

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
May 7, 2008

The work session of the Stafford County Planning Commission of Wednesday, May 7, 2008, was called to order at 5:35 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, Howard and Kirkman

Members Absent:

Staff Present: Harvey, Judy, Stepowany, Hudson, Hubble, Kaminsky and Knighting

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 7, 2008) (Deferred to May 7, 2008 Work Session)**

Natalie Kaminsky gave an update of the application. She stated at the April 16 work session several concerns were raised regarding the Beck Ridge plan. The project was deferred to this work session so the applicant and engineer could make necessary revisions. She provided packets for the Planning Commission which was compiled by the engineer and included a revised layout plan and a letter addressed to the Planning Commission which summarized the revisions made. She stated Mr. Brown would explain those revisions as well as the additional items that were included.

Kelly Brown, an engineer with Bowman Consulting, stated at the last meeting there were a few issues raised regarding the layout of this plan. On the revised plan they basically eliminated lot 9, the one that had the pipe stem back to the drainfield area and that drainfield was now on lot 7. The drainfield that was adjacent was for lot 7 originally was the one that did not meet the Health Department's requirements according to the new ordinance so that drainfield had been eliminated from the plan. He stated they checked with the environmental staff about the RPA and the fact that the wetlands on lots 3 and 4 were connected to that perennial stream by an intermittent stream though CBLT regulations did not require that be RPA. He attached a copy of those regulations for their use. According to the field delineation that was done there was an intermittent stream connecting those areas, so those regulations say they do not need to provide RPA for those wetlands on lots 3 and 4. In that packet he also included a copy of the jurisdictional determination letter from the Corps that basically said they agreed with the delineation that was done on that site. He stated he hoped that would answer their concerns about the wetlands. There were some questions raised about the tabulation that was on sheet 2 of the original plan and they added a detailed area tabulation to this revised plan. He broke it down into areas that were the existing two parcels, 16 and 16B, the areas that would be conveyed to the adjacent properties and the areas that would be conveyed from the adjacent properties and they ended up with the total area to be subdivided as 37.25 acres. He also broke down the tabulation below to show what area was in lots and what area was in the right-

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of-way that was going to be proposed. He stated the letters of agreement from the adjacent property owners, the entrance piece belonged to Mr. Embrey, on parcel 19A, he has agreed to convey that 0.0177 acres to Mr. Kimbowa in exchange for the 1.3987 acre parcel that was adjacent to the right-of-way on the right. There were some other things in that agreement involving a payment to him and how Mr. Kimbowa was going to pay the submission fees for the boundary line adjustment plat and having the deeds done. He stated Mr. Embrey put a time limit on the submittal of the plat within a year which was agreed on by Mr. Kimbowa and a copy was included. For the second letter of agreement Mr. Burgess owned the property but it was in the name of his son-in-law now, William Shelton and he was suppose to be back in town this afternoon. Mr. Burgess had talked to him and Mr. Shelton had agreed to sign it. The piece on the back did not require any property from him, it was basically an agreement that he would accept it from Mr. Kimbowa and they would do the boundary line adjustment for that as well. He stated at the front of the site, parcel 3516B actually belonged to Mrs. Burton who owned 3518 that was recently purchased by Mr. Kimbowa. At that time, his office prepared a consolidation and boundary line adjustment plat that showed parcel 16B consolidated with 16 and it also showed the property swap which involved that strip along the back of parcel 18 and a little triangle of property that constituted the rest of the right-of-way for Beck Ridge Lane at the entrance. That plat was submitted to the county and had been reviewed and ready to be approved upon submission of the deed. They had been waiting just to make sure they could get the preliminary plan approved to move ahead rather than do the land transfer prior to approval. He included a copy of the plat that was submitted along with the application page where Mrs. Burton signed stating she was in agreement with what they were doing, along with Stafford County items from IWR site that showed all the comments were resolved with the exception of submitting the actual deed. He stated after the removal of lot 9 gave them the opportunity to revise quite a bit of the lot lines to try to make those as close to being right angles to the right-of-way as possible. Between lots 2, 3 and 4 they had to vary from that a little to allow all the drainfields to fit on those lots. They did check with the Health Department and the AOSE who worked on this site to make sure that 5 feet was indeed the minimum setback for drainfields from the property line and he dimensioned all the corners on the plat that were close to property lines so they could see that requirement had been met. He stated he added a note about lot 4 and the concern about the drainfield being on the opposite side of the wetlands from the house and the applicant would do what was necessary so the force main to serve that drainfield gets bored under the wetlands as opposed to disturbing them. He also added the zoning tabulation that was on sheet 2 of the original submission and he changed the number of lots in note number 3 to show they were applying for 8 lots.

Mrs. Carlone stated she was glad to see the changes for 7 and 8. She asked if the paperwork was done for the two drainfields.

Ms. Kaminsky stated because they did not have the final revised plan set, Mr. Thompson was not able to draft an approval letter but he gave a verbal approval.

Ms. Kirkman asked what she meant by they did not have the final revised plan.

Ms. Kaminsky stated they did not have them in time for the 5 day requirement for them to be available for the public.

Ms. Kirkman stated they could not make a decision on this tonight then and asked Mr. Judy what that meant as they were up against the deadline.

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Mr. Judy stated they understood that they did not have the 5 day period for the plans to be available for public review that they would ask for this to be deferred one more time to your next meeting for final decision with the understanding that here at the work session that they had met all of their conditions.

Mrs. Carlone asked the date of the next meeting.

Mr. Harvey stated May 21.

Ms. Kirkman asked staff if the environmental planner would go out to the field to look at the particular concern that she had about the wetlands. She checked and she could not find anything in the reviews.

Mike Lott, Environmental Planner with Stafford County, stated he and Amber went out to the site about a year ago in the Spring of 2007, not during a drought period, and they walked the stream at that time. His recollection was they walked up the lower portion of the stream that was shown as RPA on the existing map and the stream was dry at that time.

Ms. Kirkman stated she still had concerns that lot 2 did not meet the side lot line requirements in terms of it still had the funny jag on the side of it and asked if the applicant wanted to address that.

Mr. Brown stated the code said generally at right angles and he thought at the road the right angle was the better thing to do to have a triangular piece of property at the road and they felt it was generally at a right angle if they did it that way.

Ms. Kirkman stated they had a side lot line that was parallel to the road front.

Mr. Brown stated he would agree that was parallel to the right-of-way on the right of the lot between lot 2 and the parcel that was going to be dedicated to Mr. Embrey but he would also say if you were standing on Beck Ridge Lane near the 133 foot dimension that had the appearance of being a rear lot line.

Ms. Kirkman stated if they consolidated lots 1 and 2 into one lot she thought that would be a much better configuration.

Mrs. Carlone state if they were scheduled for May 21 they could work out those lines. She stated this was good as far as the changes that have been made and they met what the requests were from the last meeting.

Mr. Brown stated the radius of the road was above the minimum requirement for the State Highway Department for a curve and you could actually have a pie shaped lot and claim that the line between lots 1 and 2 was parallel to the right-of-way that runs from lot 2 to 3 to 4. When there was a short radius he was not sure there was any way you could meet that.

Mr. Fields asked if the concern was the lower lot line.

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Mr. Brown stated he thought her statement was that the line was parallel to the right-of-way and to consider it parallel he thought you would have to be looking at the right-of-way where it was labeled 133 feet and 112.

Ms. Kirkman stated her concern was the jog that was there to accommodate the drainfields and she had questions about whether there were six lot lines so obviously something was not quite right in terms of meeting their side lot line requirements.

Mrs. Carlone asked to clarify what her concerns were and whether the applicant would be willing to extend the date to May 21.

Mr. Brown stated yes they were going to request that.

Mr. Judy stated the requirement was that they be available for 5 days for the public to review them.

Mr. Brown asked for clarification of parallel lot lines.

Mr. Harvey stated the applicant was asking for guidance from the Planning Commission so that he could draw his plan to bring back to May 21.

Mr. Brown stated he would like to clarify what he would need to revise.

Ms. Kirkman stated her suggestion would be that they consolidate lots 1 and 2 so that they do not have that funny jag, which was solely for the purpose of locating a drainfield. She did not believe that complied with the side lot lines because of the numerous lines.

Mr. Brown asked if she was speaking of the line between lots 1 and 2.

Ms. Kirkman stated this was a corner lot and asked the Zoning Administrator what that meant for front lot lines.

Rachel Hudson, the Zoning Administrator, stated the shortest line was the side.

Ms. Kirkman stated because of the cutout there were too many side lot lines. Depending on which one was the front, one of the lot lines was not in compliance with the side lot line ordinance.

Mr. Brown asked if a corner lot had to be on two streets and stated this was a single street with a radius that did meet the requirements of VDOT.

Ms. Kirkman stated it would be clear to her that this meets all the requirements if they consolidated lots 1 and 2. If they were not willing to do that she would need to consult with the attorney so they could figure out if there was something wrong when there was a jag and that it could not possibly meet the side lot line requirements because one of those lots lines would be out of compliance as it would not be at right angles or on the radius.

Mrs. Carlone asked if someone could answer that question now.

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Mr. Harvey stated Ms. Hudson confirmed this was not a corner lot situation, she had not made a determination for zoning purposes about side lot lines because this was a subdivision ordinance issue not a zoning ordinance issue. It had been common practice in the county to accommodate shapes of lots where there was often more than one side lot line especially in a situation where there was a curve or a meandering of a stream. The question would be if this met the intention of the ordinance. He stated as Mr. Brown was explaining he was trying to make the property line at right angles to the street. His interpretation was he was generally complying with Section 22-146.

Ms. Kirkman asked Mr. Harvey if the piece that was a little over 100 feet between lot 3 and lot 1 was a side lot line or a rear lot line.

Mr. Harvey stated it was a rear lot line because that was the lot that was opposite of the street and it did not intersect with the street.

Ms. Kirkman asked what the line was that was 249 feet.

Mr. Harvey stated all three were side lot lines.

Ms. Kirkman asked if it was his opinion that that was in compliance with Section 22-146.

Mr. Harvey stated the section read when approximately right angles were approximately radial to the street the line dimension 280 was radial to the street and line dimensions 249 and 280 were approximately at right angles to one another.

Ms. Kirkman stated they had a side lot line that did not intersect with the street at all.

Mr. Harvey stated yes and as he explained there were lots of situations where there were stream channels or other natural features where you end up having multiple lot lines that form a side lot line.

Mr. Fields stated this pointed out an issue they may want to address down the road. In his opinion there was a big difference between how you want lot lines configured when you have 15,000 square foot lots and how you have lot lines configured when you have 8 acre lots meandering across terrain. He asked if the ordinance was basically generic and did not distinguish between large lots and small lots.

Mr. Judy stated in reading the code section he thought they all would agree that the former lot 9 did not meet the intent of the ordinance. In that particular case there were so many breaks in the supposed side lot line that it was clear that the entire lot had been gerrymandered for one purpose and one purpose only. In the case of lot 2, there were several factors involved including a lot that was both touched the straight part of the road and also was encompassed by the curve of the road. There was absolutely no way to have a side lot line that was both perpendicular to the straight part of the road while being radial to the curve part of the road. He stated the drainfield could only be located at the back of that lot so there would have to be some consideration. And in this particular case as opposed to lot 9 the drainfield was a direct shot from the house, not a right angle and then another right angle. Assuming that was the only potential drainfield for lot 2 the only other thing he

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could see that they might be able to do was to angle the entire lot line from a radius from the curve but that may cause significant problems on lot 1. He stated he did not think the answer to be in strict compliance with the ordinance was to make them eliminate another lot. He thought they had followed the intent of the ordinance.

Mr. Fields asked if they should consider looking at the lot line ordinance based on lot size.

Mr. Judy stated the typical small lot subdivision would want as much as possible for the lots to either be pie shaped or square or rectangle so they would want perfectly perpendicular lines or radial lines coming out. Large lot subdivisions, particularly over different terrain, that would become difficult if not impossible to follow to the letter. In this particular case where there was only one break in the side lot line in order to accommodate the drainfield, he would not see this as not complying with the ordinance.

Mr. Fields stated the access to the house site on lot 6 was entirely through the RPA and asked how that worked.

Mr. Brown stated the current code allowed them to build a driveway through the RPA, with a minimum disturbance.

Mr. Judy stated minimum disturbance plus mitigation.

Mr. Lott stated they would have to approve a wetlands crossing.

Mr. Fields asked if the Planning Commission was ready to grant a deferral to May 21.

Mrs. Carlone stated if the applicant was willing.

Mr. Brown stated yes.

Mrs. Carlone made a motion to defer to the May 21 meeting. Mr. Di Peppe seconded. 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 May 7, 2008 Work Session)**)

Jamie Stepowany presented the staff report. He stated the Board of Supervisors referred proposed Ordinance O08-36 to amend Section 28-295 for formal determinations made by the Zoning Administrator shall be posted on official websites and determination of written notice provided to the applicant and all adjoining properties when a determination has been made dealing with the specific property. At the last Planning Commission meeting, the Planning Commission approved that ordinance to go to public hearing. The Planning Commission also requested an alternative which had a lot more instructions for how the Zoning Administrator was to proceed when an official

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determination had been requested. At the last meeting a request for the original ordinance and this alternative to go to public hearing on the same evening. He stated what was before them tonight was the alternative ordinance for Zoning Administrator's Determination.

Mrs. Carlone asked when they were working this up were there any sticking point that they should be aware of.

Mr. Judy asked if she was asking if they had concerns.

Ms. Kirkman stated part of the reason they had this deferred was to have legal review it to make sure it was legally defensible and asked Mrs. Carlone if that was her question.

Mr. Judy stated in reviewing the law with regard to Zoning Administrator, there was some latitude within the locality as to establishing that Zoning Administrator's authority. There were some specific things that the Zoning Administrator was suppose to do and one of those things was to have, in a sense, some autonomy in making determinations because that person was suppose to be the person within the Zoning Department who had the institutional knowledge of why certain things were in their zoning ordinance and to be able to make the necessary interpretations when questions would arise. He stated he did not know that it was a necessarily legal prohibition but the concerns he had with the way this alternative was written had to do with making the process more of a public process wherein the Zoning Administrator was potentially subject to opinions and intimidation potentially in making those determinations. In addition, he had some concern having some knowledge that the Board, in sending to the Planning Commission the original draft, had also considered similar language to this alternative language and had rejected it when they sent the original. He stated he thought they were redoing what may have already been done by the Board but that was a statement of fact, not an opinion or indication that they could not go forward with this.

Mrs. Carlone stated she was an open government person and they had been burned twice on two issues that were still outstanding so she did not feel there was a problem in getting the public more involved.

Mr. Rhodes asked in the alternative they would be sending out notifications twice for each in advance and then when a determination was made, was that what (d) and (f) were reflecting.

Mr. Stepowany stated yes and that (d) would mean that they would have to notify that a request had been submitted for determination.

Mr. Judy stated basically the first notice would be announcing to property owners this was what they were asked to do and then the Zoning Administrator would do what she had been asked to do and then she would send out an additional notice later saying this was what she did.

Mr. Fields asked assuming there was a public notification, how would the public make its opinion to the Zoning Administrator.

Mr. Judy stated that was the whole point. The Zoning Administrator's determinations were not something that would necessarily be subject to public opinion.

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Ms. Kirkman stated they did not have any control over that because of the way the state statute was written. The intent of this was to give adjacent property owners notice of what was coming because if they waited until they got the determination that was already made they would be in a situation of having less than 30 days to research the issue, understand it, find a lawyer and file an appeal if they would happen to disagree. She stated he was absolutely correct as this did not create any mechanism for public comment because the state statute did not seem to allow for that but it would at least give adjacent property owners more warning about what might be coming.

Mr. Di Peppe stated he agreed with Mrs. Carlone because part of the problem had been it was not the intention to create a tremendous amount of work for the county staff or for the agent but, as they had seen in the past, sometimes decisions were made in closed rooms and no one would know about it. One of the things that troubled him the most about the original 28-295 was (c), failure to give proper notice pursuant to this section shall not validate a determination. That was not in the other one. He stated he did not know how they could even say that in (c) because that was what happened to the people in the past. He understood where the alternative ordinance wording was coming from and he thought he heard there were 10 to 20 determinations a year. They were not talking about a huge burden.

Mr. Judy asked how many had they received in the last three months.

Mr. Stepowany stated there was also another clarification they needed to make and this was only if the determination had been requested that dealt with a specific property. If they were not asking for a determination on a specific property then the adjoining property owners would not have to be notified.

Ms. Kirkman asked if there was not a determination being requested of a specific property then there were no adjoining property owners.

Mr. Stepowany stated that was correct.

Mr. Di Peppe asked how many determinations were for specific property.

Ms. Hudson stated the latest three were site specific.

Mr. Di Peppe stated if he was going to err, he would want to err on the right of the people to know.

Mr. Judy stated he did not understand Mr. Di Peppe's comment about paragraph c in the original version. He asked if he was suggesting that failure to give notice would invalidate the decision.

Mr. Di Peppe stated he thought that was for a judge and a court to decide. He did not know if they could make that determination ahead of time.

Mr. Judy stated he was absolutely right.

Mr. Di Peppe stated his question would be why would it be in there.

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Mr. Judy stated because there was no enabling authority to put in a provision and he thought what they were trying to say was they certainly would have the ability to put in a notification clause with regard to sending out notice to property owners that a determination had been made about an adjoining property but there was no provision in state law that would allow them to invalidate the Zoning Administrator's decision administratively so to speak simply because the notice failed to go out.

Mr. Rhodes asked if they still in either case would only have the 30 days to file after the final determination was made. He asked if there was any second third-order effect or unintended consequence with (e) to putting it in a 30 to 60 day window and wondered if it would pose a problem in any fashion.

Ms. Kirkman stated it was thought out deliberately as was everything in the draft. The thinking behind it was sort of looking at what were the things they required around notification for other changes in land use. That had been one of the most significant problems with some of these zoning determinations was that they changed the land use essentially.

Mr. Rhodes asked if they had checked to make sure there was not procedurally a problem with the 30 day or 60 day number, in making a determination within the 30 day window.

Mr. Judy stated he was not sure he understood Ms. Kirkman's comment that the Zoning Administrator's determinations had changed the land use. The Zoning Administrator did not have the authority to alter the zoning of a particular parcel.

Ms. Kirkman stated it did not change the zoning but she thought some people who might live next to the Crucible site might feel that deciding the Crucible was a by-right use as a school was certainly leading.

Mr. Judy stated in going back to what Mr. Di Peppe said earlier, the question of was the request for the determination site specific and in that particular case she was talking about there was no site specific determination. It was a question about did that particular use meet the county's definition in their zoning ordinance of school. It was just responding to a question about a definition. It was not a site specific determination.

Mr. Fields stated with the Crucible being the poster child, this ordinance would not have produced any notification to property owners the way the Crucible question was posed.

Mr. Judy stated possibly not.

Mrs. Carlone stated she would have given anything to have had notification of something that appeared to be unusual in the determination. It would have saved the county thousands and thousands of dollars in lawsuits to have given them notification, to have given them the opportunity at that time to find out what was going on then prepare for suits that they were in right now. She stated she did not see a problem with this.

Mr. Rhodes stated he would rephrase the question as maybe he did not put it in the proper form. They were now saying everything would have to happen in a 30 day window and he did not know

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whether there were circumstances where there might need to be some type of special research. He asked if there was a consequence associated with the 30 and 60 days.

Mr. Judy stated he thought what it was saying was that once the notice was sent out that the determination could not be made for 30 days in order to give those that were notified time to gear up.

Ms. Kirkman stated there was a timeframe that was needed on this just as there was with any of their land use decisions. She stated she looked at all the zoning determinations that were made last year and this did seem to be a timeframe that could work.

Mr. Judy stated the state code required that the determination be made within 90 days. The only thing he would be concerned about was that by making the Zoning Administrator wait this time period then that puts them at a crunch at the other end.

Ms. Kirkman stated one amendment she would be willing to suggest was that (e) read at least 30 days but no more than 90 days because that would make the 90 days consistent with the state code.

Mr. Judy stated he was not sure of the purpose and if the purpose was just to give those that were notified at least a 30 day window to gear up by maybe contacting an attorney and saying this issue had come up beyond the ready or what may come of it, he was not sure it should not just read at least 30 days period. Why there would have to be a but no more than clause to it.

Mr. Stepowany stated he would like to raise another issue because this was what other ordinances and other issues like they talked about tonight. In a lot of other land use issues the county only had to provide a 5 day notice of decisions. When there was a public hearing for a rezoning or CUP the adjoining property owners would have to be notified within 5 days of the public hearing.

Ms. Kirkman stated signs would have to be posted at least 15 days in advance.

Mr. Stepowany stated that was an alternative method of notice but that was still not 30 days. There were no other land use issues, at least in Stafford County, that required a 30 day notice.

Mr. Judy stated the notice in the paper only had to be 14 days prior to the hearings.

Ms. Kirkman stated she would suggest they change it to no more than 90 days so that section was consistent with state code.

Mr. Di Peppe asked if there were any other Planning Commission members that would have a problem with that amendment. He then asked since they had two in front of them, did they have to vote on both.

Mr. Stepowany stated the first one had already been approved by the Planning Commission to go to public hearing. It was the alternative that the Planning Commission would need to make a decision whether to go to public hearing.

Mrs. Carlone made a motion to move the alternative ordinance to the evening meeting. Ms. Kirkman seconded. The motion passed 5-0 (Mr. Rhodes and Mr. Howard were absent).

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Mr. Fields asked if they actually went to public hearing would they have to come up with a way of saying 28-295(A) or 28-295(B) because right now they had two ordinances with exactly the same number.

Mr. Stepowany stated they would have two different numbers.

Mr. Fields asked if they go to public hearing would they acquire two different numbers.

Mr. Stepowany stated yes.

b. RPA Signs. (Time Limit: June 17, 2008)

Steve Hubble stated he spoke at the last meeting about a proposed amendment to the Chesapeake Bay Preservation Area Ordinance to add a requirement to post signage to identify the boundary of the RPA on residential properties. There were two key questions that came out of that meeting from the Planning Commission that hopefully he addressed in a memo to Mr. Harvey on Monday. He stated he would request that this be moved forward to a public hearing.

Ms. Kirkman stated she had the memo dated May 7 to Mr. Harvey regarding the proposed CRPA sign posting ordinance and asked where the changes in the language to address what they raised.

Mr. Hubble stated he identified two key questions that the Planning Commission had at their last meeting. The first was concerning the timing of the sign installation. The proposal that he presented to them was to have the signage be intended for the homeowner as the key audience and Mrs. Carlone thought that might be too late in the construction process. He stated she was worried about the construction process for the builder and/or developer. Actually there was already an existing requirement within the Chesapeake Bay Ordinance, 28-62(g)(1)(b)(2) which required that the grading and clearing around preservation areas prior to site or building construction be marked. He felt that provision would already address marking of the RPA for builders and developers before construction and he had not proposed a change to this ordinance since the intended audience was ultimately the homeowner.

Mrs. Carlone stated from past experience when someone went in to start bulldozing they have had instances where they just got in there and bulldoze and then said oops sorry.

Mr. Hubble stated he could not speak for the development plans at this point but on their building lots, any time that there was an RPA, during the review of the building permit they would make the surveyor or the lot owner go out and flag the boundaries of the RPA with survey tape. Staff would go out and check it before they start construction and that was being done currently.

Mrs. Carlone stated she remembered they did discuss that.

Mr. Hubble stated on that issue he felt what they had previously was adequate. The other concern was the spacing or the amount of signs required on a property. He reviewed some of the other localities that had this provision to see what they did and in Chesterfield County they had no specific

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standards for sign placement but the general requirement was that a sign was installed at the RPA limits on every other property line, so they required one sign per every two properties. In New Kent County they required that a sign be placed at the RPA boundary where intersected by a property line and at 300 foot intervals between property lines. He stated since there did not seem to be any consensus among the various localities his recommendation was that they stick with the original general requirement of one sign per lot and should site specific conditions on a lot dictate the need for additional signage the installation policy allowed the county to require an additional sign or signs at staff's discretion.

Ms. Kirkman stated she liked the requirement of posting every 300 feet and she would like to see this amended to include that distance.

Mr. Di Peppe stated he liked at least one every 300 feet. If it ended up there was an extra sign on a lot that was good. They know the boundaries were sometimes not a straight line across the lot. He would support the amendment but he would rather see at least one sign every 300 feet.

Mr. Judy stated he would suggest it state a sign on every lot or every 300 feet depending on which was a shorter distance.

Mr. Hubble stated a majority of the lots were not going to be wider than 300 feet so he thought one sign per lot would be more restrictive than every 300 feet.

Mr. Judy stated 300 feet was a pretty good distance across the back of a lot.

Mr. Di Peppe stated he would say that every lot have at least one sign and if the lot was larger than 300 feet then it would require more signs. In most cases it may only be one sign but sometimes they get lots that were larger.

Ms. Kirkman stated her concern was when there was a significant change in the contour of the RPA. People may assume that the RPA runs in a parallel line to the sign, particularly as they were moving into more difficult and challenging terrain. It had been her experience that when they leave things up to the discretion of the county they do not happen. She stated maybe there was language like minimum of one sign per lot if the RPA extends for more than 300 feet, then one sign every 300 feet or at significant changes in contour of the RPA.

Mr. Di Peppe asked if they were leaving themselves open for interpretation of significant contours.

Ms. Kirkman stated sometimes everything except the house was in RPA and she has seen the RPA literally circle around the house. She stated, in her opinion, if only one sign was placed in the back no one would realize the side was also an RPA.

Mr. Hubble stated that was the difficulty in writing this amendment, there was so many possibilities that he wrote the policy to be general and then leave it up to them. He felt there was an adequate staff to interpret that appropriately but if the Planning Commission felt differently he could certainly make an adjustment.

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Mr. Judy stated it would be very difficult to enact an ordinance and policy that would cover every potential problem that might come up.

Mr. Hubble stated the Commission would need to realize that most people would not be too crazy about having a 2 foot by 2 foot road sign in their back yard and that was why they stuck with the idea of one sign.

Ms. Kirkman stated they could do a minimum of one sign per lot and every 300 feet within the lot.

Mr. Di Peppe stated he would suggest one per lot unless the RPA extends for more than 300 feet and then they would say two signs.

Mrs. Carlone stated the ordinance stated the county reserves the right to require more than one Critical Resource Protection sign on a residential lot but not limited to multiple RPAs on the same parcel. She believed that would cover the situation.

Mr. Hubble stated that was his thought and it was also easier to evaluate once they got the building plan that showed where the house would be located and where it would relate to the RPA.

Mr. Fields asked if there would be any alternatives for a sign as a 2 foot by 1 ½ foot green sign in the back yard was very intrusive to the overall look and feel.

Mr. Hubble stated a couple of the other counties would allow alternatives as long as the message was the same. He saw no reason why they could not add that provision to the policy and have an alternative sign subject to the approval of the Zoning Administrator. He stated he did not have the wording at the time but would provide it for review at the public hearing.

Ms. Kirkman asked what happened to the idea of every 300 feet.

Mr. Di Peppe stated Mrs. Carlone pointed out they had the flexibility to say that if the county staff thought that more than one sign was needed that they could demand more than one sign, and that they could add the language that they can come up with an alternative design to the sign as long as it met the requirements and approval. He stated he would like to see Mrs. Carlone make the motion as it had been her issue as long as he had known her.

Mrs. Carlone asked what as far as the wording to put in about the size or they could have the option to put up a sign as long as it contained the size.

Mr. Stepowany stated that would be in the policy manual which would be part of the resolution that would go to the Board.

Ms. Kirkman stated it would still need to meet the size and substance requirements.

Mrs. Carlone made a motion to move this to the evening session. Mr. Fields seconded.

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Mr. Stepowany stated that because this was part of a grant, Mr. Hubble would request that the Planning Commission agree to send this to the next available meeting which was the first meeting in June.

Ms. Kirkman asked if that was standard procedure.

Mr. Stepowany stated not always.

The motion moving the RPA sign ordinance to the evening meeting passed 7-0.

- c. Discussion of eliminating commercial apartments.
- d. Discussion of Zoning and Subdivision Ordinance rewrite.

Mr. Stepowany stated these two items were tied together. At the last meeting the Planning Commission made a request to no longer permit commercial apartments in the commercial and SC zoning districts. The last item was to update the Planning Commission on the zoning ordinance rewrite as a result of the revised Comprehensive Plan.

Mr. Di Peppe stated before they get into this because of the time as he did not want to get all involved and then have to stop in the middle, he asked if this was something that they should stop and pick up in the regular meeting.

Mr. Stepowany stated Brenda Schulte had prepared an update on the zoning ordinance rewrite as part of the Comp Plan and basically they were tying the commercial apartments proposed ordinance change to what the strategies of the comp plan was and the strategies of the land use plan. That was the reason there was nothing prepared in the way of a memo.

Ms. Kirkman stated she had made a specific request and her colleague from the George Washington had seconded that request that at this meeting they review an ordinance to delete that as a use from specific zone categories. Whether they do it now or after they conclude their other business later she did want them to do that tonight.

Mrs. Schulte stated she was there to provide the zoning ordinance update. This was initiated by the Department of Planning and Zoning and this update comes out as part of the Comprehensive Plan update. Currently they have draft documents for several articles that were under review by a steering committee made up of county staff from County Administration, County Attorneys, the Department of Planning and Zoning and Economic Development. They were currently looking through those and updating them, taking them back to the original focus group that was established over a year ago and initially identified the duties and responsibilities that would take place during this whole process. As they were updating the zoning ordinance they were also looking at the subdivision ordinance, so they would also see recommendations for both so they would not have incompatibilities between the two documents. She stated they hope to bring a full draft document of the comprehensive update in January 2009.

Ms. Kirkman stated that informed the Commission how they were doing, but it did not tell anything about what they were doing. She asked who participated in the focus group.

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Mrs. Schulte stated county staff from different departments.

Mr. Harvey stated internal staff members from Planning and Zoning in the focus group. With that focus group they started out with a strength and weakness exercise in September of last year and they also did that with the Planning Commission. He stated their goal was to primarily focus on process issues, state code compliance issues, all internal issues essentially to the zoning ordinance, prepare a draft and then start discussing it with the Planning Commission when they have that draft. From there they would get into discussing land use categories, if they need to make changes to those, what were some other significant things because that was going to be the outcome of the Comprehensive Plan. At this point in time they were not going to be recommending any changes to any zoning districts or anything of that nature because they did not yet have a Comprehensive Plan to show where they need to go. The Board's intent so far was for them to finish the Comprehensive Plan in December and that was why they were hoping in January to roll out what they had prepared at that point in time to the Planning Commission and then they would start really rolling up their sleeves and looking at the ordinance and what it did and how they were going to fit in the new development scheme based on the Comprehensive Plan.

Ms. Kirkman asked if they could get a list of what the focus group decided was the strengths, weaknesses, opportunities and threats to see if they would have anything to add to that.

Mrs. Schulte stated she could provide the notes and minutes and she also had the original March 22 notes as far as identifying the project goals and tasks. She stated tasks were broken down into subtask categories and goals within those tasks as well.

Mr. Di Peppe stated at this point he wanted to give the meeting back to Mr. Fields with the promise that they would raise the issue of commercial apartments in the evening meeting.

COMPREHENSIVE PLAN COMMITTEE

2. Meeting Update

Due to the time constraints; this was discussed during the regular meeting.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 6:57 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES

May 7, 2008

The regular meeting of the Stafford County Planning Commission of Wednesday, May 7, 2008, was called to order at 7:35 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the Stafford County Administration Center.

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

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Judy, Baker, Baral, Hess, Zuraf, Stepowany, Schultis, Hornung, Schulte, Rakestraw and Knighting

DECLARATIONS OF DISQUALIFICATIONS:

None

PUBLIC PRESENTATIONS:

None

PUBLIC HEARINGS:

1. CUP2700776; Conditional Use Permit - Oakley Farms Floodway - A request for a Conditional Use Permit to allow street crossings on a Flood Hazard (FH) Overlay District, specifically to provide street crossings within a floodway on proposed McPherson Drive across two unnamed tributaries of Long Branch within Oakley Farms Subdivision on part of Assessor's Parcel 26-36 (portion), consisting of 10.53 acres located on the northwestern corner of Poplar Road and Shackelford Well Road within the Hartwood Election District. **(Time Limit: August 5, 2008)**

Joey Hess presented the staff report. He showed examples of the existing zoning and land use maps. He stated the preliminary plan was approved on December 4, 2002 for 92 lots and the minimum lot size was 3 acres. He stated there were two proposed locations, the first being the northern tributary or Trib 1, and the second being the southern tributary or Main. He stated the construction proposal for Trib 1 consisted of two series of culverts each 69' long and Main consisted of two series of culverts each 85' long. He stated it does encroach into the floodplain and a maximum 0.98 foot increase of base flood elevation. He stated the project would include the necessary environmental permits and there would be no impacts to existing structures or other adjacent properties. He stated the affected area was just where the crossings were, not for the entire parcel. He showed examples of the proposed road crossings. He stated the project would be in accordance with the Generalized Development Plan (GDP) dated November 27, 2007 and a Phase 1 archaeological survey for project areas would be provided. He stated the applicant would obtain a Letter of Map Revision (LOMR) upon completion of the project to reflect as-built conditions and the road crossing construction hours would be limited. He stated the applicant would submit a major water quality impact assessment for the affected areas with the Planning Department and receive approval prior to construction. He stated the applicant would notify Code Administration upon commencement of the work, and shall provide the necessary Best Management Practice (BMP) for stormwater management. He stated the Conditional Use Permit (CUP) shall expire ten (10) years from date of approval unless a permit for construction was obtained and the applicant would obtain all environmental permits. He stated staff believes the request, with the proposed

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conditions, meets the standards for issuance of the permit and recommends approval of the application with the conditions specified in R08-212.

Mrs. Carlone stated on page 4 it did mention the conditions about a Phase 1. She asked when a date was set for Phase 1 and if it was premature for them to go ahead and approve a CUP since they did not know if it might have changed.

Mr. Hess stated the preliminary plan came through back in 2001-2002. He stated he talked with Wendy Wheatcraft, the historic preservation planner, and she had mentioned that a Phase 1A study had been completed.

Mr. Harvey stated they needed to submit the Phase 1 study before the construction plans would be approved to determine if there were any resources in the area.

Ms. Kirkman asked how they picked ten years.

Mr. Harvey stated it was a staff recommendation to put a time limit on a CUP so if for some reason construction did not move forward it would expire at some point in time. He stated there was specific rationale as to why they came up with ten years.

Ms. Kirkman asked how they could do construction in a creek without impacting on water quality. Rishi Baral stated as a part of the construction plan approval process a water quality assessment would be required. He stated during that time it would be made sure that there would be minimum or within the allowed level of impact. He stated there would be some impact on the water quality.

Ms. Kirkman asked if he could describe what the impacts were likely to be.

Mr. Baral stated he did not know what specific impacts there would be.

Mr. Di Peppe stated they should have the Phase 1 information before they vote on a permit and they should have that information so they know what they would be voting on.

Mrs. Carlone stated a concern of hers was the two tributaries that feed into Long Branch which in turn replenish Abel Lake.

Mr. Fields asked what types of downstream impacts would be assessed. He stated he assumed there would be some change in the nature of the flow of the water as it moves through culverts and pipes versus through the natural channel. He stated when he was on the Board of Supervisors there was a number of serious long term stormwater problems that resulted from a gradual buildup over time of one development after another. He asked what the extent of the analysis downstream was.

Mr. Baral stated the study needed to be continued. He stated after the construction was complete an LOMR would have to be prepared by the applicant and that LOMR application would then go to FEMA who would accept or deny the flood study and construction.

Mr. Fields asked if they were measuring simply for flood elevation as opposed to actual rate of flow.

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Mr. Baral stated he believed the construction plan had low impact but this CUP was particularly for the crossing construction and what was done in that flood study was what impact it would have on this flood elevation and whether or not existing properties would be affected by flood. He stated as a part of the review process, the applicant also has designated floodway, which was a narrower segment in the middle of the floodplain. He stated this study did not account for stormwater management and any water obstructed does not count for stormwater management quantity control.

Mr. Fields asked if they would get some concentrating of the rate of flow by having the water move through culverts and pipes versus the natural channel. He asked if it would shoot out a little more forcefully on the other side.

Mr. Baral stated there would definitely be an increase in flow in culverts because a wider channel would be constricted to a narrower section.

Mr. Di Peppe asked if it was better to have three pipes than to have a culvert with one large pipe and that it would be less detrimental to the rise in floodplain.

Mr. Baral stated the bigger size opening it has the less impact there would be in flood elevation. He stated if you were trying to contain a flow in a narrower section, it would cause higher change in flood elevation.

Mr. Di Peppe asked if it would be better to have one larger pipe going through instead of three pipes.

Mr. Baral stated the engineer would have to address how expensive it would be to provide one large culvert. He stated if you were to provide one pipe or one large culvert, it would have to be very high to be able to pass all the water.

Ms. Kirkman stated she wanted to confirm that the study that was done was to address only the impact on any rise in elevation, that it would not address the velocity of the flow or increased sedimentation or any potential impacts on water quality downstream.

Mr. Baral stated that was correct, that this was specifically for floodplain.

Mrs. Carlone asked if this would be a VDOT maintained public road.

Mr. Hess stated yes, that the roads would be turned over to VDOT.

Mr. Judy stated which also means it would have to meet VDOT standards.

Ms. Kirkman asked if this was only in the floodplain or did it include a portion that was in the floodway itself.

Mr. Baral stated FEMA did not have floodway assigned to this area and that as part of the review process the engineer has designated it a floodway also.

Ms. Kirkman asked if it was considered in the floodway as well.

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Mr. Baral stated yes and that was why this plan had to come to the CUP.

Clark Leming, speaking on behalf of the developer of the Oakley Farms subdivision, stated the preliminary plan was approved back in 2002 and there are three sections to it with one of the sections partially built out with sold homes. He stated the second section was ready to go to record plat and the two stream crossings provide access to the third section of Oakley Farms. He discussed the history of these types of applications and stated the Board of Zoning Appeals (BZA) heard these applications for a number of years. He stated the largest increase in the base flood level was in excess of 8' and most of the increases were substantially less than that. He stated in each case the floodplain study was done and the base flood level was the focus of attention. He stated the application process then became more expensive and went to the Board of Supervisors through the Planning Commission. He stated there have been two other crossings that he was aware of that have come through the Planning Commission and passed. He stated the crossing was necessary in order to complete the preliminary subdivision plan. He stated as staff has indicated all the impact was entirely on the property of the landowner. He stated they do not have any objection to a shorter time frame for the CUP as it would not take 10 years to complete and they have no objection to any conditions recommended by staff. He stated there was no Phase 1 required as a condition of the preliminary subdivision plan approval or at any step along the way since then and Phase 1A was done voluntarily. He stated it was their understanding that the Phase 1 in the area that was impacted by the crossing would have to be completed before construction began and there would be no physical way to do it otherwise. He stated they do not have any objection to the condition stating that although it was obvious that that was the case and if there was something that warrants a Phase 2 that that would have to occur before construction as well.

Mrs. Carlone asked what the hours of operation would be.

Mr. Leming stated 7 a.m. through 8 p.m. daily and 8 a.m. through 8 p.m. on holidays and weekends.

Mrs. Carlone stated she had a problem with the 8 p.m. across the board.

Mr. Leming stated they had no objection to shortening the time.

Mrs. Carlone stated she would like to see the time changed to 6 p.m.

Mr. Leming stated they had no objection to that.

Ms. Kirkman asked if it was in the floodway.

Mr. Leming stated yes.

Ms. Kirkman stated it would lead to an increase in the flood elevation of .98 in several spots and asked if it could be designed so that there would be no increase in the flood elevation.

Mr. Leming stated any stream crossing could be spanned as opposed to culverts, however, it would be cost prohibited in most cases.

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Mike Kitchen with Christopher Consultants stated the only way to cross without having any increase in the flood level would be to build a bridge span over the entire floodway. He stated bridges are in the 7 figure range even for a two-lane span going across a stream such as this.

Ms. Kirkman asked if it could be done.

Mr. Kitchen stated yes.

Mrs. Carlone asked if they had looked at alternative routes.

Mr. Leming stated yes and a lot of that work was done at the time the preliminary subdivision plan was reviewed by the Commission.

Mrs. Carlone stated she found it unfortunate that they have to cross in a floodway.

Mr. Leming stated there was no way to avoid a stream crossing to this property.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Mrs. Carlone recommends approval to send forward to the Board with the change paragraph 3, prior to approval of any construction permit a Phase 1 archaeological survey shall be provided to the project area, and paragraph 5, the hours of operation to 6:00 p.m. She made a motion for approve and move forward to the Board of Supervisors with those changes to CUP2700776. Seconded by Mr. Di Peppe.

Ms. Kirkman stated she opposed the motion to approve as the ordinance specifically states that uses that are permitted in the floodway district can only occur if it will not lead to any increase in the elevation. She stated this leads to a 0.98 increase in the flood elevation and, in addition, she was concerned that there are impacts that have not been qualified in terms of the velocity flow and flow of the water and the possibility of increased sedimentation of one of the water sources for the reservoir.

Mrs. Carlone withdrew her motion. She stated they needed a determination as Ms. Kirkman made a good point.

Mr. Judy stated she was only quoting part of the ordinance and the rest of the ordinance did provide that through a CUP for certain uses, specifically, public works, utilities, public facilities, improvements such as railroads, streets, bridges, etc., and those items are excepted from the provision that Ms. Kirkman was referring to and those provisions have to go through this process that had already been outlined in detail. He stated it provides that the increase in the 100 year flood elevation shall be to the minimum as necessary and they met the less than 1 foot requirement in designing this facility. He stated it would be a waste of time to defer this for that purpose.

Ms. Kirkman stated it did state under H.i., Permitted Uses in the Floodway District, that no encroachments including fill, new construction, substantial improvements or other development shall be permitted. She continued with the ordinance stating in accordance with standard practice

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that the proposed encroachment would not result in any increase in the 100 year flood elevation. She stated it did not state there was an exception for that.

Mr. Baral stated there were two terminologies he would like to describe. He stated one foot was called surcharge and when a floodway was to be established this was a standard procedure. He stated the maximum difference when the assigning floodway would be one foot was when a floodway was established. He stated a floodway was a narrower part of the floodplain and when you designate a floodway, the maximum surcharge or maximum elevation range could not exceed one foot and that was what this study has accomplished.

Mr. Rhodes arrived at 8:15.

Ms. Kirkman asked Mr. Baral if he could tell her the section of the ordinance he was referring to.

Mr. Baral stated the case they have was not a designated floodway and FEMA has not designated any floodway in this segment. He stated it was just an approximated flood zone. He stated the applicant has established a floodway but it has not yet been recognized by FEMA. He stated this was a study designated floodway.

Mrs. Carlone made a motion to approve with the changes.

Mr. Fields stated the motion was still on the floor as it was already seconded by Mr. Di Peppe.

Mr. Rhodes asked for clarification of the changes as he was late to the meeting.

Mr. Fields stated he opposed the motion also because of the lack of comprehensive assessment of the entire watershed. He stated fixes were almost impossible to deal with and he has seen firsthand negative impacts. The motion passed 5-2 (Mr. Fields and Ms. Kirkman opposed).

2. Amendment to Zoning Ordinance. Amendment to Section 28-35, Table of Uses and Standards; Table 3.1, District Uses and Standards; and Section 28-57, Flood Hazard Overlay District (FH), of the Zoning Ordinance, pursuant to O08-37. The amendment requires a special exception instead of the issuance of a Conditional Use Permit (CUP) for the following uses and activities in the Flood Hazard Overlay District (FH):

- Public works, utilities and public facilities and improvements, such as railroads, streets, bridges, transmission lines, water and sewage treatment plants, stormwater management structures, and other or similar related uses.
- Water-dependent uses and activities, such as marinas, docks, wharves, piers, or shoreline protection measures, where no administrative exception has been granted by the agent. **(Time Limit: June 2, 2008)**

Jamie Stepowany presented the staff report. This was referred to the Planning Commission for recommendation per Resolution R08-155. The County does not allow any encroachments, including fill, new construction, substantial improvements, or other development within the floodway unless it has been demonstrated, through hydrological and hydraulic analyses performed in accordance with standard engineering practices, that the proposed encroachment would not result in any increase in the 100-year flood elevation. Prior to May 2007, any use or activities that would

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result in an increase in the 100-year flood elevation required a special exception. As of May 2007, Ordinance O07-31 amended the Zoning Ordinance to require a Conditional Use Permit (CUP) instead of a special exception. On March 4, 2008 the Board of Supervisors approved Resolution R08-155 to revert the process back to a special exception. If the proposed encroachment would cause an increase in the 100-year flood elevation, the County may allow such increase in the 100-year flood elevation provided the applicant first applies for a Conditional Letter of Map Revision (CLOMR) and receives approval from the Federal Emergency Management Agency (FEMA) prior to plan approval. The applicant would need to provide sufficient information, plans and drawings to determine that there would be no flood hazard impacts or the proposed activity would not contribute to increased flood hazards to off-site properties. Regardless of whether the process requires a CUP, special exception or an administrative exception (refer to Sec. 28-57(h)(4)), staff would not recommend approval until these 2 items have been satisfied. Staff recommends approval of Ordinance O08-37.

Mr. Di Peppe stated it was just stated unless they satisfy the 2 items above, staff would not recommend and then the next line was staff recommends.

Mr. Stepowany clarified they would not recommend approval of any type of application as there were procedures the applicant would have to go through and have satisfied first.

Mr. Di Peppe stated he did not understand the history as they changed this a year ago and now they were changing it again and he asked why.

Mr. Fields explained it was done purely political in nature because there was a controversy over the granting of a special exception to Stafford's Utilities Department for crossing a flood hazard in the establishment of Rocky Pen Run. It was feared by certain members of the Board of Supervisors that the BZA would obstruct the timetable for the completion of Rocky Pen Run and, therefore, the majority of the Board decided they would do the CUP.

Mr. Harvey stated the Zoning Ordinance was a living, breathing document and as you go along through time you find out that you adopt some ordinances that maybe you should repeal or modify and this was one of those cases. They tried the CUP route and they believe it was better suited back as a special exception. He could not recall if the Board had elaborated on the details but he thought Mr. Fields caught a lot of the gist of it as it was a fairly narrow technical focused issue and in most cases it does not have a broader land use implication. The BZA was more of a focused group and does not necessarily deal in the broad land use issues. In his opinion, it was probably part of the reason why the Board was wanting this to go back to the BZA.

Mr. Di Peppe stated the prior applicant got caught in the crossfire because he had to pay the \$10,000.

Mr. Fields opened the public hearing.

Clark Leming stated, in his opinion, moving it back to the BZA was fine. He did not think his clients or anyone that he was familiar with at his level was particularly enamored with the process moving over to the Board of Supervisors and the Planning Commission. In a lot of counties this was done administratively for exactly the reason that was just said about this being cut and dry.

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This was a strict application of a standard to a particular set of facts. Stafford has never done it that way. He thought on balance it was better at the BZA than going through the other channels and certainly much less expensive and he would only have to make one appearance if it goes to the BZA. Also, he would, because of what this applicant has been through, the Planning Commission acted on the application tonight, it will go on to the Board of Supervisors and hopefully the Board of Supervisors will act on it before they act on this ordinance and send this whole thing back to the BZA without some sort of language in the amendment that would permit applications already in process to complete the process. The greatest horror story in addition to the additional fees, would be getting there, having the Board act on this amendment before it acts on this application and then having to go back and start the process all over again. He would appreciate the Planning Commission's consideration in adding some language to let those that have gotten into the process to at least complete the process before the amendment takes place.

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. Di Peppe asked legal staff if they set this up and state something like those already in the pipeline can go through, would they be setting a precedent for other decisions and we would have to let them go through.

Mr. Judy stated if they choose to make that recommendation they could do that but that was really the Board's prerogative to make that decision.

Mr. Di Peppe made a motion for recommendation of approval of Ordinance O08-37. Seconded by Mrs. Carlone.

Mr. Fields stated he was glad to see this and he liked the idea of there being a public hearing on this issue. It was unfortunate they had to spend an enormous amount of time trying to grapple with something that was completely different and unlike most of the other things they grapple with.

Mr. Howard asked Mr. Judy what would happen if the Board of Supervisors does pass this amendment first before they look at the applicant's request.

Mr. Judy stated he was not sure he could fully answer that question.

Mr. Howard asked if this was a sequence issue just as it was tonight. If it was on the agenda second and the Board approves the application first, the applicant can then continue to move forward as they think they were moving forward today.

Mr. Judy stated he thought the issue needed to be raised either by the Planning Commission making the recommendation or at the Board level that the issue of applications that were already in the pipeline, particularly an application that has already come through the Planning Commission, as to whether it should be grandfathered to the old provisions as least until it was voted on. As Mr. Leming stated, it certainly would be a possibility that through circumstances that the ordinance could be passed and sent back to the BZA before his application would be voted on.

Mr. Fields asked Mr. Howard if he wished to offer a friendly amendment to the motion to include that language to allow any CUP applications relating to the Flood Hazard Overlay District that was

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currently in process as of this date to be allowed to proceed through the CUP irrespective of what decision was made on the other issue.

Mr. Howard stated yes, for those applications in process.

Mr. Rhodes asked what in process was and would they want them to be ones that they have already forwarded up to the Board of Supervisors. That was clearly well along they way as in process and he did not know how to define in process.

Mr. Fields stated anything that has been applied or an application that has been submitted to the Planning Commission.

Ms. Kirkman stated they could not hold a public hearing and make a recommendation on something if they no longer have

Mr. Judy stated they were still capable of making a recommendation.

Ms. Kirkman asked how the Board could approve a CUP if the ordinance no longer grants the Board the authority to grant CUPs.

Mr. Judy stated the intent here would be to have the ordinance say that any application that was already in the pipeline as of May 7, 2008 would be grandfathered, if that term applies correctly.

Mr. Howard asked if there were any other ones besides this one in the pipeline.

Mr. Baral stated to his knowledge there were no others.

Mr. Di Peppe stated he was comfortable with the amendment to his motion.

Ms. Kirkman stated she had been on both sides of this issue and she originally did not support the legislation to change this to a CUP primarily because of the politics that was driving that legislative change. She has come to appreciate the CUP process and what it has to offer and she will be opposing the motion to approve this change primarily because of all of these that she has been aware of, whether they have been special exceptions or CUPs, they have all been related to development projects and as a consequence of those development projects they have been building in the creeks. It affects the sedimentation, it affects the flow and she thought as much public attention should be put on that as possible. These things could be done without having those adverse impacts and they were not being done because of the costs associated with them. The taxpayers ultimately end of paying for the dredging of creeks because there was increased sedimentation and, as was mentioned, there have been several of these applications that have affected Aquia Creek which now was heavily silted. She was going to support keeping this as a CUP process so that as much public scrutiny as possible can remain on it.

Mr. Fields stated he appreciated her sentiments and he did not necessarily disagree with them. His support of changing this back to the BZA was driven more by pragmatism of the CUP process. This does now allow enough teeth to make a substantial change in the process but he certainly thought they may want to look at other ways of doing it. He agreed that what happens downstream

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over time was a whole different story than being able to measure a one foot increase of flood elevation right where you build a culvert and it was two really different complex things.

The motion as amended passed 6-1 (Ms. Kirkman opposed).

3. CUP2800283; Stafford County Courthouse Wall - A request for a Conditional Use Permit to allow an exception to the height requirements up to 11 feet for a wall in a front yard of a B-2, Urban Commercial Zoning District, on Assessor's Parcel 30-38, consisting of 2.1 acres, located on the west side of Jefferson Davis Highway just north of Courthouse Road within the Aquia Election District. The Code limits the height to 4 feet. The applicant is requesting that the height limit be up to 11 feet. **(Time Limit: August 5, 2008)**

Kathy Baker presented the staff report. She stated the Board of Supervisors has initiated this request for a Conditional Use Permit (CUP) to exceed the maximum height for a wall in the B-2, Urban Commercial, Zoning District for the Courthouse property. She stated the land use was institutional with office to the east and south. She showed overhead examples of the site. She stated Section 28-39(a) of the Zoning Ordinance limits the height of walls in the B-2 District to 4 feet within the front or side setback and Section 28-38(d) does allow a CUP to modify that height requirement. She stated the proposed wall would be just under 11 feet in height. She stated the county was proposing to renovate the Courthouse basement for courtrooms, offices, record storage and security upgrades. She stated this was the result of the Sheriff's Department and others moving out of the building to the new Public Safety Center. She stated the project does include construction of an exterior door on the south side of the building and this would provide a separate access for the Sheriff to transport prisoners to the Courthouse. She stated the walkway to the new door would be screened by this brick wall and the wall would vary in height from 7'9" to 10'8" and would be constructed from brick to match the Courthouse façade. She stated the Courthouse lies in a Historic Resource Overlay District and any new exterior changes require a Certificate of Appropriateness (COA) through the Architectural Review Board (ARB), and this COA does consider factors of placement, scale, form, details, materials and style with relation to the primary historic structure. She stated the wall would be constructed of brick that matches the color and size of the existing Courthouse brick and that the COA was issued by the ARB on April 14, 2008. She showed historic and current photos of the Courthouse and pointed out where the new door and wall would be located. She stated there was a stone retaining wall that would not be changed and the new wall would be closer to the building. She stated the existing brick wall in the parking lot may be demolished and the historic preservation staff has asked that that be documented prior to any demolition. She showed an example of the proposed elevation. She stated staff was just recommending conditions and these were more along the lines of the historic preservation aspect. She stated that the type and the height of the wall would be in accordance with the elevation drawing and that the color, texture, pointing and striking technique of any new mortar would replicate what was existing on the building façade. She stated the landscape features would be retained and the existing brick wall would be recorded if that was to be demolished. She stated staff believes the request with the conditions does meet the standards for the issuance of a CUP. She stated they would not be changing the character of the established pattern, they would not impact any adjacent properties, and it would be in accordance with the Comp Plan as well as the historic guidelines and does provide safety features to the prisoners as well as the Sheriffs and other employees.

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Mrs. Carlone stated this came before the Architectural Review Board (ARB) and her only wish would be they use the continuation of the stone wall. She asked if the telephone lines would be buried.

Kathy Fox, the County's Construction Manager overseeing the project, stated there would be no adjustment to the phone lines. She stated the air conditioning units would have to be moved. She stated the contractor would be required to submit brick samples.

Mr. Howard asked if the door would be visible from Courthouse Road or would it be shielded.

Mrs. Baker stated the door would be shielded by the wall.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Mr. Mitchell made a motion for approval. Mrs. Carlone seconded. The motion passed 7-0.

UNFINISHED BUSINESS:

4. 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)**

Mr. Fields stated this item was deferred to May 21.

5. 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 7, 2008) (Deferred to May 7, 2008 Work Session at the applicant's request)**

Mr. Fields stated this item was granted an extension to May 21 earlier today.

NEW BUSINESS

6. SUB2700557; Ruby Meadows, Preliminary Subdivision Plan - A preliminary subdivision plan for 13 single family lots, zoned A-1, Agricultural, consisting of 41.31 acres located on the south side of Garrisonville Road approximately 300 feet east of Green Acre Drive on Assessor's Parcels 9-10 and 11 within the Rock Hill Election District. **(Time Limit: August 5, 2008)**

Jon Schultis presented the staff report. He showed location and preliminary subdivision plan maps and an aerial photograph of the property in question. The site would be served by well and septic.

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He stated the Health Department originally approved this subdivision under the old regulations prior to O08-07 and upon the passage of that ordinance it was sent back to the Health Department and ordered to be re-reviewed. The applicant and engineer tweaked the subdivision in order to meet the new standards set forth in O08-07 and the Health Department subsequently re-approved this subdivision on April 23, 2008. He stated there were shared driveways proposed for this site and the applicant has fulfilled the requirements in 22-217 which required that if shared driveways were going to be located on the site they needed the agent's approval. This was backed up by a letter from the Virginia Department of Transportation that strongly suggested that shared driveways be used on this site. In order to ensure the construction VDOT required that those were bonded. He stated environmental features such as a stream and a pond do exist on the southeast portion of the site, specifically lots 9 through 12 and parcel A. A perennial flow study was conducted by Williamsburg Environmental in May 2006 and that study indicated that the stream did not meet the threshold for perennial status. County staff conducted a site visit in February 2008 and concurred with assessment. He stated cultural resources located on this site include a cemetery preserved through a conservation easement and the appropriate buffers, along with the historic Ruby Post Office identified as one of the smaller buildings on lot 11. When the applicant was given notice of this he agreed to preserve the site by either moving it to a different location or to a citizen who may have been interested in preserving it. Staff recommended approval of the preliminary plan as it met the codes set forth in the Zoning and Subdivision Ordinance.

Ms. Kirkman asked what a partial reserved drainfield was.

Mr. Schultis stated he would defer that question to the applicant and his soil scientist.

Ms. Kirkman asked how he could recommend approval for something he did not understand.

Mr. Schultis stated the Health Department was responsible for reviewing the drainfields and they were the trained professionals he would go by as far as the drainfields were concerned. He was assured from the Health Department that they had reviewed it and it had met the current standards as required by the State of Virginia.

Ms. Kirkman stated there was a section of the Code that gave Mr. Harvey's position authority to say whether or not the soils work was acceptable or not. She asked since there were revisions made to the drainfields were there plans that showed the revised drainfields as the plans she had were dated prior to the re-review.

Mr. Schultis stated those plans she had were the most recent copies after the re-review was completed and he would defer that to the applicant.

Ms. Kirkman stated it was in compliance yet she was looking at lot 6 which had a side lot line that was parallel to the street frontage. There was a section which they had already discussed that said it needed to be at right angles to it. She asked how it could be in compliance with that section of the code if it was parallel to the street frontage.

Mr. Schultis stated in the larger subdivisions they generally need to meet right angles and upon assessment that was considered a side lot line when doing the review.

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Ms. Kirkman stated it was a side lot line that was parallel to the street frontage and the ordinance did not say generally, that it said it shall. She stated for parcel A she thought all parcels needed to meet their requirements regardless of whether or not they were dedicated to open space or not and asked if that was correct.

Mr. Harvey stated he could check the code section but that there was a provision where open space parcels and common area parcels do not need to meet the size or shape requirements of the code. If there was a zoning issue as far as percentage of open space or amount of open space they would have to meet the minimum square footage. This Subdivision Ordinance, when you speak of cluster subdivisions, would require you to have a minimum of 1 acre of usable open space. In this case this was a by-right subdivision, not a cluster, so there were no requirements for open space.

Mrs. Carlone stated she was concerned about the removal of the area from RPA. She also had concerns about the Post Office being preserved or moved.

Mr. Schultis stated he would defer that to the applicant.

Ms. Kirkman stated there was nothing in their ordinance that would prohibit those kind of multiple access points onto a major road and asked if somebody could address that.

Mr. Schultis stated a reverse frontage ordinance was recently passed requiring that reverse frontage be provided to subdivisions that were on a major collector. There was a provision for shared driveways in which the applicant may write a letter requesting the use of shared driveways in the development granted they get approval from the agent.

Ms. Kirkman asked who the agent was.

Mr. Schultis stated Mr. Harvey.

Ms. Kirkman stated there were multiple entrances onto Route 610 for single family homes because the agent approved it and the Planning Commission cannot do anything to reverse that at this point and asked Mr. Judy if that was correct.

Mr. Judy stated he was not sure how the ordinance was written and he would need to look at it. If that was what the code said, that it gave authority to the subdivision agent and they have met the conditions, then the answer would be they could not change it.

Ms. Kirkman stated she would like to hear from the agent why the agent thought it was appropriate to have multiple entrances onto 610.

Mr. Harvey stated he followed the recommendation of VDOT with regard to the subdivision plan. Mr. Howard asked what the actual traffic count was or vehicles per day on that section of 610.

Mr. Schultis stated a traffic impact analysis was not required for preliminary plans.

Mr. Howard stated he was not asking for an analysis, he was asking in terms of what the traffic count would be post the homes being built, what the traffic count was today.

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Mr. Schultis stated he did not know but he would get that information.

Mr. Howard stated there was no turning lane on this portion of 610 that would allow people coming off I-95 to make a left to those driveways and asked if they would be crossing a double yellow at that point.

Mr. Schultis stated yes.

Ms. Kirkman asked if documents for the Homeowners Association were submitted with the application and if that was a requirement.

Mr. Schultis stated no they were not and for a cluster subdivision.

Ms. Kirkman stated she believed that was a requirement any time there was an HOA.

Mr. Judy stated he would look it up.

Mr. Howard stated there was a notation for a sign easement on the plan and asked what it was for.

Mr. Schultis stated it was to allow for a subdivision sign.

Mr. Howard stated he would like to move this to a work session.

Debra Rae Karnes, Leming and Healy stated she was representing the applicant. She stated she believed this plan met all requirements of the code and was worthy of being approved tonight. She gave some background on the applicant and stated it was her understanding that after the applicant went back to the Health Department, he changed the configuration of the septic fields to meet all of the terms of the new ordinance. New pages were submitted and they should have been looking at the plan dated April 7.

Ms. Kirkman asked if they had the maps with the current approved drainfield configurations on them.

Ms. Karnes stated it was her understanding they do and they should have been dated April 7. She thanked Mr. Schultis for wonderful customer service and very thorough customer service. She thought all the issues had been fully set forth but she would like to have the opportunity to answer any questions the Planning Commission had.

Mr. Di Peppe stated he was concerned with 7 more entrances onto 610.

Ms. Karnes stated she drove by the site and stated it was on the far western part of Garrisonville Road that was largely residential, largely built out in single family homes on the south side of Garrisonville Road that all have entrances onto Garrisonville Road. The north side of Garrisonville Road was all Quantico. She stated if the applicant had built all 13 lots having access onto Garrisonville Road it would be consistent with the neighborhood. VDOT strongly recommended that the applicant use shared driveways. It was her understanding by last vehicle count that vehicle

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trips per day in that area were 9600 in 2001. If the Planning Commission had questions on the drainfields or RPA they have consultants there tonight to answer them.

Ms. Kirkman asked what a partial reserve was.

Ruben Lakey, M & M Soil Consultants, stated a partial reserve area was a portion of the allocated reserve area and not all the area was in one complete site.

Ms. Kirkman asked if the primary fails and there was a part of the reserve that was contiguous with the primary, what was to ensure that that partial reserve would still be adequate.

Mr. Lakey stated the standard way of delineating a drainfield was to do their scientific work and evaluate the soil and generally lay out one big box area and that would encompass the drainfield and reserve. Often times when they have limited topography or narrow sites they would do a separate area for reserve just because of the way the land lays. He stated normally they would be together because that was the easiest if there was a large land.

Ms. Kirkman stated a number of the lots have these partial reserves which she had never seen before. She asked if those partial reserves were part of the original drainfield work that was submitted.

Mr. Lakey stated some were but many of them were in addition to meet the newest regulations.

Ms. Kirkman stated they added the partials to meet the new regulations.

Mr. Lakey stated some they did and some sites they just expanded square footage and some they added an additional area to get adequate square footage to comply with the new regulations.

Mrs. Carlone stated her concern was the cemetery and the fencing around the cemetery.

Ms. Karnes stated the fencing, setback and sign were provided in accordance with the county ordinance. She stated they may want to list the height and materials of the fence.

Mrs. Carlone stated another concern was the Ruby Post Office. She asked if anything was being done about moving it.

Ms. Karnes stated this was not a requirement of the Subdivision Ordinance and the offer of the applicant to physically move it to another site was tremendous.

Keith Newport, the applicant, stated he had taken an interest in preserving a lot of historic buildings and when he observed the structure it seemed easy enough to strap onto a flatbed and move it to open space. Staff had mentioned that there was a request from an individual in Stafford that wanted to actually move it to their property and that was very doable. He was willing to preserve it on the lot where it was now. The only problem he could see come up with that was when someone would buy that lot who was to say they would not get a chainsaw and cut it down. The open area seemed to be a more protected area to place it.

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Mrs. Carlone asked to get something more definitive of what would happen to it by the next meeting.

Mr. Newport stated his plan now was to move it to the open area.

Mrs. Carlone asked if there was an HOA?

Mr. Newport stated yes.

Mrs. Carlone asked if it was retained on site it would be their requirement to maintain it.

Mr. Newport stated yes.

Mr. Fields stated he wondered how a 13 member HOA would have the resources to do that.

Mrs. Carlone asked if there was an individual that may be interested in moving and keeping it.

Mr. Schultis stated Wendy Wheatcraft, the historic preservation planner, mentioned somebody would be interested in preserving it if there was nothing the applicant could do on site and he was not sure who that person was.

Ms. Karnes stated they would be looking to the Planning Commission to indicate their preference of it going to an individual who would like to take it or to the open space parcel on site.

Mr. Fields asked if it went to the open space would the open space have a conservation easement of some sort put on it. Preserving things was a complex process and would require a lot of guarantees and some sort of mechanism for seeing that it would not just sit there and fall apart.

Mrs. Carlone stated an example was Spring Knoll on Route 17 which was dismantled and moved to another jurisdiction and ended up in piles.

Mr. Howard made a motion to move SUB2700557 Ruby Meadows Preliminary Subdivision Plan to the next available work session. Mr. Mitchell seconded. The motion passed 7-0.

Mr. Fields stated by the next work session he would like to see an analysis of the multiple access points. If there was an alternative with a one access point reverse frontage he would like it to be thought about.

Ms. Kirkman stated she did look at their ordinance on that and the reason they were given for approving that request was that VDOT recommended it and that was not a qualified reason. She was concerned about what she heard tonight in several instances where it felt like staff was passing the buck for their responsibility.

Mr. Fields stated they had already voted on the motion and the motion was disposed of. He understood her points but she should save them for another discussion about the issue.

Ms. Karnes asked what work session they were contemplating.

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Mr. Harvey stated right now there was the Williams Subdivision on the work session for May 21 and they should discuss the Comprehensive Plan again in trying to keep things on track.

Mr. Rhodes asked if Beck Ridge was going straight to regular or the work session also. He thought the work session and that was a lot of things going on at the May 21 meeting.

Mr. Fields stated June 4 work session for this item.

MINUTES

None

Mr. Fields stated they would move on to Mike Zuraf and the Comprehensive Plan.

Ms. Kirkman stated before they do that there was an item on the Ordinance Committee agenda that they had not yet gotten to and that precedes the Comprehensive Plan.

Mr. Di Peppe stated they had been under the gun on the Comprehensive Plan and he was hoping to have a vote on the map tonight and then go back to the ordinance.

Mr. Zuraf stated he handed out a revised land use map and replaced the land use map in their Planning Commission packages. This map represented some subsequent corrections that were made to the previous map. He stated this new land use plan was discussed at a prior Planning Commission comp plan committee meeting on April 28. It depicted an Urban Service Area (USA) that generally followed already zoned properties, that being zoned properties at a higher density than A-1 or A-2. He explained the boundaries on the map. These Urban Development Areas (UDA) were basically planned for phasing of 2011 in line with the work that the county had contracted out to evaluate these redevelopment areas. The UDA would be recommending residential density of 10 dwelling units per acre and based on the gross area of these locations and that density, the overall area would accommodate 10 years of planned residential growth consistent with the state's code. He stated within the UDA they have a designated business area which is located in the middle of the county. The business area was planned to allow for retail, office or industrial uses and did not get into specifics about where each would go in that area but provided some flexibility on this map. There was office area designated that was just south of the courthouse and generally in line with the comprehensive rezoning which had recently occurred. In other areas of the county outside the business, office and UDA the future land use would follow along with current zoning that was already in place. These recommended land uses basically go along with the current zonings. He stated one of the more recent changes added institutional lands and parks. Institutional lands would generally consist of all the county schools and community facilities and fire and rescue stations and then any existing or planned parks. Outside of the USA all the land was designated agricultural/rural residential land use and this land use would follow along with the development criteria under the current A-1 zoning which would generally be rural residential type of development or agricultural uses and lot sizes would be allowed at a minimum of 3 acres in size. Other than the bulk of the area which was agricultural and rural residential mixed in the areas there was rural commercial land uses in 5 locations in the rural crossroads of the county. In addition they had included parks and institutional uses that were located out in those rural areas. The prior map depicted rural residential A-2 zoning on this map and they switched that over to represent land use that was more consistent with A-1 agricultural with the exception of the parks, institutional and rural commercial. Another correction was to the 2019 phasing area. The map that they had looked like it excluded the Embrey Mill area and that had been revised to include Embrey Mill and the other lands along Courthouse Road within the 2019 phasing area. The 2019 phasing area along Courthouse Road did not include the Colonial Forge area as it was being kept in the current phase growth area. He stated those were the major changes to the growth area along with revising some

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of the mapping elements. A feature of this land use plan was the growth area and land use designations were parcel specific so landowners would be clear as to what their land use recommendation was. At the last meeting staff updated the committee on their work on service levels and they provided the group on what work they had conducted as it related to the fire and rescue element. They will continue discussions at the next meeting on May 19 at 6:00 p.m. in the ABC conference room.

Ms. Kirkman stated he needed to go back to the map that the subcommittee approved because the business area was still not right. There were also fingers of agricultural that were designated as business but were not inside the USA. She showed Mr. Zuraf some other changes that needed to be made to the map.

Mr. Di Peppe stated staff wanted some kind of direction because they wanted to take this map and go forward.

Mr. Zuraf stated this map was basically being brought forward by the committee to the full Planning Commission for recommendation.

Ms. Kirkman stated more detailed analysis was needed to be done, the committee did not want to move forward because it was so much work until they knew that a majority on the Planning Commission was in favor of this draft. It should be clear that a vote tonight was not to recommend approval of this but a vote to move forward with this as the draft that would be used in the public hearing and for the modeling and for the calculations that they need to do.

Mr. Mitchell stated there were two maps and they voted on one or the other and he voted for the other map. He was very concerned about the middle area showing the commercial business area. He did not know what impetus they were going to use to get people to bring their business and entities down to the center part of Stafford when basically right now the northern part of Stafford had more of a draw.

Mrs. Carlone stated having looked at different versions this looked good to her now. As far as the center section not being a good location for business, she begged to differ. It was a growth area and there would be a lot of action in that area and she agreed with what was on the map as far as potential for business growth.

Mr. Di Peppe stated when they started out with the existing USA it was huge and would accommodate a tremendous amount of growth. He wanted to compliment staff and Ms. Kirkman for all the work that was done on this map. Even pulling in the USA as much as they could, they were still accommodating about twice the growth they were going to get in the next 20 years. He stated it was a good map.

Mrs. Carlone stated she agreed with Mr. Di Peppe.

Mr. Di Peppe stated they just reached two years.

Mr. Mitchell stated they would get nothing out of Quantico. The FBI, DEA, CIA and Quantico would all go to Prince William before they locate in Stafford.

Ms. Kirkman stated to remind folks what the subcommittee was trying to do and that they had very little incentives for where they want to put growth. One of the most effective incentives they had was where they run sewer and water. What they tried to do was develop a USA that surrounds what was the existing growth area and promote infill and redevelopment in those areas. At the same time they would not be extending water and sewer out into the agricultural areas because they know that would lead to more development. She stated they were trying to find ways with the limited tools

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that they have to direct growth into the USA. Their choices were really constrained with the rezoning decisions that have been made in the past but, if they started from scratch, this was probably not the way they would draw the map of Stafford.

Mr. Howard asked Mr. Zuraf to show him where Boswell's Corner was and the Quantico Corporate Center on the map. He asked how that impacted what had been approved so far on the northern part of Stafford. He was trying to address Mr. Mitchell's comments as he had similar concerns.

Mr. Zuraf stated that office development would be able to proceed as is.

Mr. Howard asked if they would be able to bring business to support the office like Aquia Town Center.

Mr. Zuraf stated the front portion of that site along Route 1, there were portions that were zoned Urban Commercial that envision some retail commercial components only along Route 1, not into the site. If there was any redevelopment commercial would support it within that area.

Mr. Howard asked to be shown where some townhomes went in. He stated they would want residential there and if it could be 10 units per acre that would be awesome. There would have to be some ability to have business or retail to support those communities as well because they would actually go to Prince William because it would be closer and we would lose that tax revenue base in retail.

Ms. Kirkman stated one of the things that would be helpful was to remind folks that the UDA require 10 dwelling units per acre and a minimum of .40 Floor Area Ratio for commercial.

Mr. Howard asked commercial meaning not just businesses but retail.

Mr. Zuraf stated yes.

Mr. Howard asked to be shown where Boswell's Corner was on the map and if would also be in the UDA.

Mr. Zuraf stated it was the center of it.

Mr. Howard asked to be shown where the Courthouse and hospital were.

Mr. Zuraf stated B-3 would generally be mainly office and some light intensity retail could go in as well. There were no specifics on the type of office.

Mr. Howard asked to be shown where Exit 136 was as that was where Ms. Kirkman indicated there was going to be additional business.

Ms. Kirkman stated there was some business outside of the USA which they discussed. If a rezoning request came in with a business use which also had a request for extension of water and sewer that it could be considered in conjunction with that type of rezoning request. For now, one of the guiding goals was to pull all the agricultural area they could out of the USA which was why it was like that.

Mr. Fields stated he would like to thank everybody for all their hard work. Tightening the USA was the real key to defining how they want this county to look. He understood Mr. Mitchell's comments and he agreed that the two biggest employment drivers were going to be Quantico and the Courthouse area with the hospital. In general, envisioning a broader type of business use for that section or perhaps a commercial mixed use kind of vision was probably a good plan. The airport

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eventually would be a driver of some other types of development. There were a number of reasons why they wanted to keep the center part of the county productive but not away from any type of residential development of any intensity. He stated it was a great job and a great start.

Mr. Di Peppe made a motion for this draft to go to public hearing. Mrs. Carlone seconded.

Mr. Howard asked if the committee discussed what type of business they would want there.

Mr. Di Peppe stated he did not think they got to that level of specificity. What they were trying to say was looking at the overall land use and where would they want what and how would they direct their growth and what types of land uses and what areas. It was based on certain pre-existing conditions that were inherited and then in moving forward in the Comprehensive Plan certain things that they wanted to see happen and they were trying to make all that come together in a land use map. He stated that was the hardest thing to do in the whole Comprehensive Plan process.

The motion passed 6-1 (Mr. Mitchell opposed).

Mr. Fields stated they had an unfinished ordinance committee issue regarding commercial apartments.

Mr. Stepowany gave some background of what had happened in the last three weeks since this was raised at the last Planning Commission meeting and explained the agenda meeting and what happens at staff level. Planning and Zoning Department management gets together and would discuss the next meeting's agenda. When staff works on an agenda and it includes an ordinance committee, that would be discussed by the management team at the agenda meeting. On the Monday prior to the last Planning Commission the idea of commercial apartments was also raised in the comp plan committee to evaluate and determine what kind of impacts it would have. He stated he was informed by the management team that staff would recommend that such a change to the ordinance should be determined first through the Comprehensive Plan. There was no proposed text ordinance sent out with the Planning Commission package so the Planning Commission may want to determine whether they want this to go forward as an ordinance or to be part of the discussion for the Comp Plan. He stated that was why there was no actual ordinance or memo prepared even though it was on the agenda. There was also discussions about including this item as an example of what would be done with the zoning ordinance rewrite in the sense that if the Comp Plan did not include it that the ordinance would be rewritten as part of the rewrite that was brought to them to include eliminating commercial apartments or if the Comp Plan came up with a different type of residential component of commercial type property or density requirements or other type of requirements to be addressed as part of the Comprehensive Plan because that was asked of staff to do.

Mr. Harvey apologized to the Planning Commission and stated in their internal discussions the bottom line in answering it was there was nothing put out to them and so they put down for discussion purposes. Ms. Kirkman helped out by providing the easy text that would come along with doing the amendment to eliminate commercial apartments as a use permitted. In reviewing that staff had one question for the Commission if they were inclined to entertain the ordinance. There were a few businesses including a mini storage that had a unit on site for the resident manager and if that was something that the Commission would want to consider keeping in the ordinance or not. There was a designation in the industrial zone of a use that was permitted by conditional use permit for residents of night watchmen or caretaker and did not know if that was something that the Commission would want to consider allowing in the B-2 zone where there was mini storage as a permitted use, otherwise it would be prohibited.

Mr. Di Peppe stated the real problem they were worried about and why there was some interest in moving this along quickly and not waiting for the Comprehensive Plan was that the Planning

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Commission members felt a little vulnerable because there does not seem to be any limit to the amount of commercial apartments that could happen in the commercial zoning districts. He personally could support an ordinance that would allow one apartment with a storage unit because that was not the intention of taking all of the apartments out of the commercial zoning districts. He stated they were worried because the way the ordinance was currently written someone could come in with a massive amount of commercial apartments and they did not want to see that happening.

Mr. Stepowany stated they would have to come in for a conditional use permit and that was a change that was made last year. That was one of the concerns that the Board of Supervisors had and they wanted to be able to evaluate to make sure that a property that was going to have commercial apartments was suitable for commercial apartments. He stated that was one of the reasons why the Board of Supervisors requested that this use be changed to a conditional use permit, so in a sense the Planning Commission would have a say in the matter with whether the property could be redeveloped with commercial apartments.

Ms. Kirkman stated she would support putting in very specific language just for B-2 for that type of night watchman facility. She was not comforted by knowing that this use was regulated by a conditional use permit. As far as she could tell this was the only residential use they have in their entire Zoning Ordinance that could be obtained through a conditional use permit and it was her understanding they could not collect proffers for conditional use permits. In addition it was quite hard to deny conditional use permits. She stated in doing some rough calculations based on just the B-2 zoning district, if they all came in with what would be reasonable sized apartments around 1,000 square feet they could put 18,000 in just the B-2 district alone. She stated she did think they needed to move on this and not wait on the rewrite of the Zoning Ordinance and not wait on the Comprehensive Plan.

Mr. Rhodes asked why they could not deny a conditional use permit.

Mr. Fields stated the process of rezoning for a use versus a conditional use permit was vastly different. The rezoning gave a very broad authority to shape the future of that parcel in the best interest of the county and especially in terms of collecting proffers, both cash and non-monetary were inclined contributions. A conditional use permit gave no authority and would allow you to mitigate the impacts of that use in that zoning category.

Mrs. Carlone stated recently the LC was approved and they were allowing the workers to have apartments.

Mr. Stepowany stated they had to come up with a specific term for that type of dwelling.

Ms. Kirkman asked Mr. Harvey if he had language from the industrial he could add to the B-2.

Mr. Harvey stated yes.

Mr. Rhodes asked if there had been any other staff consideration of the ordinance change.

Mr. Harvey stated the only other thought and some general discussions they had was that now they did not define what a dwelling for a night watchman or caretaker was but through the conditional use permit process they could restrict square footage, size, number of units and those types of things.

Mr. Di Peppe stated he thought the majority would like to move ahead.

Mr. Howard stated he would need to have the document in front of him.

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Mr. Di Peppe stated they would direct staff to have tex by the next meeting.

Mr. Stepowany stated what Ms. Kirkman had was very simple.

Ms. Kirkman stated all they were doing was deleting the words “commercial apartments”.

Mr. Fields stated they would just develop language for adding the caretaker employee.

Mr. Stepowany stated they could go to the B-2 and add the caretaker as a conditional use permit.

Mr. Di Peppe asked if they would still need a conditional use permit.

Ms. Kirkman stated yes they would need a conditional use permit because there was not a definition of it.

Mr. Di Peppe stated the only thing was the burden of \$7,000 to \$10,000 for a conditional use permit to get a night watchman for a storage unit.

Mr. Howard asked if that was what they had to do now.

Mr. Harvey stated in the industrial zones yes.

Mr. Di Peppe made a motion for approval for a public hearing with the Planning Commission for an ordinance to amend Section 28-295 of the Zoning Ordinance. The amendment established regulations pertaining to the Zoning Administrator’s determination as recommended by the Planning Commission. 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. This was the alternative ordinance. Mr. Rhodes seconded. The motion passed 6-1 (Mr. Mitchell opposed).

Mr. Di Peppe made a motion for approval for a public hearing with the Planning Commission for an ordinance to amend Sections 28-25, 28-62, 28-123, 28-124, 28-125, 28-126, 28-127 and 28-136 of the Zoning Ordinance. The amendment established regulations pertaining to posting of CRPA 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. This was the alternative ordinance. Mr. Rhodes seconded.

Mr. Howard stated he had a concern regarding the maintenance of the sign. He was not sure how a homeowner would maintain the sign or how and where they would reorder one.

Mr. Harvey stated they would go to the Code Administration Department and get the specifications and then go to a sign company and have one made.

Mr. Di Peppe stated after they put it up then it would be the homeowner’s responsibility to maintain.

Mr. Harvey stated it would be the home builder’s responsibility to put it up when the house was being constructed. In the future if they had a program where the county would replace signs they would probably end up charging the homeowners for the signs.

Mr. Howard asked if that was legal. As a county, if they were protecting county resources, could you require a single homeowner to actually pay for a sign.

Mr. Di Peppe stated the RPA was on their property.

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Mr. Howard stated it was on the property but there was a tax abatement. Typically, on your homeowner's property tax you can remove that portion of the property from you paying taxes on it.

Mr. Fields stated maintaining that sign was a small price to pay for that tax break.

Mr. Howard stated he was just bringing it up because he was not sure how they would hold a homeowner accountable without having an avenue to provide the sign.

Mr. Harvey stated in some regard it was somewhat similar to an address on your house. The county code required you to have your address posted on your property but the county does not pay for you putting the address number on your house or mailbox.

Mr. Howard stated there was no requirement that told them they have to use a specific size sign with metal but they were causing someone to pay a certain amount of money which was fine but there was no way for them to obtain the sign. He did not know if it was logical the way it was written.

Mr. Harvey stated it may be a recommendation for the Commission to consider and forward onto the Board of Supervisors.

Mr. Mitchell stated he agreed with Mr. Howard because he did not see any other signs that homeowners were responsible for other than their address.

The motion passed 5-2 (Mr. Howard and Mr. Mitchell opposed).

PLANNING DIRECTOR'S REPORT

Mr. Harvey stated at the Board of Supervisors meeting they approved the Heritage Resource Interpretation Zoning District and renamed it following the Planning Commission's request. They also approved the Holiday Inn Express CUP, they deferred the Teen Challenge CUP application for 30 days. They denied the ordinance change to allow mulch sales by-right in the A-1 zone and following that action they also initiated CUP applications for two (2) businesses in the county for them to be allowed by CUP for mulch sales in A-1. He stated one issue staff wanted to ask the Commission was whether they wanted to consider modifying the summer schedule similar to the Board of Supervisors or continue with two (2) meetings a month during the summer months. The Board's current schedule was in July they cancelled their second meeting and in August their first meeting of the month.

Mr. Fields asked if anyone was opposed to following that meeting schedule.

Mr. Rhodes stated that would be cancelling July 16 and August 6.

COUNTY ATTORNEY'S REPORT

None

SECRETARY'S REPORT

None

STANDING COMMITTEE REPORTS

Ms. Kirkman stated the Transportation Committee's next meeting would be a joint meeting with the Board's subcommittee on the Transportation Bond Referendum on the 4th Wednesday of May at 6:30 p.m.

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Mr. Rhodes stated the Transportation Bond Committee was collecting information on what the Youth Driver Task Force work had identified. He spoke of the slides they presented to the Board of Supervisors in October 2004 as their final presentation and updated the Commission with information he was able to collect as to where the recommendations went. He gave them a sense of how they developed their recommendations in their report, the information they had found and presented and the logic behind it and any updates since then on those particular recommendations. They also received a presentation from FAMPO on some of those plans.

Ms. Kirkman stated they were making dents in trying to get accident information collected in one place, from all the various agencies that collect that data, because they did want to incorporate the safety aspect into the transportation planning as part of the Comprehensive Plan.

Mr. Rhodes state Fulton deLamorton had a working draft showing 2006/2007 information for fatalities, for accidents and vehicles per day data, and it appeared he had come along significantly on that project.

Mr. Di Peppe stated he wanted to remind everyone that the Comprehensive Plan subcommittee meeting was scheduled for May 19 at 6:00 p.m. in the ABC.

SPECIAL COMMITTEE REPORTS

None

CHAIRMAN'S REPORT

None

ADJOURNMENT

With no further business the meeting was adjourned at 10:30 p.m.

Peter Fields, Chairman
Planning Commission