary plan has been submitted for approval, part of the process, was understanding if there were errors or things that needed to be corrected that the applicant would have the ability to correct those so long as it was within the appropriate time. He stated he was concerned if there was the possibility of the things that needed to be corrected to make it completely compliant with the subdivision ordinance could be done within that timeframe and the Planning Commission was telling them tonight sorry no more time then they had an issue.

Ms. Kirkman stated they did not have another meeting before May 6.

Mr. Rhodes asked if they would entertain a substitute motion if they were willing to voluntarily defer to allow this item to be put back in committee and re-address this on May 7.

Mr. Fields asked Mr. Rhodes if he was making a substitute motion.

Mr. Rhodes stated he was making a substitute motion. Mr. Mitchell seconded.

Mr. Fields asked Mr. Rhodes to re-articulate the motion.

Mr. Rhodes stated first they needed to find out if the applicant would voluntarily allow this to be extended to May 7, but that they would retain this in committee and then defer this issue to May 7.

Mr. Payne stated they would agree to an extension to May 7.

Planning Commission Minutes
Work Session
April 16, 2008

Mrs. Carlone stated to re-address some of the questions and also to redo some of the questions that were raised to answer them which included the actual acreage and the RPA.

Mr. Fields stated he wanted to make sure they had the list of issues that were raised including the side lot lines, the RPA delineations subsequent to CBLT, and there was the lot 7 issue. He asked if there was an application pending with the Health Department.

Mr. Brown stated the AOSE had completed the application and they had not submitted the new drainfield plat because they wanted to address whatever issues the Commission had before they submitted the plat so it resembled the final plat that they were going to ask to have approved.

Mrs. Carlone asked if it would be the same AOSE that signed off in 2006.

Mr. Brown stated he believed so.

Mrs. Carlone stated another issue was the total acreage and on lot 2 apparently the drainfield looked close to the lot lines and asked if it had adequate setback from both of those.

Mr. Brown stated yes it did.

Mrs. Carlone stated she would like them to do a change to some of the paperwork to show the correct number of lots.

Mr. Payne asked the Chairman to repeat all issues.

Mr. Fields stated the issues included the right-of-way, side lot lines, the RPA delineation, lot 7 drainfield, total acreage, lot 2 drainfield, lot 4 drainfield and paperwork corrections.

Mr. Di Peppe stated he agreed with Mrs. Carlone regarding lot 9 being so convoluted. It was a big stretch and he had problems with lot 9 and hoped they could take a look at it.

Mr. Judy stated he did not know why that had to call it a stretch because when you read the ordinance, and it made reference to it requiring that the side lot lines be reasonably at right angles, but then it went on to talk about except the cul-de-sac which the cul-de-sac you cannot necessarily have right angles. The ordinance was not requiring that every side lot line be exactly 90 degrees from the street but it was saying it be reasonably such.

Mr. Di Peppe stated that was his problem with lot 9 because when they were parallel instead of perpendicular he did not think that was reasonable.

Mr. Fields stated back in 2000/2001 they eliminated the use of drainfield easements in Stafford so that people would have a reasonable expectation that their drainfields were within their property at a reasonable configuration. On a personal note he did not want to be overly restrictive.

Planning Commission Minutes

Work Session

April 16, 2008

Ms. Kirkman stated she was reluctant to support the motion to defer because she just did not see how, between now and May 7, the side lot lines could be addressed. She wanted to get clarification from the attorney because she was looking at the state statute and trying to find some thing that states if they moved on this tonight they would be violating the law. She stated in fact the state statute seemed to outline a process for what would happen if a plan would get denied and reasons to specify and how they could come back and resubmit. She asked Mr. Judy if he could help her understand what the legal error would be if they moved forward on this tonight.

Mr. Judy stated sometimes you have to recognize that what was written in that book was interpreted differently by the folks who were responsible for interpreting and that would be the judges. Even though the statute seemed to be directed toward the county and its staff and the Planning Commission to say you have to hurry up and do this on behalf of the applicant, that you do not take more than 90 days total time in which to do this because you were in some way potentially financially harming the applicant in his ability to make use of his property, that was the way he thought it was normally interpreted. He thought it was also somewhat implicit in there when you go to the next part of the statute where it talked about the appeal process and it basically said that if they appeal it to the court, the court could send it back and ask that those issues be dealt with. He stated if they were to terminate it tonight as it sounded like some people wished to do he thought there may be a significant argument that they were being capricious in shortchanging them in their ability to try to correct it. He may agree that between now and May 7 they may not be able to resolve all these issues.

Ms. Kirkman stated they would have given them the opportunity. She said she would buy that.

Mr. Fields asked all in favor of the substitute motion. The motion passed 6-0 (Mr. Howard was absent).

ORDINANCE COMMITTEE

2. a. Notice of Zoning Administrator Determinations. O08-36 (**Referred by Board of Supervisors per R08-180) (Time Limit: June 19, 2008) (Deferred to April 16, 2008 Work Session)**)

Jamie Stepowany presented the staff report. There were discussions as to were there any recommendations or modifications made to this ordinance or should there be recommendations or modifications as a separate ordinance. He stated when an ordinance is referred to the Planning Commission from the Board of Supervisors, as was this one, they basically had very little options but the could make recommendations at the time of the public hearing. Staff recommends this ordinance go to public hearing.

Ms. Kirkman stated being told this was the ordinance they have, she would like to suggest that the Planning Commission consider moving this forward tonight. In doing so they should consider postponing indefinitely on Ordinance O08-36 and instead consider moving forward their own ordinance on this matter. She brought some suggestive language to that effect to the

Planning Commission Minutes
Work Session
April 16, 2008

last ordinance meeting and she was again passing that out tonight. She stated she would like to consider that as a possible response to this ordinance.

Mr. Di Peppe stated they could not defer indefinitely because the Board just acts and asked Mr. Judy if that was correct.

Mr. Judy stated he thought there needed to be an understanding that when the Planning Commission was directed by the Board of Supervisors to provide a public hearing and make recommendations on a proposed ordinance that it was not the Planning Commission itself that necessarily would decide what the language they would like to see in the ordinance. They would like to have a public hearing and to hear what the public would have to say about this particular ordinance and if they gather from that hearing information or additional language that they might feel compelled to add to the ordinance then they should make that a part of it. He stated in their discussions about the ordinance if they feel there needed to be additional language or language taken out of it then they should make that statement or recommendation to the Board when they send them the final product. To suggest that they ignore what the Board had sent them and send them something totally different he thought they were running down the wrong road. He stated, that was his advice to the Planning Commission.

Mr. Di Peppe stated what he thought Mr. Judy was saying was that if they find there was other language there was a time and a place to suggest or request that, which was after the public hearing and they have the discussion, rather than to submit what they want before hearing from the public was problematic.

Mrs. Carlone stated they did discuss some additions at the last go-round.

Mr. Judy stated they had before them an alternative ordinance prepared by one of the members of the Planning Commission suggesting changes and they have not even had the public hearing yet. He was not saying that those potential additions could not be made and recommended when they send their final report to the Board. He stated to ignore what the Board had sent them for their review and submittal to public hearing was going down the wrong path.

Mr. Fields made a motion to move this to the regular committee. Mr. Rhodes seconded.

Mr. Di Peppe stated what he thought Mr. Judy was saying was that the discussion would come after the public hearing.

Ms. Kirkman stated that would defeat the whole purpose of having a work session on it if they could not discuss the language and what could be improved or not improved. Why bother having a work session, why not just send it straight to public hearing. She stated there was something about this line of thought that did not make any logical sense.

Mr. Di Peppe stated he believed they got good advice from their attorney. He asked all in favor of the motion to move this to the evening session. The motion passed 6-0 (Mr. Howard was absent).

Planning Commission Minutes
Work Session
April 16, 2008

Mr. Harvey stated he had an alternative. The code allowed that the Planning Commission initiate their own amendments so that may be something to consider, going forward with the public hearing at the Board's request and then initiate their own amendment. He would encourage them to talk to the Board members because obviously if they initiate something and it was not adopted it was not time well spent.

Ms. Kirkman stated she thought that was what she was suggesting, that they initiate their own amendment.

Mr. Judy stated no that was not what she was suggesting, she was suggesting they do away with the Board's ordinance and just create their own, which was different.

b. Definition of Family. O08-42 (**Referred by Board of Supervisors per R08-216**)
(Time Limit: July 1, 2008)

Jamie Stepowany presented the staff report. He provided attachments that would help with background information. He stated this was presented at the last meeting but it was not discussed. This ordinance was prepared by the County Administrator and County Attorney's office and modeled after Prince William County's definition of family. It was requested by the Board to establish an ordinance for the definition of family. He stated it was almost word for word to Prince William County's definition of family. He stated in addition, part 4 talked about Section 15.2-2291 of the Virginia Code and he had added that so there was a reference to what that refers to, and part 3 talked about 3602(f) of the Fair Housing Act and those pages of that definition had been included just for reference. This had been referred to the Planning Commission to hold a public hearing.

Mrs. Carlone stated she thought it was fairly complete. She was more concerned with it being a hassle working out some of the terms but it was fine with her right now.

Mr. Fields stated the list of his concerns was almost boundless. He did not know why they were compelled to define a family. Like Prince William County, this only started out as a concern by people to see that people that were different from themselves and from different cultures were not inhabiting their neighborhoods and he certainly opposed that. He stated there were situations that could arise with multiple people living in single-family homes but he did not believe that the attempt to define a family was coming close to it. It was driven by all the wrong reasons. It was very difficult to determine what was fair. He stated he assumed this had been reviewed and asked Mr. Judy if the attempt to define a family was permissible under the State Code or under the Constitution of the United States. He asked if under code they had the authority to define a family.

Mr. Judy stated the intent of this ordinance was to deal with certain overcrowding situations. It was not to address any ethnic group or anything else and there was nothing in the language that dealt with that. There had been a number of localities throughout the United States that have adopted ordinances with similar language to this one and there had been a number of cases that had gone all the way to the Supreme Court and the issues that were usually dealt with in those cases were when there was an attempt by a locality to address family in the sense of identifying relationships. This particular ordinance was taken from the language that Prince William County

Planning Commission Minutes

Work Session

April 16, 2008

had used and was very similar to the language that Spotsylvania County had used. It was also very similar to other language because both of those localities took the language from other localities that had used it and it was language that had been time-tested through legal challenges.

Mr. Di Peppe stated he also had tremendous difficulty with this ordinance. It was interesting to note that the family defined here was one person and he had never known a family of one person. He believed the motivation behind this particular ordinance was to camouflage its real meaning which he also found offensive. He stated he would do what he was required to move it on to public hearing.

Mr. Judy stated it referenced that the definition of family used in this chapter meaning the zoning ordinance and it did not mean that this was how they define families for every potential reason.

Mrs. Carlone stated there was an area where they were all very close to each other and they all had well and septic and were in a Piedmont area plateau so water was very limited. When they built the houses they were based on two bedrooms or three and she was concerned about septic. She stated she was looking more at that than the fact that this was discriminatory against any group.

Ms. Kirkman stated her concern about this ordinance was that when governments start sticking their nose into defining what a family was there could be a lot of unintended consequences. If there were issues of overcrowding or inadequate street parking or those sorts of things there might be a better way to get at those than trying to go about defining what a family was.

Mr. Di Peppe stated he agreed. He understood the problem with lots and lots of people living in a single family home in a neighborhood and how that could cause trouble with parking or noise or whatever, but to go at it from this direction he thought was just fundamentally wrong.

Mr. Judy asked what language they would suggest.

Mr. Di Peppe stated to suggest tonight they could have that you could not rent to more than four adults and it did not matter who they were. He stated when you get out into septic fields, houses were rated for septic fields and you had to have a certain size septic field for a certain size house. He understood the problem with neighbors in single family homes having great difficulty with people renting rooming houses next door and that was a problem for them and we should address that. But to address that in this manner, he did not understand why they were going down this road. He stated he got very nervous when they start to write ordinances that were disguised for one thing and mean something totally different.

Mr. Judy stated he was still having a hard time understanding the difference between a rooming house ordinance and this one.

Mr. Di Peppe stated people were going at the illegal immigration problem this way and they were disguising it this way and it was wrong. If there were problems they should deal with them directly and straightforward.

Planning Commission Minutes

Work Session

April 16, 2008

Mr. Stepowany asked to give direction to staff as they have done a lot of background and research on these types of issues to see if there would be any alternatives that the Planning Commission may deal with in future ordinances.

Mr. Di Peppe stated he would be happy to have that discussion as he thought there were better ways to do this.

Mr. Rhodes made a motion to move this to the full Commission meeting. Mr. Mitchell seconded. The motion passed 5-1 (Mr. Di Peppe opposed) (Mr. Howard was absent).

c. Curb, gutter and sidewalks. (Deferred to April 16, 2008 Work Session)

Mr. Stepowany presented the staff report and stated this was modified from last week. They no longer needed to include open space parcels and would like to have that deleted. The intent was the full street would have to have curb, gutter and sidewalks. He stated what they were getting were subdivisions that may have had 20 lots and 10 lots were 25,000 square feet and the other 10 lots were 40,000 square feet and there might have been a couple open space parcels and they were only doing the curb and gutter in front of the lots that were 25,000 square feet. They were not putting them on the whole street. He stated the intent of this ordinance was to require that whole street on both sides to have curb, gutter and sidewalk if the lots were 30,000 square feet or less. There was a provision that said existing streets would have to have curb, gutter and sidewalk and Mr. Mitchell brought up a good point that it looked like it was any street, not just the street within that subdivision. That was why number 1 of the ordinance stated existing and proposed within that subdivision. He stated the original plan stated Low Impact Development (LID) sites and they have gone full LID subdivisions and asked Mr. Harvey to explain LID.

Mr. Harvey stated basically a project that was full LID did not have stormwater management pond. All the stormwater was treated essentially on site with infiltration through what they call IMP. He asked Steve Hubble to explain an IMP.

Mr. Hubble stated IMP meant Integrated Management Practices. In their Stormwater Management Design manual they had defined essentially what full low impact development implementation would be. In 2003 they went into the subdivision and zoning ordinance and made some adjustments to facilitate low impact development in subdivisions, one of which was a waiver provision for curb, gutter and sidewalks in those subdivisions that did use low impact development. They stated those subdivisions would need to provide what was known as engineered vegetative swales in lieu of those curb and gutters. He stated the problem when they went to implement that they determined that the Department of Transportation would not allow those swales within their right-of-way so it basically prevented anyone from taking advantage of this particular provision. He stated full LID was replicating pre-development hydrology, maintaining time of concentration, generally maintaining drainage areas and it was very difficult to do in a subdivision. They have only had one project in five years be able to qualify for this particular waiver which was Westhampton Village.

Planning Commission Minutes
Work Session
April 16, 2008

Mr. Mitchell asked if there was an existing subdivision and that subdivision's lots came close to the street, would that mean that the homeowners, if there was no HOA, of those houses be responsible for putting in curb and gutter.

Mr. Stepowany stated not the existing lots. Only the lots within that proposed subdivision which had frontage along an existing street would be required to have curb, gutter and sidewalks.

Angela Faroughi, Office of Transportation, stated she wanted to clarify why they were talking about existing state maintained streets. The issue they were having was when they had small lot subdivisions come in they would put curb, gutter and sidewalk on their proposed subdivision street but they would not make a connection to an existing street. She stated they were not getting a pedestrian circulation between subdivisions so there would be two fully functioning small lot subdivisions right next to each other that would have curb, gutter and sidewalk within them but no pedestrian circulation between the two subdivisions.

Mr. Fields made a motion to move this to the evening session. Mr. Mitchell seconded. The motion passed 6-0 (Mr. Howard was absent).

d. RPA Signs. (Time limit: June 17, 2008)

Jamie Stepowany stated Steve Hubble would be presenting this item. It had been requested by Mrs. Carlone for a long time.

Mr. Hubble stated in 2004 the Friends of the Rappahannock (FOR) partnered with the County of Stafford to complete the Stafford County, Virginia Rappahannock Tributaries Watershed Planning Study. This study provided condition assessments of the ten major watersheds that feed the Rappahannock River from Stafford. He stated in addition the study provided general recommendations to help improve water quality within the county. One of these recommendations was to implement a program to require signage at the boundaries of Resource Protection Areas to educate property owners on the presence of the RPA and the restrictions associated with an RPA. In 2006 the Department of Conservation Recreation issued a request for proposals for funding from the Virginia Water Quality Improvement Fund. He stated the County, in partnership with the FOR, submitted an application and was approved for grant funding to implement 8 projects to improve water quality. One of the 8 projects was to develop an ordinance for consideration by the Board of Supervisors and the Planning Commission that would require signage to delineate the RPA be posted on residential properties. He stated a draft ordinance had been prepared and would request that the Planning Commission authorize a public hearing on the proposed ordinance. In addition they have developed an RPA signage policy as a separate document to be approved by the Board of Supervisors via a board resolution. This document would define implementation and installation details for the signs. They had also developed a sample sign, which he displayed, and standard specifications for a builder or developer to provide to a sign manufacturer. He stated he felt their proposal was in harmony with the Planning Commission's request for developers to provide this signage. The signage program should help reduce the amount of violations of RPA requirements and would help maintain or improve water quality in local streams with intact riparian buffers. He stated he would welcome any feedback about the sign itself or the language. One concern he had heard expressed was the size of the sign and that it may be too big for the average back yard. He based

Planning Commission Minutes
Work Session
April 16, 2008

it working on a 3 acre lot where there was a big back yard and a bigger lot because that was where most of the on-lot RPAs were. Generally on the smaller lots they would locate the RPAs in a common area so there would be no issue of homeowner encroachment.

Mr. Fields stated he thought this was a great idea and said great work to Mr. Hubble and the FOR. He stated a sign somewhat fixes one point and a lot of the RPAs were somewhat sinuous in their contour and asked how it helped people understand what the real boundary was.

Mr. Hubble stated they needed folks to learn about their own property when they do research and purchase and learn about their restrictions that come with it. At this point they were proposing only one sign per lot due to costs. They had some alternative suggestions that could require smaller signs at more frequent intervals but he was not sure if one was any better than the other. He stated they modeled the program after a couple counties in the Richmond area and this seemed to be the approach they were taking. The policy did reserve the staff the right to require more than one sign on a property should they see fit but hopefully one would be adequate.

Mr. Fields stated the thinking was the sign would make people aware of the fact that there was CRPA and they would do their homework to figure out where the real delineation was.

Mr. Hubble stated that was his thought.

Ms. Kirkman stated she actually had the same concern and wondered if they should consider adding language, something along the lines of the sign shall be placed every 'X' number of feet or closer as needed to delineate the contour of the CRPA because particularly on some of these more creatively drawn lots the CRPA did not come anywhere near close to running in a straight line. She stated one sign alone would not be sufficient to outline the area of that CRPA.

Mr. Hubble stated they might want to look at item 4 in the policy and see if they feel the last sentence of the second paragraph would address that problem. He was not sure that it would but he would appreciate their input.

Ms. Kirkman stated no it would not because her experience had been that if it was a policy rather than an ordinance there was less likelihood of it happening.

Mrs. Carlone stated she was very happy to see this. She asked if this would also pertain to commercial activities.

Mr. Hubble stated personally he did not feel the intent of this was to address commercial properties. The large majority of RPA violations were from homeowners who were unaware of the requirements. He stated typically when someone would do commercial building anything over a very small building required site plans where those folks would be coming to the county for other purposes and they did not run into those issues.

Mrs. Carlone stated her concern was it stated prior to issuance of an occupancy permit for construction and she asked if an occupancy permit was after-the-fact when the house or structure was completed.

Planning Commission Minutes

Work Session

April 16, 2008

Mr. Hubble stated they needed to remember the end target for the sign which was for the homeowner, not the builder.

Ms. Kirkman stated it was an interesting point for the stage of the installation. The end target for this particular sign was the homeowner and yes developers ought to know the limits of the CRPA. She stated she thought there had been occasions where those limits had not been followed. It certainly would not hurt and there was no additional expense of doing it earlier rather than later.

Mr. Di Peppe asked if they wanted to suspend the ordinance meeting until the regular meeting. The only thing he would suggest was Ms. Kirkman's suggestion, maybe every 50 feet along the RPA.

Mr. Hubble stated he could do some additional homework about spacing and time of installation.

Mr. Di Peppe thanked Mr. Hubble for his hard work and thanked Mrs. Carlone because for 2 years every time this came up she asked people to put them up.

e. Public Hearing Notification.

Mr. Fields stated they would recess until 7:30 and pick up the last ordinance at the evening session.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 7:04 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES

April 16, 2008

The regular meeting of the Stafford County Planning Commission of Wednesday, April 16, 2008, was called to order at 7:34 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 and Kirkman

MEMBERS ABSENT: Howard

STAFF PRESENT: Harvey, Judy, Baker, Zuraf, Stepowany, Schulte, Woolfenden and Stinnette

DECLARATIONS OF DISQUALIFICATIONS:

None

PUBLIC PRESENTATIONS

None

PRESENTATION:

Transportation Model Primer – Office of Transportation

Sara Woolfenden presented the Travel Demand Forecasting Model. It was a set of mathematical relationships that translate development numbers into traffic volumes. The model uses the “four step process” to arrive at calculations which are performed and the results are displayed through a specialized software (“Cube”). The demographic information included in the model inputs are the base year 2006 for the road network, population which was done at the building level for accuracy, and employment. The data was provided by Dunn & Bradstreet, VEC, FAMPO, and the County who all worked together to improve the accuracy of the employment data. All data was coordinated with FAMPO. All demographic information, housing and job related data, are broken down by Traffic Analysis Zones (TAZ). The county was divided into TAZs and the model calculates trips between the TAZs which are points where the traffic enters and leaves the road network. A TAZ was essentially a neighborhood. It was a division of housing and employment centers that were divided to load onto a network. This model has 927 neighborhoods which makes them 5 times more accurate than the FAMPO model because it was broken down into so many smaller areas. Additional inputs include the FAMPO and MWCOC models which are combined to get external and through traffic information, mode shares and other information necessary for the model. Forecasts would be put into place once the base data is gathered. Two primary things used to forecast for changes were the Future Road Network and the Future Population Forecast which they base upon the land use map for the Comprehensive Plan. As part of the four-step process they look at the trip generation and how many trips were involved. The first step, a trip, consists of an origin, usually residential, and a destination, usually work or some commercial related process which are then calculated by a purpose. The second step of the model then determines where they go and the origins and destinations are connected. The volume of travel between two areas was a function of the number of origins and destinations in each area, as well as the travel time between the areas. The third step was mode choice which was how they travel and includes car, transit, biking or walking, among others, however, this model was primarily focused on the automobile. The fourth step was to assign it by the route which was the fastest way to get somewhere. The initial “fastest path” method was used, but if everyone used the fastest path, that path no longer was fast. The cars were redistributed until an equilibrium was reached and the travel time and volumes were generally balanced over the paths. They were most interested in the model outputs. There was a long list of possible outputs, however, the following were a few key outputs: traffic volumes; link Level of Service; delay/travel time; and origin/destination patterns. A link was a road essentially between the different possible stops on a road.

***Planning Commission Minutes
April 16, 2008***

Ms. Kirkman asked if the links corresponded to the VDOT segments.

Ms. Woolfenden stated she was not entirely sure. She proceeded with her presentation stating the model, as a tool, was meant to understand the relationship of long range land use planning to long range transportation planning, or to understand the global (countywide) effects of large changes in demographics or large changes in the transportation network. It would help calculate the number of lanes of a road to build and show how the new roads would impact the network. It would give an idea of what LOS was and would show the class of a roadway. It can stimulate intersections but it would be better to use HCS or Synchro for intersection analysis. The model is a tool but there were different methods and software for evaluating traffic and transportation. Our travel demand model was not meant to be used to answer site specific questions, evaluate the effects of adding a traffic signal, understand the peak hour characteristics of traffic, evaluate changes in signal timing, or understand intersection related issues. The software being used was called Cube and it performs the model's calculations and presents the results. It was windows based, compatible with GIS, and was one of the most widely used programs for transportation modeling. The model development was scheduled to be complete at the end of April. Forecast runs would be performed and would be based on the Planning Commission approved future land use map. The model would also be used to develop the Transportation Plan.

Mr. Di Peppe stated it would probably be May instead of the end of April as the land use plan map has not yet been finished.

Mr. Mitchell asked when they look at forecasting the traffic, how do they count cars exiting if a subdivision had three exits and there were 300 houses or 1 car per house.

Ms. Woolfenden stated the exact number of cars coming out of an exit was not needed. She stated it does not model the subdivision streets, however, they do include anything that they think may be used as a cut-through and anything above, which would be anything other than primary residential. They designed the TAZs so it would capture where it would come out at the primary network system and if the neighborhood had multiple exits, they would split the neighborhood into smaller bites to capture as many people as they could coming out of the exit.

Mr. Mitchell asked how they would delineate an age-restricted subdivision from a non-age-restricted subdivision.

Ms. Woolfenden stated that was an excellent question but they did not make those distinctions on age-restricted from non-age-restricted but they may add it to a future development of this model. There were a few specific items they chose to leave out because of the time involved which could take months and money. They tried to calculate the population as best they could and to forecast based on trip generation rates as they have been seen through surveys.

Mr. Mitchell asked if, under step three, motorcycle would be listed under car or biking.

Ms. Woolfenden stated car since it was a motorized vehicle that would be using the roadway network.

Mr. Mitchell asked if a motorcycle would make a difference in their projections or would it be listed as just one vehicle leaving an exit.

Ms. Woolfenden stated most of the vehicles seen were single occupancy vehicles and, for terms of travel, they would give a motorcycle about the same space as a single occupancy automobile.

Mr. Rhodes stated this had been a long and bumpy road and thanked Ms. Woolfenden for her patience and perseverance in getting to this point.

Mr. Fields stated they all look forward to having this as a very valuable tool.

***Planning Commission Minutes
April 16, 2008***

Ms. Kirkman stated she wanted to acknowledge the hard work that Ms. Woolfenden and others had put into this.

PUBLIC HEARINGS:

1. Amendment to Zoning Ordinance - Amendment to Section 28-38, Performance Regulations, of the Zoning Ordinance, pursuant to O08-28. The amendment shall require a setback of thirty-five (35) feet from the nearest point of any Critical Resource Protection Area (CRPA) buffer line for the building containing the principle use.

Jamie Stepowany presented the staff report. He stated this ordinance was originally held in public hearing by the Planning Commission in June 2006 and there was a public hearing with the Board of Supervisors in September 2006 and was put in committee. He stated the Board of Supervisors brought this back up as unfinished business in 2008 and requested that it go back through the public hearing processes. He stated this ordinance amends Section 28-38, Setbacks from Critical Resource Protection Area (CRPA). He stated for lots within a plat recorded after the effective date of this ordinance a setback of thirty-five (35) feet shall be required for the building containing the principle use from the outermost point of the building to the nearest point of any CRPA buffer line. He stated localities with regulations for setbacks from the CRPA buffer in their Zoning Ordinance include Chesterfield, Henrico and York, and this was verified by the Virginia Department of Conservation and Recreation (DCR). He stated that in 2006 the DCR supported regulations to require setbacks from the CRPA for all 84 counties defined as Tidewater Virginia. He stated properties that would be affected by this amendment include newly subdivided lots after this amendment is approved by the Board of Supervisors. He stated for clarification boundary line adjustments, consolidation and dedication plats are not establishing newly subdivided lots, and the lots are required to have a CRPA buffer. He stated there was a mass mail-out to notify approximately 27,000+ property owners that may be affected by this proposed amendment. He stated CRPA buffers are determined at the time of development and that a list of all properties that may contain a CRPA buffer was not available. He stated a CRPA buffer was undisturbed, natural vegetation that was 100' wide. He stated tidal wetlands, non-tidal wetlands connected to surface flow and contiguous to tidal wetlands or water bodies with perennial flow, and tidal shores all require a CRPA buffer. He stated the purpose for this amendment was to ensure a usable yard, which was the concern of the Planning Commission back in 2005 and 2006. He stated disturbance and encroachments within the CRPA buffer, other than for utilities and roads, would be restricted, and waivers and a variance may be considered based on when the lot was created. He stated with a waiver and variance, a Water Quality Impact Assessment would be required and the request would have to be approved by the County Administrator. He stated in 2008 there were 2 waivers and 3 reported violations and there have been only 4 variance requests submitted to the Board of Zoning Appeals since 2003. He showed examples of the proposed and approved subdivision and of an existing lot with a proposed house.

Ms. Kirkman stated the staff report stated it was unlikely to affect commercial properties, however, she had heard there were two commercial properties that it would affect.

Mr. Stepowany stated they have had many discussions with the commercial properties and there may be one or two that may have to adjust the layout of the site. He stated this applied to any lot that was recorded and most commercial properties do not have to go for further subdivision. He stated residential lots are all established and there may be some impact to commercial properties. He stated there are some that do not have to go through the plat process and therefore are not subject to it. He

***Planning Commission Minutes
April 16, 2008***

stated there are some that have to do dedication plats where they have an existing lot and they have dedicate additional right-of-way or they might have to do a boundary line adjustment, and that would not be establishing a new lot.

Ms. Kirkman stated there had been a question raised about the use of the word “setback” in this ordinance and asked Mr. Judy if there was something they needed to consider in regards to that.

Mr. Judy stated in the zoning ordinance the definition of setback referred to a building area. He stated after they talked about it and looked through the ordinance they found that what they were talking about, a setback would allow such things as accessory dwellings and swimming pools and that those would be allowed in the setback area, so the problem they thought they had was mooted by that.

Mr. Di Peppe stated originally when they developed this ordinance they were trying to correct the problems that deal mostly with single family homes and construction because people do not get yards and he did not see any problem with commercial.

Mr. Stepowany stated as a Planning Commission, they could make their recommendation with a recommendation of additional language, changes or modifications as part of their recommendation as part of the public hearing decision by the Planning Commission.

Mr. Rhodes stated the outside basement entrances and like architectural features may project up to six (6) feet into the setback so if the back of the home was 35’ from the end of the CRPA and the setback goes up to the back of the home, if they have a basement entrance/exit they could build a patio but only for 6’.

Mr. Stepowany stated the ground level patio could go anywhere because it was not a structure but a sundeck could only go 15’.

Ms. Kirkman asked Mr. Judy to follow-up if they were going to use the word setback because the whole idea of this ordinance was to make sure that there is enough space between the primary dwelling and the RPA for decks and things like that. She stated she did seem to remember there was some language that limits how far decks could encroach into the setback.

Mr. Rhodes stated in the staff notes it mentioned that balconies, porches, chimneys, eaves, outside entrances and like architectural features can project 6’ and decks may extend up to 15’, however, it still limits a deck to 15’.

Ms. Kirkman stated she was still concerned about would that in fact mean even though there was now over 35’ between the primary dwelling and the RPA if they wanted to put on a 20’ screened porch they would not be able to do that because of the word setback.

Mr. Judy stated that was his original understanding after conversations with staff that it would not cause that problem but will look into it again.

Mr. Stepowany stated Mr. Rhodes asked at the ordinance committee why it was 35’ and a majority of the zoning districts have a 35’ rear yard setback line. He stated if there was no RPA and that was your regular rear lot line and you had your house 35’ from there, you are subject to the same limitations.

Ms. Kirkman stated it essentially treats the RPA buffer as a lot line.

***Planning Commission Minutes
April 16, 2008***

Mr. Fields opened the public hearing.

Mr. Harvey Gold, representing the Fredericksburg Area Builders Association, stated they oppose the proposed ordinance to require a 35' setback from the RPA for the following reasons. He stated it was influenced by a variety of factors and that all lots are not created equal. He stated lot configuration, topography, soils, zoning setbacks and the 35' setback all impact the buildable area for a home. He stated this ordinance implies that one size fits all and that if the RPA was at the rear of the lot it might not be a problem. He stated if the RPA was off to the side of the lot it might make a home site impossible. He stated with many other increasing constraints on fitting a home on a lot including the issue of slopes of 15% or greater, the area for a home becomes more and more difficult to situate. He stated in addition to the constraining items he just mentioned, the area needed for primary and reserved drainfields, driveways, walks and, in some cases, trails and rain gardens have to be considered for a one acre lot of an area that has been proposed to be no less than 10,000 square feet exclusive of wetlands, floodplains, RPA setbacks, drainfields and 15% or greater slopes and reduces the lots that will be usable. He stated all these things combined was like death by a thousand cuts. He stated an easier solution would be to clearly show on a plat of conveyance a description where the RPA was located and what would be allowed in that area and then it becomes the buyer's responsibility to select a lot that will meet with their needs. He stated not everyone wants a swimming pool or tennis court at the back of their house. He stated the number of variances that were applied for in his opinion was extremely low and to have a one size fits all for the different shaped lots and the lots with all the other impacts on them would seem that that was going too far and instead being able to show it on the plat of conveyance would seem to make more sense. He stated they urge the Commission to reject the ordinance and find a more workable approach to dealing with this issue and to the extent that they are allowed, they would be happy to work with the Planning Commission.

Ms. Patricia Kurpiel stated she urged the Commission to recommend passage of the 35' buffer. She stated developers should have the good sense to not put the back of a house on the edge of an RPA as it creates violation. She stated the citizens do not understand what can and cannot be done in that 100' but developers do understand. She stated that by not approving this 35' setback you are almost guaranteed to have violations of the RPA. She stated the only reason to build against the RPA was to maximize lot yield. She stated for every lot that is not built in Stafford, taxpayers will save \$43,000 which was the cost of infrastructure and that would be a savings to taxpayers. She stated that for every house that was not built, Stafford taxpayers would also save the recurring annual expense where expenses always exceed revenue. She stated that they know from the many studies that have been done that the median cost of services was \$1.15 for every \$1.00 of revenue and it goes as high as \$1.67 in some jurisdictions. She stated she did not think the impact would be that great. She stated she would like the Commission to consider exempting commercial properties if they thought that would be appropriate but she asked that they not exempt any residential at all.

Owen Shifflett stated he unfortunately would be affected by the new reservoir that would be coming in and he would be losing three acres of his property. He stated he would urge the Commission to turn down the ordinance or reword it because he assumed he would not be able to build anything within 135' of this RPA which meant he would lose a good part of what was remaining of his property. He stated it sounded like the Commission was going to regulate something for the builders but what they were going to do was going to have an affect on him and a lot of other people in his situation. He stated when they put the reservoir in that his house will actually be in the RPA and that would mean he could not build anything. He stated he does have a piece of property that backs up to Stafford Lakes that he may be able to get rezoned and maybe sell it as another building lot if it were zoned from A-1

***Planning Commission Minutes
April 16, 2008***

to R-1. He stated to him it was not really a setback, that what the Commission was doing was making the RPA 135' instead of 100'. He urged the Commission to reword it and take into account the people that will be affected by this that are not builders.

Will Carmean stated that this was another example of balancing the profit of the developers against the good of the citizens. He stated that water was critical to the future, service water and ground water, and that was what the RPA was to protect the water, and he recommended approval.

Doug Brown stated he lived in Berea Knolls and as part of the approval for the preliminary plan it was pointed out to him that the houses were going to back up to the RPA. He stated he was asked to voluntarily reduce the encroachment, he lost 10% of his lots to do that but he complied with the voluntary request and he understood the logic for the request. He stated the problem he has with the way the ordinance was written was that it specifically said for lots recorded after the date of the ordinance. He stated his preliminary plan approved lots may not be done before the ordinance would be enacted and if it was the will of the Planning Commission that this was a good thing to do then he thought that going forward that rule should be applied to the preliminary plans. He stated that it was an issue of basic fairness, that when the rules are in place and you conform to them and then they are changed right before you are ready to record the plat, that would put a burden on him. He stated that the vesting laws that pertain to a preliminary put in doubt whether or not the ordinance as written applied to final plat approved lots after the ordinance and it put his vesting in jeopardy.

Jo Knight stated that this ordinance was another one that depletes property rights and she sincerely did not think it was for protection of the Bay. She stated there were so many misstatements and if properties are developed on the waterfront they bring far more revenue than they cost. She stated she wanted quality water as much as anyone but she did not think this would have any effect that would be positive.

Ms. Kirkman reminded everyone to direct their comments to the Planning Commission.

Carl Braun stated that this amendment was really directed at residential and he thought there was still some work to be done on the residential side of it with regards to specific areas. He stated concerning commercial specifically, this would limit the ability for creative development in a commercial development. He stated if they wanted to have the same kind of development that they currently see or they have a building sitting in the center of a lot and a big parking lot around it on all four sides then this was the amendment the Commission should pass. He stated if they wanted to allow the developers to get a little more creative and create better views for the people inside the buildings and create more of a buffer to the parking areas then they should eliminate the commercial component of this and allow the developers to be more creative and not be so constrained in their setbacks. He stated there would be some impact on some commercial sites with this which would limit their ability to have as much development in a certain area and it would also create a lot of isles and a lot of traffic flow around buildings when that could be eliminated. He stated they could also protect the resource protection area by having a building next to it versus a parking lot. He stated runoff from a parking lot would not be contained as much as runoff from a building. He stated there are a lot of restrictions in place and they really need to hold the developers to the fire and make sure that when they are developing things that if they encroach in the RPA it simply not be allowed. He stated there was the ability for variances and it can be done and done well but to add another 35' really restricts and takes away the development rights of the commercial development. He stated they need to encourage commercial development and work with developers to make sure they provide developments that are more attractive and not just to

***Planning Commission Minutes
April 16, 2008***

see parking with a building sitting in the middle, and he would recommend that the Planning Commission eliminate the commercial component from this amendment.

Bob Burr stated he would like to speak out against the proposed ordinance for a number of reasons, many of which they Commission had already heard. He stated one of the big things was there was no real determination on zoning and everybody talks about this would not effect commercial stuff but it does not say that. He stated it clearly just says the building containing the principal use from the outer most point of the building and that could be any building. He stated this was one more buffer to the buffers they had been hearing about and one that he believed got recommended for approval to the Board at the last meeting. He stated he thought this was one more way that these ordinances that are coming through are slowly robbing the residents of their property rights and their property values. He stated the RPA has very defined variance requirements and it did not seem like that had been a lot of variances or violations. He stated he was one of the ones who applied for a variance and it was not that bad of a process. He stated the RPA regulations allow for encroachments but by adding an additional 35' they were taking away the value of the property rights and the value. He stated the developers in Stafford County are business people and they do bring in revenue to the County.

Alvin Newton stated he was a tenant in Stafford County and he has to pay his dues every month or every six months, so what right do we have. He stated the Commission dictates to them exactly what they can do and what they own. He stated it took 400 years to get the Bay dirty and we could not clean it up in another 900 or 1,000 and it will never be cleaned up.

Mr. Fields asked if there was anyone else who would like to speak for or against and seeing none the public hearing was closed.

Mr. Stepowany stated this ordinance was a 35' setback from the RPA line and it does not reflect if it was in the side yard or front yard which may have different or less of a normal setback as was discussed with the 35'. He stated that this was not a 135' buffer, that it was a 35' setback from the RPA buffer and as explained there are accessory type uses such as sun decks, patios, swimming pools, accessory buildings that can be built within that 35' just like any other setback. He stated it was not an additional buffer.

Mr. Judy stated after reading what the code section said, if you have a typical lot with no RPA on it and your house was built 35' from the rear lot line which was the standard setback in a residential zone, you can build a deck in that 35' setback but it could not extend more than 15' into the setback. He stated that in the case where you would have an RPA line that was right at the back of the house you would not be allowed to have that 15' deck. He stated if you had a back yard that was more than 35' then obviously you could build an additional deck length and if you had a 50' back yard then you would be entitled to a 30' deck. He stated that all this 35' setback was trying to do was at least provide the same thing that a person would have in a minimum setback on a lot that did not have an RPA.

Mr. Stepowany stated that there was the process of waivers and variances and that any lot created today and beyond, from the adoption of this ordinance, any encroachments in the RPA requires a variance. He stated he could not answer what the stipulation would be that the Board of Zoning Appeals (BZA) could approve a variance.

Mr. Judy stated that there was a misunderstanding that the Chesapeake Bay Ordinance only provides for encroachments into the RPA buffer in situations where the owner of the lot could show that because of the RPA feature being on the property, if the lot were platted and recorded prior to the date

Planning Commission Minutes
April 16, 2008

that the county enacted its Chesapeake Bay Ordinance but unless the lot was created before that date and they can show that because of the buffer there was no reasonable ability to improve the lot, that they can apply for a variance in order to develop the lot but if there was already a house on the lot the ability to get a variance was pretty slim if at all. He stated that was particularly true for any lot platted after that date.

Mr. Rhodes stated that in the setback if there was no RPA the minimum setback from the back was 35'. He asked if there was one from the side.

Mr. Stepowany stated yes they have some as low as 10'.

Mr. Rhodes asked if they adjusted this to be 20' that you could still build a 15' deck into that just as well which was the maximum you could build into one with a 35' setback even if there was no RPA

Mr. Stepowany stated yes.

Mr. Fields asked if the way the ordinance was written if it was final recordation of the plat and not preliminary subdivision.

Mr. Judy stated that was the way the ordinance was written but if you read the State Code with regard to the vesting of preliminary plats, if the preliminary plat has been approved and if within one year of that approval date that he has submitted the final plat to the Planning Department for final approval and if he diligently pursues approval of that final plat and gets it recorded within five years of the approval date then during that five year period he would be vested from any change to the zoning or subdivision ordinance.

Mr. Fields stated then he would have one year to submit the plat and that a change in the zoning ordinance in that one year time period would not affect his final plat.

Ms. Kirkman stated the situation that was raised in terms of if you have a lot that goes from over three acres to less than three acres then that creates a hardship, particularly when it was due to an act of government and not the self-imposed condition of the property owner. She stated that was the type of situation that was anticipated in terms of granting variances. She stated from her experience on the BZA that several of the requests that they had for variances were because the property owners had been found to be in violation of the zoning ordinance and the encroachment into the RPA was found subsequent to that visit. She stated they have a zoning compliance program that was based on a complaint only basis and the reason that was important was there was probably a lot more violations out there than they know and it really points to the need of this type of ordinance to create some distance because property owners really do not understand that they have a door with a gate across it that looks like it ought to go into a deck and the only problem was the edge of the house was sitting on the RPA so they go and build their deck, sometimes with a permit and sometimes not, and later it would be found out that there was a zoning violation there.

Mr. Stepowany stated it was also brought to his attention that one of the participants of the public hearing may have mentioned something about this may affect their lot. He stated as they have tried to emphasize, if it was an existing lot that has already been established this does not apply to that lot. He stated it was only for new established lots that may have RPA.

***Planning Commission Minutes
April 16, 2008***

Mr. Fields stated that was an important distinction to make. He stated if these are lots of record, even if they do not have a house built on them, they are existing lots of record and would not be affected. He stated this applies to when you are creating a subdivision or subdividing a larger parcel into smaller parcels.

Mr. Di Peppe made a motion for approval of the Ordinance O08-28 along with some suggestions. He stated he would like to see it be for single family homes and the definition of single family homes rather than affect commercial properties. He stated he would like to see this applied to single family homes because the problem came about, from his experience on the Planning Commission looking at so many preliminary plans, that there indeed was a problem and so the trade-off was is our primary goal to maximize lot yield for developers or to protect citizens who buy those homes. He stated he was more worried about the citizen who buys a home and cannot build a deck, install a swingset, does not have a back yard at all. He stated the only reason this ordinance ever came about because of abuses and they would never be here except for people doing the wrong thing and causing problems for citizens. He stated he was not as worried about developers lot yield as he was about citizens having the peaceful enjoyment of their property because they are property owners too and they have property rights too and he was so much more interested in that than lot yield from developers. He stated since this was originally to stop those abuses he would like to see it for single family homes which would include duplexes and townhouses because that is where the problems are.

Ms. Kirkman stated she thought the notion was to have it not apply to commercial and she thought they would want to apply it to all residential.

Mr. Judy stated they had discussed this with staff and they had determined adding language that says something to the effect of that for the purpose of this ordinance the setback requirement shall apply only to residential property and for the purposes of this ordinance only the Life Care zoning designation shall not be considered residential.

Mr. Di Peppe stated he would be happy with that.

Mr. Rhodes stated he would submit that 20' gives you a 15' deck just as well as 30' does and he would also suggest for consideration, depending on the type of property, wherever the setback would be required if there were no RPA such as if it was 10' on the side that would be the commiserate amount of setback that you would have from an RPA. He stated whatever would be required in an area that would not have an RPA versus 35' from any side or any direction from a structure.

Mrs. Carlone stated the majority of the people who buy these single family homes are not in the millionaire class and they are not out buying 20 to 30 acres to build on so they do not have the privilege of having additional property. She stated she thought it was very fair and she was very for this.

Ms. Kirkman stated she was going to support the motion with the 35' all the way around and she thought 15' decks were one piece of it but they also want people to be able to have other accessory uses in their back yards in addition to decks so she was going to support the original motion for 35" all the way around.

Mr. Fields stated he had four suggestions that he has heard so far in terms of amendments. He asked process-wise do they pass the amendment texturally as is and then refer these changes as suggestions from the Planning Commission or were they in a position to actually amend the ordinance in any way.

Planning Commission Minutes
April 16, 2008

Mr. Judy stated that given this was not an ordinance presented by the Board he thought they would have to vote up or down for recommendation on the ordinance itself and then offer their recommended changes.

Mr. Fields stated he had written down four potential recommendations or suggestions from different Commissioners. He stated he has that it be single family only which includes duplexes and townhouses, that it excludes all commercial property, that it excludes the Life Care zoning from applicability, and a suggestion that 20' rather than 35' also be considered as an option.

Mr. Rhodes stated also a suggestion that the distance from the structure be whatever is equivalent of the distance if there were not an RPA.

Mr. Fields stated then the setback basically mimic rear, side and front setbacks with regards to lot lines. He stated it was unusual to have RPA in R-1 zoning and that this was primarily in larger lots.

Ms. Kirkman stated unfortunately they have some peculiar islands of R-1 like out in odd places and her suggestion was that they not be thinking about this in terms of particular zoning districts but rather in terms of residential versus commercial.

Mr. Fields stated in some peoples minds he thought they possibly think this was a little more restrictive than it was. He asked before they vote on this do all Commissioners concur with the recommendations being forwarded to the Board of Supervisors.

Ms. Kirkman stated she did not concur with the recommendation to limit it to the setbacks of the zoning.

Mr. Rhodes asked if these were recommendations or comments.

Mr. Fields stated he was asking the Commission to concur that they forward all of those comments from every Commissioner to the Board of Supervisors as part of the information that the Supervisors have in their packet when they receive this ordinance for their action. He stated they have had this issue before and it was very important to understand what the Planning Commission was thinking when they consider this. He stated he wanted to be clear that each Commissioner's recommendations, suggestions or comments are forwarded in the packet.

Mr. Di Peppe asked if the recommendations could be endorsed as a whole.

Ms. Kirkman stated there was a difference between a comment and a recommendation and, in this situation, the recommendation she would like them to vote on was the language that was suggested about the commercial and Life Care. She stated she would like them to vote on that recommendation.

Mr. Fields stated the motion they have on the floor was for approval of O08-28. The motion passed 5-1 (Mr. Mitchell opposed) (Mr. Howard absent).

Mr. Di Peppe made a motion to approve single family only including duplexes and townhouses. Mrs. Carlone and Mr. Mitchell seconded. The motion passed 6-0 (Mr. Howard absent).

Mr. Fields stated the next recommendation was that this not apply to commercial property. He asked Mr. Judy for the specific language for commercial.

***Planning Commission Minutes
April 16, 2008***

Mr. Judy stated the language he had was for purposes of this ordinance only it shall not apply to commercial property.

Mr. Fields asked using that language was there a motion to that effect.

Ms. Kirkman made the motion. Mr. Di Peppe seconded. The motion passed 6-0 (Mr. Howard absent).

Mr. Fields asked same language applied to the Life Care zoning.

Mr. Di Peppe made the motion. Mr. Mitchell seconded. The motion tied 3-3, therefore, failed (Mr. Fields, Mrs. Carlone and Ms. Kirkman opposed) (Mr. Howard absent).

Mr. Rhodes made a motion to substitute 20' for 35'. Mr. Mitchell seconded. The motion failed 2-4 (Mr. Fields, Mr. Di Peppe, Mrs. Carlone and Ms. Kirkman opposed) (Mr. Howard absent).

Mr. Fields stated the other motion had to do with rear, side yard and front yard setbacks regarding setbacks from the RPA mimic the setbacks from the lot lines.

Mr. Rhodes made the motion. Mr. Mitchell seconded. The motion failed 2-4 (Mr. Fields, Mr. Di Peppe, Mrs. Carlone and Ms. Kirkman opposed) (Mr. Howard absent).

Mr. Fields stated unless there were strenuous objections, he would like all comments included along with these votes from the Planning Commission and he does not want any of this excluded from the record for the Board of Supervisors consideration for the thoroughness of the debate. He stated to signify the recommendations that passed as official recommendations as a majority of the Commission are single family only and no commercial. He stated no Life Care failed as an official recommendation but it will be forwarded as a 3-3 tie, 20' failed 2-4 and will be forwarded as a comment, and setbacks failed 2-4 and will be forwarded as a comment.

UNFINISHED BUSINESS:

2. 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: May 21, 2008) (Deferred to May 21, 2008 Regular Meeting at the applicant's request)**
3. 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) (Deferred to April 16, 2008 Work Session)**

Mr. Fields stated this was deferred to May 7, 2008.

4. Amendment to Zoning and Subdivision Ordinances - Amendment to Section 28-24, Measurements; and Section 28-25, Definitions of Specific Terms of the Zoning Ordinance, and Section 22-4, Definitions; Section 22-143, Shape; and Section 22-146, Side Lot Lines, of the

Planning Commission Minutes
April 16, 2008

Subdivision Ordinance, pursuant to O08-38. The amendment establishes definitions in the Zoning and Subdivision Ordinances for lot line, front lot line, rear lot line, and side lot line. The amendment modifies Section 28-24, Measurement of the Zoning Ordinance and Section 22-146, Side Lot Lines, of the Subdivision Ordinance by replacing property line with lot line where mentioned. **(Deferred to April 16, 2008 Regular Meeting)**

Mr. Stepowany stated at the public hearing there was a discussion where Mr. Rhodes asked what the buildable lot area ordinance was modeled after and he stated it was modeled after Spotsylvania. He was informed right before the meeting that Spotsylvania was a 25 percent slope and Mr. Judy and Ms. Hornung both agreed that it was 25 percent when in fact Spotsylvania was 15 percent. He found out today that it had been that way for a couple years. There were other regulations that Ms. Kirkman provided that were actually part of the Potomac River. He had put together a report that only one of them dealt with the 15 percent question and that was Hanover County. In Hanover County, they have a gross track area where, depending on the density, you take out a certain percentage of open space and in addition you take out your RPA and slopes and then what you have net was where you would put your dwellings. They do not have minimum lot size for those dwellings so it would be a form of open space clustering. They do subtract the 15 percent from their open space area which means you can only build a house on the open space area. They do have another zoning that was less open space percentage and it has higher density and the percentage of slope was 35 percent. The main discussion was the exclusion of the 15 percent slope that was also demonstrated as part of the public hearing process.

Ms. Kirkman asked if they were all square on the definitions and conflicting definitions with other parts of the ordinance.

Mr. Stepowany stated he presented a second draft of the ordinance where the front lot line definition in the zoning ordinance and the front lot line definition in the subdivision ordinance were identical as they were originally two different ordinances. They would like the Commission to accept this ordinance where frontage and front yard used the same term, front lot line. One uses front property line and the other uses front street line.

Ms. Kirkman stated the Zoning Administrator had raised some questions and she wanted to make sure they were all square with those definitions.

Mr. Judy stated yes they have addressed those and the revised language which clarifies what was intended. There was some confusion by the way it was written before.

Mr. Di Peppe made a motion for approval of Ordinance O08-38. Mrs. Carlone seconded.

Mr. Rhodes stated, in his opinion, 15 percent was too light on the slopes. He suggested an amendment to 25 percent and if that was not successful, he would suggest an amendment to 20 percent as the 15 percent definition was too restrictive.

Mr. Di Peppe stated after the public hearing he heard the exact same thing from people, that they thought 15 percent was radical. He had read a lot of different ordinances in different states as he wanted to find out exactly where the 15 percent came from and it seemed it came from the Federal Government. The United States Geological Survey, who makes all the topical maps, defined steep slopes as greater than 15 percent and it was not a radical idea. Science shows that if you try to develop

***Planning Commission Minutes
April 16, 2008***

on a steep slope, there would be nothing but problems with erosion and that erosion carries over to the next people's land and the public's waterways so we need to protect steep slopes.

Mr. Rhodes asked if the definition was all for developable land for residential purposes and who defined 15 percent.

Mr. Di Peppe stated the U.S. Geological Survey and their definition of what is a steep slope.

Mr. Rhodes asked out of all those ordinances, what was the range of definition they used.

Mr. Di Peppe stated the vast majority was between 15 and 25, and there were a few 33 and 35 and he found one that was 40 percent. One of the interesting facts was the minimum lot size in their agricultural areas for some of these places were 6 acres, 10 acres and 20 acres and with 2, 3 or 4 times less density than Stafford has.

Mr. Rhodes asked if the most restrictive or least number was 15 percent.

Mr. Di Peppe stated there was one he believed was 12 ½ but he said in general the least was 15 percent.

Ms. Kirkman stated Virginia Beach and their Chesapeake Bay Law expands their buffers to include slopes of 6 ½ percent. The reason the U.S.G.S. gets into the business of defining steep slopes was when you look at the combination of certain soil types and slopes you would understand what the erodibility factor was.

Mr. Judy stated at the last meeting what he heard in regard to slopes that was so crucial to him was when one of the gentlemen spoke about houses that have walk-out basements, that the difference between the front door and the back door was usually around a 23 to 24 percent slope. So we are potentially telling people that by doing this if you have to provide the 10,000 square feet of building space then do not consider having a walk-out basement which has eliminated an entire class of housing.

Ms. Kirkman stated if you go to certain parts of the county, like the George Washington District, you would see walk-out basements with slopes of 15 percent or less so it would not be impossible to do.

Mr. Fields stated a great deal of the housing in the George Washington District was on lighter slopes and he has also seen firsthand severe erodibility on less than 15 percent slopes. If you have really sandy soil you can have a 7 percent slope and have it highly erodible.

Mr. Mitchell stated his concern was someone could push a wheelchair down the 23 percent slope in the Board room safely and, in his opinion, the 15 percent was tremendously restrictive. He could not support this under the 15 percent and the 10,000 square foot of buildable lot. Most houses today probably average between 2,000 and 2,500 square feet, but to have 10,000 square feet would be the same size as five different houses. The original ordinance, the original lines in trying to make better lot lines, was a good part of the ordinance but when the 15 percent was added it made it too restrictive and he cannot support this under this type of scenario.

***Planning Commission Minutes
April 16, 2008***

Ms. Kirkman stated for clarification that the ADA requirements were 7 ½ percent slopes and she did not believe it was 23 percent.

Mr. Rhodes stated that was true, however, he believed it was greater than a 7 ½ percent slope there. He made a motion to make it 25 percent. Mr. Mitchell seconded. The motion failed 2-4 (Mrs. Carlone, Mr. Di Peppe, Mr. Fields and Ms. Kirkman opposed) (Mr. Howard absent).

Mr. Rhodes made a motion for 20 percent. Mr. Mitchell seconded. The motion failed 2-4 (Mrs. Carlone, Mr. Di Peppe, Mr. Fields and Ms. Kirkman opposed) (Mr. Howard absent).

Mr. Fields stated back to the original motion of O08-38. The motion passed 4-2 (Mr. Rhodes and Mr. Mitchell opposed) (Mr. Howard absent). In terms of individual comments he would hope they would not get into voting on the recommendations but the substitute motions should clarify that but as this goes forward to the Board he wanted to make sure it includes there was a debate. He asked if on other than the percentage there was concurrence on every other aspect of this ordinance.

Mr. Mitchell stated he disagreed with the 10,000 square feet and to him that was five house footprints.

Mr. Rhodes stated his main concern was the slopes.

Mr. Fields stated he wanted to be very thorough with how their dialogue and debate would be reflected in the Board's consideration.

NEW BUSINESS

None

MINUTES

January 9, 2008 Work Session

January 9, 2008 Regular Meeting

January 23, 2008 Work Session

January 23, 2008 Regular Meeting

Mr. Rhodes made a collective motion to approve the minutes. Mr. Mitchell seconded.

Mrs. Carlone and Ms. Kirkman stated there were some typing errors.

The motion to approve the minutes passed 6-0 (Mr. Howard absent).

PLANNING DIRECTOR'S REPORT

Mr. Harvey stated at yesterday's Board meeting, the Board of Supervisors took up the consideration of Primmer House Road renaming and decided to defer that issue indefinitely.

Mr. Di Peppe asked if that was a no or if it could rear its ugly head again.

Planning Commission Minutes
April 16, 2008

Mr. Harvey stated it was considered deferred until they bring it back up, whenever that happens. There was an issue he informed the Commission about approximately a month earlier with the subdivision plat that had been recorded improperly. He stated yesterday the applicant posted the securities and resolved all the issues so that was taken off the agenda to vacate the subdivision plat.

Ms. Kirkman asked if some kind of process control had been put in place so that could not happen again.

Mr. Harvey stated yes, they had a process control on how to deal with that. If there was an error, they would destroy the plat and have someone resubmit. He stated the Board initiated a rezoning that the Commission would be seeing for 104 Hoyt Street in the George Washington District. The Board also discussed the Potomac River Overlay District Ordinance and they would be holding a public hearing on May 20, 2008. The Board instruction staff to begin a process with the Commission to look at a Rappahannock River Overlay District and the Board would like a recommendation by the Commission by its first meeting in September which would be September 2, 2008. That concluded the report.

COUNTY ATTORNEY'S REPORT

Mr. Judy stated he had no report however he wanted to make a comment that he appreciated Mr. Fields bringing up the remembrance of the Virginia Tech incident this time last year. He stated having been in Virginia Tech for a number of years, having been at the school and working in the community there and having a close connection to that community, he was going to remind people that today was the anniversary of that and there are people connected with that community that were affected by that. He appreciated the prayers for that.

SECRETARY'S REPORT

None

STANDING COMMITTEE REPORTS

Mike Zuraf provided an update of the Comprehensive Plan from the last subcommittee meeting which was held on Monday, April 14, 2008. They specifically discussed the future land use plan that was being drafted and service levels that would relate to urban transportation districts and how that would go into the Comprehensive Plan. With the land use plan, Ms. Kirkman provided an update and they were working on alternatives and she was in the process of gathering information as she works on the land use plan and plans on meeting with the Utilities Department to get their input. From the staff prospective, they were working on a plan as well. They have designated the different land use areas throughout the county and prepared a document that included general policies for these different land use districts. He stated that information was handed out to the committee for review. Given that there was still more work to be done, the subcommittee decided to continue their discussion on the land use map at a future meeting. After discussing the land use map staff provided clarification on the build-outs they had been developing throughout the process. They had by-right residential build-out and the build-out they had been working on that would be applied toward the future land use plan. He stated staff was given direction to make some adjustments to the by-right residential build-out and one was to revise it to include residential units in commercial areas. As they were aware, their commercial districts allow for commercial apartments and that was something they did not take into account as they did their residential build-out under by-right. They were going to work that in to see what kind of affect it would have on residential build-out assuming that commercial apartments occur in the future in the commercial districts. He stated they were asked if they could assess the impacts on the build-out that the Potomac River Overlay District would have. He stated they could do a rough estimate on that and provide some information. They could not get down to the parcel specific level given the information and data they have but they could get a general idea of the impact that that ordinance would have on the build-out. He stated they discussed Levels of Service (LOS) and how that would apply to determining public facility needs and working that into the Comprehensive Plan. That work

***Planning Commission Minutes
April 16, 2008***

would all relate to the option of Urban Transportation Service Districts (UTSD) should the county choose to go that direction. If the county did create an UTSD they would be able to impose impact fees to defray the costs of future public facilities on A-1 zoned residential development which occurred outside of these designated urban transportation service districts. These fees would need to be specifically spelled out in the Comprehensive Plan and staff was working on getting that information updated. He stated they have reviewed their progress, and had begun working with different departments and agencies, they were in the process of collecting data but they have not yet been able to finalize any information. They also received good clarification as to the direction of how they obtain this information and get it updated. He stated since the work was somewhat lagging behind schedule they scheduled a new meeting for April 28 and 6:00 p.m.

Ms. Kirkman stated she had a different recollection concerning the impact of the Potomac River Resource Overlay. As she recalled, a member of the public suggested that they do that and as a committee they were not going to because that ordinance had not been passed and they have said they were not going to be doing things unless they had been passed.

Mr. Di Peppe stated he agreed.

Ms. Kirkman stated she did not remember the committee formally adopting that as a recommendation.

Mr. Mitchell stated not as a formal recommendation but he believed he was the one who mentioned it in the discussion.

Mr. Zuraf stated it was his recollection that staff was requested to see what they could do.

Mr. Mitchell stated he personally wanted to have a better understanding of how that would affect their planning.

Mr. Rhodes stated they certainly suggested that those inputs be part of the staff work to have the discussion with the Board of Supervisors.

Ms. Kirkman stated her concern was doing build-out numbers based on an ordinance that had not been passed and that was what the suggestion from the member of the public was. She, as a member of the committee, said if they wanted to hold off on the work until that ordinance had been voted on she would be willing to do that. She stated, in her opinion, it did not make any sense to do build-out numbers based on an ordinance that had not yet been passed.

Mr. Di Peppe stated that was his recollection as well.

Mr. Mitchell stated his recollection was he brought it up, not a member of the audience.

Mr. Fields asked if there were any other standing committee reports.

Mrs. Carlone stated Monday was ARB and there was going to be some renovations to the courthouse on Route 630, consisting of some steps put into the jail because of a problem with the prisoners and with other individuals using the same steps. They approved it because they kept with the integrity of the building. Also, in the Historic District, they were working on something for them as far as signage and some other issues.

Mr. Judy stated to clarify, because they were renovating the courthouse basement they needed a separate entrance to bring prisoners into the courthouse and because of that they needed to put up a retaining wall and a screening wall right off of Route 630 and the problem was the present zoning only allows for a 4 foot wall and they needed one that was closer to 11 feet. He stated there would be a CUP request.

Ms. Kirkman stated she did not have a report but she did not know where else to comment. She thought everyone had hit the ground running in January and they had been working hard and she knew

Planning Commission Minutes
April 16, 2008

they had not always agreed on things but she particularly wanted to thank staff for the work they had done. There had been a lot of changes and it may have felt like as if their efforts were not noticed or maybe even not appreciated but she knew this had been a difficult time and she really wanted to thank the staff for working with the Planning Commission and helping them understand what the job was about.

Mr. Fields stated he could not have said that better himself. He stated they would go back to the unfinished business from the work session which was OC 2e.

e. Public Hearing Notification.

Mr. Stepowany presented the staff report. This was requested by the Planning Commission and a brief version of Section 28-205 which was part of the Notice section for any rezoning applications, the adjoining property owners needed to be notified by certified mail within five days of application submittal and that there would be a public hearing. Depending on how many property owners there were depended on whether the applicant would have to mail out the certified mail or the Planning Department mailing it out. If it was 20 properties or less the Planning Department would mail the notice and if it was more than 20 the applicant would mail the notice. He stated this request was to make the responsibility of all certified mailings to be sent out by the Planning Department. In addition to that they would also have a requirement of 15 days prior to a public hearing that a public hearing notice sign be posted on the property. This request also required that the sign be posted by staff and not by the applicant. He stated staff would also like to point out that this ordinance, the part about the written notice, was added just a couple years ago by an ordinance that came about because a major site plan notice only required 5 properties be notified that there was a major site plan application and only 3 had to be adjoining properties. They needed to clear that up as all adjoining property owners of a major site plan needed to be notified and the question was what did the ordinance require for the zoning reclassification and conditional use permits. It was discovered at that time that the zoning ordinance did not have anything written for the written notification for rezoning and CUPs. He stated paragraph d in 28-205 was added because that was the policy of the Planning Department at the time. They also added the same provision in 28-185 for the same type of notice, both the sign posting and mail-out of the notice. Staff would recommend that the Planning Commission consider including the same revisions for 28-185, which he passed out, so that the same provision that you were asking for a rezoning application for how you send out notices and how signs would be posted applies to CUPs.

Mr. Di Peppe stated the only question he would have was that they would normally vote to move this to the regular meeting and they were in the regular meeting.

Mr. Fields stated they could move this out of ordinance committee to the session for recommendation for public hearing. He made a motion to move it out of committee with changes as recommended by staff. Mr. Rhodes seconded.

Mr. Harvey stated there was a section of the State Code that their code was not current with and they needed to update which was subsection (c) Specify any map amendment that was within a half mile of another jurisdiction. They would need to notify the adjoining jurisdiction.

Mr. Di Peppe asked if they would have to add that wording.

Mr. Harvey stated yes.

Mr. Judy stated they would just use the wording that was in the code.

The motion passed 6-0 (Mr. Howard was absent).

Ms. Kirkman stated before they move out of the ordinance committee meeting and into the regular meeting, at the Comp Plan meeting there was an issue of commercial apartments in B-1, B-2, B-3 and

***Planning Commission Minutes
April 16, 2008***

Suburban Commercial there was a funny little animal, it was not quite clear where it came from and it was really not being used very much in the county. The problem was it was the only residential use that she had been able to identify in the code that you could get without a rezoning and you could get solely through a conditional use permit. Of course, the problem with that was proffers do not carry with conditional use permits. The other issue with the commercial apartments was that there was no limit on the density of the commercial apartments. She would like to recommend that staff come back to the next ordinance committee with an ordinance to strike that use from those four zoning districts.

Mr. Fields stated that would be a good step. It was time they look collectively at all of their zoning ordinances that have to do with any intersection where they were combining mixed uses and think about getting one good mixed use ordinance. What they were really trying to achieve and accomplish was some kind of coherent comprehensive way of doing the more sustainable development which was to mix uses and reduce travel time and increase quality of life. He stated he would support the idea from Ms. Kirkman as the first step in that direction.

Mr. Di Peppe made a motion for approval for a public hearing with the Planning Commission for Ordinance O08-36 to amend Section 28-295, Zoning Administrator, of the Zoning Ordinance per Resolution R08-180. The amendment will require the Zoning Administrator to notify adjoining property owners of any determination that involves a specific property. The Planning Commission finds that public necessity, convenience, general welfare and good zoning practice requires a governing body to consider an ordinance to amend the regulations. Mr. Rhodes seconded.

Ms. Kirkman stated in discussions with their attorney it seemed that the process she made suggesting that they indefinitely postpone this ordinance and consider an alternate ordinance and because of having been involved in some of the discussions with this, she would like to see the Board members see both versions. She stated she should have offered in addition to the Board's ordinance that they also initiate an ordinance and have both heard at the same time and move forward at the same time. She asked Mr. Judy if that was correct.

Mr. Judy stated correct as Mr. Harvey had pointed out that they could initiate a separate ordinance that would address the same issue but from a different point of view. His concern was the idea of ignoring what the Board had sent them.

Mr. Fields made a substitute motion to defer moving Ordinance O08-36 to public hearing until they were able to that the recommended ordinance be honed by staff that Ms. Kirkman had brought forward and consider this at the next work session and then move those both forward for public hearing at the same time. Ms. Kirkman seconded. The substitute motion passed 6-0 (Mr. Howard was absent).

Mr. Rhodes made a motion for approval for a public hearing with the Planning Commission for Ordinance O08-42 to amend Section 28-25, Definitions of Specific Terms of the Zoning Ordinance, per Resolution R08-216. The amendment establishes a definition for family. The Planning Commission finds that public necessity, convenience, general welfare and good zoning practice requires the governing body to consider an ordinance to amend the regulations. Mr. Mitchell seconded.

Mr. Fields asked if they were compelled to take this to public hearing.

Mr. Judy stated as Mr. Di Peppe had spoken before this was part of the process and they have to participate in the process whether they like it or not. Once they vote on a recommendation and have the public hearing they could vote yes or no. He stated the issue whether to send it to public hearing was limited as to whether the Planning Commission was ready to send it to public hearing, not whether they choose not to do it because they just do not want to.

Ms. Kirkman stated she would abstain from the vote.

***Planning Commission Minutes
April 16, 2008***

Mr. Fields stated he could not vote on it.

Mr. Di Peppe stated the same.

Mr. Judy asked those who were abstaining to state why they were abstaining.

Mr. Di Peppe stated what they were doing was morally wrong. He stated they could have the public process but he was not going to have anything to do with this ordinance.

Mr. Mitchell stated he didn't agree with everything they send out.

Ms. Kirkman stated she was abstaining because she would like further clarification on the legal issues and the mandates and the statutes.

Mr. Judy stated if they felt it was not ready to go forward to public hearing then that was what their vote should be.

Mr. Rhodes called for the vote. The motion passed 3 with 3 abstentions (Mr. Howard was absent).

Mr. Di Peppe made a motion for approval for a public hearing with the Planning Commission for an ordinance to amend Section 22-221 of the Subdivision Ordinance. The amendment modifies the requirement for curb, gutter and sidewalks within subdivisions. The Planning Commission finds that public necessity, convenience, general welfare and good subdivision practice requires the governing body to consider an ordinance to amend the regulations. Mr. Rhodes seconded. The motion passed 6-0 (Mr. Howard was absent).

Mr. Di Peppe made a motion for approval for a public hearing with the Planning Commission for an ordinance to amend Sections 28-25, 62, 123, 124, 125, 126, 127 and 136 of the Zoning Ordinance. The amendments establish regulations pertaining to the CRPA buffer signs. The Planning Commission finds that public necessity, convenience, general welfare and good zoning practice requires the governing body to consider an ordinance to amend the regulations. Mr. Mitchell seconded. The motion passed 6-0 (Mr. Howard was absent).

Ms. Kirkman stated she thought staff was going to come back to them with some language about maybe the need for more than one sign because of the contours of the RPA.

Mr. Di Peppe withdrew his motion.

Ms. Kirkman made a substitute motion to defer. Mr. Di Peppe seconded. The motion passed 5-1 (Mr. Mitchell opposed) (Mr. Howard was absent).

Mr. Di Peppe made a motion for approval for a public hearing with the Planning Commission for an ordinance to amend Sections 28-205 and 28-185 of the Zoning Ordinance. The amendment modifies regulations pertaining to notice for rezoning and conditional use permit applications. The Planning Commission finds that public necessity, convenience, general welfare and good zoning practice requires the governing body to consider an ordinance to amend the regulations.

Mr. Rhodes asked if that was with the modifications to comply with State Code in that one paragraph.

Mr. Di Peppe stated with modifications. Mr. Rhodes seconded. The motion passed 6-0 (Mr. Howard was absent).

SPECIAL COMMITTEE REPORTS

***Planning Commission Minutes
April 16, 2008***

None

CHAIRMAN'S REPORT

None

ADJOURNMENT

With no further business the meeting was adjourned at 10:02 p.m.

Peter Fields, Chairman
Planning Commission