

STAFFORD COUNTY PLANNING COMMISSION MINUTES
April 19, 2006 Special Meeting

The special meeting of the Stafford County Planning Commission of Wednesday, April 19, 2006, was called to order at 6:20 p. m. by Chairman William Cook in the Board of Supervisors Chamber of the Stafford County Administration Center.

MEMBERS PRESENT: Cook, Pitzel, Kirby, Carlone, and Mitchell

MEMBERS ABSENT: Di Peppe and Rhodes

STAFF PRESENT: Harvey, Zuraf, Stepowany, Roberts, Knighting, and Merryman

DECLARATIONS AND DISQUALIFICATION:

None

PUBLIC PRESENTATIONS

PUBLIC HEARINGS:

Mr. Cook explained that the staff would give a report and then he would call three people at a time to come forward for public speaking.

1. Ordinance 06-15; Water Resource Protection Overlay District (formerly Sensitive Resource Overlay District)

Mr. Stepowany presented the staff report. He stated that staff believes it would set standards for development near environmentally sensitive resources, as recommended in the Comprehensive Plan.

The Public Hearing was opened.

Kathy Beard, Stafford Council for Progress, stated that she would like to defer her time to Mark Hedley, with Wetlands Studies and Solutions.

Mark Hedley, Wetlands Studies and Solutions, showed maps and gave a presentation concerning the areas of the county that would be affected by the proposed Ordinance.

Ray Pollock, Stafford Citizens for a Sustainable Future, spoke in favor of the Water Resource Overlay. He gave a presentation showing areas with problems and told a story. He stated in his opinion the proposal insures value of property.

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John Harris, AdHoc Group, Citizens to Preserve Property Rights (CPPR), stated he feels the objective of this proposal was to protect property rights, to establish and provide incentives for landowners to maintain farms, to continue to support land use taxation, to discourage sprawl, and enforce current erosion laws. He stated there was a need to promote a sense of community and reward stewards of large parcels. He stated the Ordinance as written was inconsistent and should be deferred to committee for further study.

Kay Pollock showed photos of damage in the county because the property protection for water quality does not exist. She stated something needs to be done to protect the wetlands and she urged the Commission to approve the proposed ordinance.

Rick Scrwen, asked the Commission to deny the proposed Ordinance. He stated in his opinion it was a violation of his 5th and 14th amendment rights. He asked the Commission if they felt these buffers were critical for the County welfare, why the County did not purchase them. He stated in his opinion this would affect the property values. He stated we have enough rules and asked the Commission to enforce the current rules.

Gerald Snellings stated he owns 120 acres in south Stafford, and he is opposed to this proposal. He stated of the 120 acres about 80-85% would be virtually unuseable because there are three streams that go through the property. He stated in his opinion if we loose the right to develop our property, we would not have a nest egg in old age to take care of ourselves.

William Port thanked Kathy Beard for the package he received. He stated in his opinion there is a need to have criteria before implementing Ordinance.

Harvey Gold, Fredericksburg Area Builders Association, stated the Builders Association opposes the Ordinance because the process was wrong. He stated they feel that the proposal measures to restrict and would affect land values.

Larry Fisher stated he opposes the Ordinance and feels it was not fair. He stated the environment needs to be protected but this was not the way to do it.

Gary Clark spoke against the proposed Ordinance. He stated he has 13 acres and if the proposed Ordinance passes he would loose eight acres which was not fair. He stated it was his land and he pays taxes on it.

Bob Gollohon stated all are concerned about the environment and taking away the amount of land that can be developed. He stated the problem was not addressing the key issues in growth. You can not blame the developer, but if the developers are the offender, then you should ask them to help solve problem.

Diane Portner stated that one third of the family farm which was owned by her mother was in Stafford County the other in portion was in King George County. She stated her

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mother has followed strict regulations as to what she can do with the land because they are adjacent to the Rappahannock River. She stated in her opinion this would make her land worthless. She stated her mother has preserved the land for her children and grandchildren. She stated the proposed Ordinance does not consider the residents that have been here all of their lives.

Jack Bailey stated that tools do exist today to contain runoff, and address these erodable issues that we have in this county. He stated in his opinion enforcement was required. He stated he has learned in 23 years that life and business was about seeking balance. To give you some numbers in 2000 builders could buy developed lots from \$33,000 to \$35,000. The public was appalled when a local developer put a lot on the market for \$42,000 in the spring of 2000. In the spring of 2004, we put together a project with an infrastructure cost, no engineering, no soft cost, no carrying cost with the same number of \$42,000. He stated currently he was trying to hold the developer cost down on the same lots to be less than \$60,000. He stated some of increase was market driven, but a large part of the increase in cost is directly attributable to what the county requires the developer to do.

Tom Sablon, Jr. stated that he has agriculture property and supports the proposal for all the obvious reasons.

Belinda Casto-Landol stated she would like to tell a story that took place across from Brookmills Subdivision on Brooke Road. She stated in the spring of 2003 Brooke Road frequently flooded with water rushing over the top of the road. She stated high water signs were frequently posted and one night in February her family watched as a van entered the high water and stalled. She stated in an attempt to go around the stalled vehicle, their car also stalled. She stated Brooke Fire Department was called out and waited approximately two hours as tow trucks removed the cars from the high water. She asked the Commission to please approve the proposed ordinance.

Bettina McWhirt stated that her family has been life long farmers and A-1 land owners in the County. She stated in her opinion it was unfair to implement the proposed ordinance and impose the cost of the ordinance strategies on life long residents. She stated it was unfair because the proposed standards are aimed at longtime residents who still own land in agricultural area and who are not the significant consumers of county resources. She stated the proposal was not the best way to achieve the stated goals, protecting resources and controlling growth, because the majority of the land has already been developed or approved for development. She stated there are already sound federal, state and county regulations in place to protect sensitive resources such as wetland soils, floodplain, and the environment. She stated in her opinion the regulations just need to be fairly enforced across the board. She stated over the last several years the numerous proposed changes to the county ordinance and standards to include the protection of sensitive resources had a negative impact on the county because it prompted the selling and early development of some large land tracts which was the very thing you are trying to protect. She stated in her opinion this Ordinance would backfire and cause another wave of land selling and

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earlier than planned development. She stated we should target all area residents and not just the few A-1 land owners.

George McWhirt stated that his property has been in the family for over 100 years. He has lived there for 70 years. He stated he did not want to see anyone mess with it.

Majorie Gerhardt stated that her family has owned property for quite some time. She stated the proposed ordinance was not a fair measure to protect sensitive resources as it discriminates against A-1 landowners. She stated in her opinion other more equitable means should be pursued. She stated this ordinance was violating personal property rights and would cause a serious negative impact to our retirement and financial security. She asked the Commission to deny this ordinance.

Marvin Newton asked if the state gave authorization to pass such a down zoning in Stafford County alone. He stated in his opinion, this ordinance was because of Crow's Nest. He stated in his opinion there are already rules that need to be enforced. He asked what we are paying all those inspectors for if we are not getting the job done. He asked the Commission to vote this down.

Douglas Johnson stated he has worked in the county since he was 13 years old, and everybody knows that he was for property rights. He stated in his opinion this was taking property rights away. He stated the majority of the people are speaking against the proposed ordinance, but yet the supervisors still want it. He stated when he built his house he had to put up a \$2500 bond for the grass, then there was a drought and the grass died, so he now has to wait to get his money back. He asked if the Commission has the right to take the value of his property away from his children. He asked the Commission to consider what the majority was saying and vote against the ordinance.

George Colvin stated that he was not sure increasing the buffers was the answer. He stated poor practices beyond the buffer can cause the problem.

Danny Hatch stated he worked 18 years with VA Tech Soil Survey and 12 years as a county soil scientist for Fauquier County. He stated he was concerned about impact of this proposed ordinance on the availability of suitable landscape and soils for onsite drainfield systems. Many of the soils that we look at, especially in the coastal plains, have the better soils on slopes greater than 25 percent. He stated there are many things that can be done. He stated the Commission should not pass the ordinance and look at the Ordinance concerning erosion and sediment control.

Lou Ellen Whitefeather, representing the Stafford County Tax Payers Association, stated her family has lived in Stafford County for more than 4,000 years. She stated we need an ordinance to protect well water and creek water. She stated in her opinion the Commission was not taking the rights of the people away, but making sure they can survive in the county.

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Linda Muller stated in 2002 and 2003 she volunteered with Friends of the Rappahannock as a stream bio-monitor. She stated by taking samples from the river and creeks you can determine the life of the stream it supports. She stated runoff, as a result of serious soil erosion, chokes out the life of the water and plants die, oxygen becomes depleted, and fish and aquatic life diminish. She stated in her opinion the problem was compounded by development pressures in regions rich in steeper slopes or highly erodeable soils that may or may not be adjacent to streams. She stated we value our property rights, but with rights does come responsibilities, and if we want more of the same we can keep doing what we are doing or we can start to establish a legacy for our children by implementing a water resource protection program. She stated effective leadership recognizes a problem and sets forth a solution based action. She stated clean water for fishing, recreation or sustaining wildlife should be a concern that everyone has.

Becky Reed stated that she regrets that the map for the overlay district was not being considered at the same time as the Ordinance. She stated if it was, people would know if their land was involved. She stated this legislation applies only to new subdivisions of more than five lots and of course the overlay district or the map has not been drawn so the actual properties that will be in this overlay are not known at this time. She stated she would ask the Commission to refer this item to a committee, so that all the speakers who can have their comments considered.

Price Jett stated in his opinion the effect of the ordinance would reduce a number of places to live and would increase the cost of land. He stated when the cost goes up County employees won't be able to live in the County and will have to go to Caroline as some have done. He stated his own children don't know how they will be able to afford to live in the County. He stated in his opinion Stafford County will become a haven for the rich. He stated in short, this ordinance was going to ruin what we are trying to save. In his opinion it was going to ruin the quaint nature of the county and the prospect of those who are poor and most at risk in Stafford County. He asked the Commission to defer the Ordinance.

Marcia Keener stated after hearing her neighbors, she still supports the Ordinance. She stated she respects her neighbors and friends, their fear and their anxiety. She stated we all agree that water quality is precious. She urged the Commission to move this Ordinance forward.

Donn Hall stated he was representing his family which owns 119 acres in south Stafford. He stated his parents bought the land in 1947 and are currently in an assisted living facility. He stated the family was trying to hold on to the land by renting the farm out, but that does not cover the taxes on the property. He stated he feels everything was against the A-1 lot owners. He asked about the quarter acre lots, in his opinion they are causing the problems. He asked the Commission to deny the Ordinance.

Bruce Callander stated he supports the proposal. He stated the plan affects no land until districts are implemented, and establishing these districts would entail more public hearings and citizen input. He stated several studies have been conducted on the

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economic effect on down zoning and the conclusions are interesting and not in line with the conventional wisdom.

Jason Study stated he was an A-1 landowner and he was in favor of the Ordinance. He stated Indiana does not have much wildlife because the trees have been cut down and crops were put in. He stated he never saw a wood duck before moving here. He stated we have a wonderful resource in wildlife and in the streams. He stated he would love to see the Commission pass the Ordinance.

Otha Combest stated he owns over 80 acres and recommends denial. He stated in his opinion the present regulations are not being followed or enforced. He stated he recommends denial of the Ordinance.

Mamie Mickens stated she was against this ordinance. She stated she has lived in the County all of her life, and her parent's property has been in the family for close to 100 years, and we are still trying to maintain and keep the property. She stated in her opinion the proposed Ordinance was heartbreaking. She asked the Commission to deny the Ordinance.

Elaine Callander stated the Ordinance would set standards to protect water resources. She asked the Commission to use good judgment and have courage to do what was right to set and place standards to protect our water.

Deidre Jett stated that she was very disappointed, not in the proposal but in the process. She stated members of the Planning Commission had the opportunity to ask questions that the public could not ask of staff, and did not. She stated that was the opportunity to clarify the issue for all of the people here. She stated staff does not provide justification for the Ordinance. She stated if this was not the forum to do that then a public meeting should be held where people can ask questions and be provide justification as to why this was necessary. She stated difficult news would be easier for people to hear if the reasons why it was necessary are given. She asked why a map was not provided showing the boundaries. She stated as a property owner she would like to know if this Ordinance would affect her property and how. She asked why the County would propose an ordinance that goes above and beyond the Chesapeake Bay requirements and who determines intermittent streams and why are intermitted streams included in this proposal and not in the Chesapeake Bay requirement. She stated she received a brochure from the Stafford Council for Progress and asked why the County did not provide this kind of information.

Rafe Deckard stated he was against the Ordinance. He stated he believes we should protect water quality, but things could be done without destroying property rights. He stated by creating a buffer and not doing anything else, this was not really going to improve the quality of the streams. He stated in his opinion we need to have proactive things built into our codes. He stated in his opinion there are better ideas out there. He asked the Commission to deny or delay the decision until further studies could be provided to improve our waterways.

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Debra Deckard stated she was against the proposed Ordinance. She stated she does not want property rights taken away. She stated she would like to pass her property down to her children.

Nelson Crocker stated he has owned his farm for over 40 years. He stated he could not believe the Commission would ask citizens to make a decision on something, when all the details are not given out. He stated he did not want to sell his house and property, but the regulations are making it tough on him. He stated in his opinion you are taking away half of property owner's retirement and this was a back door to down zoning.

Nan Rollison stated as the environmentalist as quoted in the paper as helping draft this ordinance I would like to use this opportunity to address three points. She stated the conversion tonight was revolving around three basic areas. She stated the science of protecting watersheds through the protection of slopes, economic impacts of chaining land use patterns, and three the roles and responsibilities of local government. She stated to the science of protecting watersheds by minimizing disturbance on steep slopes. She stated when a landowner sells their land; basic human nature would be to get as much money for that piece of property as possible. She stated all the wonderful ideals of conserving the land needs to be balanced. She stated they need to find tools to lessen impacts on land owners. She asked the landowners to be patient.

Sally Lou Fitzhugh stated that her family has been supporting Stafford County for over 350 years. She stated in her opinion there needs to be an incentive to keep open space.

Mike Berry stated he was against the overlay. He stated we currently have laws and they will stop the water from becoming full of silt. He stated we have enough rules in place, someone needs to enforce them.

Rob Gollohan stated in his opinion, the problem was that we are going too fast with this Ordinance. He stated we need more time to meet with the development community, engineers to develop the proper standards. He stated we need development standards that are across the board. He stated he was in favor of protecting title water and maybe additional buffers would be a requirement. He stated in his opinion the process was wrong, not the thought. He stated we just need to improve the process and that takes time.

Arthur Hart stated he served as an elected official for the Soil and Water Board. He stated the Board has not taken an official position on this. He stated we are trying to keep soil on land and out of the streams. He stated in trying to keep the streams clean, more protection was needed for the streams. He stated Virginia spends less on natural resources and asked the Commission to please protect our natural resources.

Dave Holsinger stated he owns 100 acres in White Oak. He stated he does not plan on developing his land, but keeping it for his children. He asked the Commission to keep the value of the land for our children so they can live in Stafford County.

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Bob Burner stated he thinks people are living in fear because Board of Supervisors was trying to downzone property. He stated currently there are 30 Ordinances on line now that would affect the rights of the property owners. He stated by the end of the year, if you pass those ordinances, the A-2 zoning would in effect be null and void. He stated you will not be able to build on an A-2 lot. He stated two weeks ago the Board of Supervisors passed a Resolution for the minimum size of a drain field, and now we are talking about adding CRPAs across lots. He stated the developers commission the environmental consultant to draw that map with the maximum impact because no one would not tell us where to put the RPA. He asked the Commission to evaluate streams, and the Chesapeake Bay, along with the property rights and density.

Patricia Kurpiel stated she would like to see the Ordinance passed. She stated her lot and others have not been impacted because this was an overlay district, and this was a two step process. She stated when the overlay district was drawn we would all receive legal notices if our property was in the overlay zone, and at that point we all have an opportunity to come back and speak again about the fact that our properties are in that zone. She stated it was time that we protect these resources now.

Jo Knight stated she recalls skiing in Aquia Creek, Potomac Creek and Accokeek Creek. She stated she remembers falling off the skis and thinking the silt would swallow her. She stated in her opinion there was less silt in the Creeks today than years ago. She stated the Ordinances currently in place are enforced and have made things better. She stated in her opinion this Ordinance was not well thought out, it was not to protect our environment, but to restrict development and probably to better achieve the taking of Crows Nest.

Craig Johnson stated that people are scared about property values. He suggested the environmentalist, members of the Commission, Board of Supervisors, developers, and builders meet and try to reach an agreement for the community and the citizens.

Cecilia Kirkman stated she was representing Save Crow's Nest and the organization supports this Ordinance. She stated she has taken photos into Code Administration and Planning and asked them to please do something, and each time she was told the plans are in compliance with the existing rules. She stated the existing rules are not good enough for environmentally sensitive areas of the County. She stated that was why the overlay was important, because it could be applied to only those parts of the county where additional protection was needed. She stated areas such as Crows Nest, which are primarily very steep slopes and highly erodible soils, numerous intermittent streams and many perennial creeks that feed directly into the Chesapeake Bay. She stated we have heard from developers and citizens and in her opinion they are being misinformed. She asked the Planning Commission to approve the Ordinance stating that in her opinion this was good legislation because it will protect the select environmentally sensitive areas of the County that need it.

Tommy Cropp stated when this Ordinance was presented in October 2005 a map was also presented. He stated that map showed three parcels, Crows Nest, Widewater and Park

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Farm in Hartwood. He stated in his opinion a committee should be formed and should include a landowner or a farmer. He stated the current rules have to be enforced.

Ray Freeland stated in his opinion confusion and misunderstandings are caused by the fact there are no proposed areas or a map showing the affected areas. He stated getting the citizens stirred up has become an annual event and in his opinion this was the same thing in a different package and the citizens are concerned. He stated parts of the Ordinance are more restrictive than Chesapeake Bay Act. He stated there are enough rules in place and now was the time to enforce them.

Keith Johnson stated he has kept a tally of the speakers and the results are 40 against and 13 in favor of the Ordinance. He stated after viewing the pictures that have been presented showing problem areas, he was convinced there was a need to find the source of the erosion. He stated enforcement was required to locate the source and correct the problems. He stated Stafford was not involved in any monitoring program and it was not mandatory that reports be submitted. He stated in his opinion the regulations that are in place need to be enforced. He asked the Commission to deny the Ordinance.

Linda Musselman stated that she was not a large landowner, she owns 11 acres. She stated she understood the Commission had been given a directive to get this item back to the Board of Supervisors in a certain timeframe, which puts a lot of pressure on the Commission. She stated she hopes the Commission would consider the comments heard tonight. She asked the Commission why the research was not done by the County to present maps with the possible impacts. She stated in her opinion if maps were available, citizens would be a little more comfortable. She stated the overlay would be put in certain areas if passed and the citizens are in fear until they know where those areas are. She stated when an area is impacted, the tax revenue could also be affected. She stated the citizens feel by putting extra restrictions on their property, the land would not be good for development and would lower the value of the property. She asked the Commission to recommend denial

Carlton Beach stated that he was against this Ordinance. He stated his family has been in Stafford County for over four generations and he has owned his land for over 50 years. He stated his father brought the land and he started working with him on that land when he was ten years old. He stated he has been working with the soil for 54 years, and has also been involved in landscaping and landscape maintenance. He stated he has 2 streams on his property, and the water has been so clean that people have come there to collect minnows to fish with. He stated the cattle drank from that stream, and he has never had a problem with it or with erosion. He stated there are some slopes on the property. He stated that his parents bought the property with the understanding if they had to, they could use it as a part of the source of their retirement. He stated his parents are now deceased, and he has not thought of selling the land until 6 months ago when he was diagnosed with a problem. He stated he now has to consider the value of the land to help with medical expenses and retirement. He stated if this Ordinance in enacted it could certainly devalue his property, and in his opinion it would not be an asset but a

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liability. He stated he was opposed to the Ordinance and suggested the need to enforce the current rules.

Gary Herrington stated that a lot of people have spoken and water quality was not the issue, it was how we are going to preserving it. He stated in his opinion this Ordinance has been pushed too fast. He stated he does not know how the Board could force the Commission to make a decision tonight without having an option to table the Ordinance and reevaluate. He stated in his opinion the Ordinance needs to be tabled and reevaluated. He suggested getting more input from some great organization out there such as Friends of the Rappahannock and the Builders Association. He stated everyone needs to be able to contribute to this decision, not just the Board of Supervisors who are dictating to the Planning Commission what to make happen.

Wayne Young stated that he has been a farmer all his life and has been in the dairy business for 40 years with his father and grandfather. He stated he was against the Ordinance and stated in his opinion the current laws should be enforced. He stated they had to work with the State and the EPA and never had any trouble because we took care of the land and the streams. He stated the streams are clean today. He stated in his opinion it was wrong to put this burden on the landowners.

With no one else to speak the Public Hearing was closed.

Mr. Cook stated that the meeting was advertised properly.

Mrs. Carlone stated that her property has 2 streams on 11 acres and has worked hard for her land also. She stated she has received lots of phone calls from people that are scared because of the letter they received for Stafford Council for Progress. She stated the people that are on the Stafford Council for Progress are contractors, builders and Clark Leming. She said the Commission was listening to the people and will try to work with them.

Mr. Mitchell stated that this was a tough issue and would go before the Board of Supervisors. He stated he was also concerned about property taxes and does not know if the Commissioner of Revenue was willing to lower the value of the land that would be affected. He stated this Ordinance does not list any piece of land and the Board would have to pass a specific overlay on a specific map. He stated the reason there were no maps was because this was a request from the Board of Supervisors. He stated there would be a map if the Ordinance was passed. He thanked the public for their comments.

Mrs. Kirby stated that she served as Chairman for the group that met for the Ordinance. She stated there were concerns for both sides and they were trying to reach a good compromise. She stated the Commission was given a time constraint and if you disagree with that then your gripe was not with the Planning Commission, but with your representative on the Board of Supervisors. She stated she would like to make a motion to put this item in committee. She stated she would like John Harris to be there as a representative of the Agricultural Committee.

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Mr. Cook stated that we should defer to the Work Session scheduled April 26, 2006 for further study.

Mrs. Roberts stated that this was one day past the timeframe and it could be deemed as approved if no action was taken tonight.

Mrs. Carlone made a motion to send to the Board a recommendation to refer the Ordinance back for further study and review with a 90 day extension. Mr. Mitchell seconded the motion. The motion passed 4-1 (Mr. Pitzel voted no).

PLANNING DIRECTORS REPORT

No Report

COUNTY ATTORNEY'S REPORT

No Report

SECRETARY/TREASURER REPORTS

No Report

STANDING COMMITTEE REPORTS

Mr. Pitzel stated the Comp Plan Steering Committee meeting was held Monday and the Committee is in the processing of defining the survey. He stated he spoke with some of the other members, and the Committee may actually turn into a real body with a Chairman. He stated he believes that is encouraging.

SPECIAL COMMITTEE REPORTS

No Report

CHAIRMAN'S REPORT

No Report

ADJOURNMENT

With no further business to discuss the meeting was adjourned at 10:05 p.m.

William Cook
Chairman