

**STAFFORD COUNTY PLANNING COMMISSION MINUTES**  
**October 26, 2016**

The meeting of the Stafford County Planning Commission of Wednesday, October 26, 2016, was called to order at 6:30 p.m. by Chairman Steven Apicella in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Apicella, Coen, Bailey, Boswell, English, Rhodes, Vanuch

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Stinnette, Baker, Blackburn

DECLARATIONS OF DISQUALIFICATION

Mr. Apicella: Are there any declarations of disqualification on any agenda item? Okay, seeing none, are there any changes to the agenda? Okay. It's now the Public Presentations portion of tonight's meeting. This is an opportunity for the public to speak on any matter except tonight's scheduled public hearing items, of which there are two. There'll be a separate comment period to provide comments during those public hearings. Please state your name and address before you start your comments and address the Commission as a whole. You have 3 minutes to speak when the green light comes on; the yellow light indicates you have 1 minute left; and when you see the red light, please wrap up your comments. So, if anyone would like to come forward and speak, please do so now.

PUBLIC PRESENTATIONS

Ms. Hall: My name is Amy Hall. Thank you for the opportunity to speak to you. I have submitted to each of you a detailed list of my concerns about the Winding Creek application via email, so I won't need to repeat those tonight. Rather, I'd like to use my time to address some of the applicants' responses to your most recent inquiries. Mr. Payne addressed the issue of consistency with the Comprehensive Plan by referencing growth trends for the past 5 to 7 years, as compared to the growth from 1997 to 2007. The last 5 to 7 years is really the tale of two construction eras. It was just 8 years ago we experienced the great recession and most construction slowed or stopped in Stafford County. It wasn't until about 3 years ago that construction ramped up, particularly in the Winding Creek area with the introduction of Embrey Mill, Colonial Forge, and the Liberty Knolls subdivisions. Averaging growth over the last 5 to 7 years doesn't really accurately reflect the impact of the most recent construction boom on County residents. Unlike the '97 to '07 growth surge, this new growth has not been supported by road and school construction. Mr. Payne pinpointed the problem when he wrote, I think the point is location of growth. I agree completely. Growth in the Winding Creek area is concentrated in location and in time span, and the impacts on road safety and schools affect daily life for all County citizens who live in the area or who travel through the area. We're building housing before we build infrastructure, and we're building so quickly we can hardly evaluate the impacts of any individual decision before it has overtaken by new circumstances created by other decisions. Mr. Payne addressed the school crowding question by writing, I believe to apply a spot school generation analysis upon only certain residential projects is inequitable. I understand his position since he can't control building and redistricting of schools. However, his premise is exactly the description of the problem that Stafford is facing when these applications are reviewed as single projects without consideration for their cumulative impact on the quality of life in a given area of the County. The Winding Creek application must be considered in combination with previously approved applications and other County projects. For example, the traffic evaluation contained in the application was conducted on April 1, 2014, despite the new 2016 date at the top of the page. I've included my concerns about the scoping of

***Planning Commission Minutes***  
***October 26, 2016***

the traffic study in my email, but I must reiterate that the removal of the Fireberry connector moves all traffic in and out of the development to Winding Creek Road and exacerbates the problems with road safety there. I would ask you to consider the changes to the Winding Creek area since April 2014, when the traffic evaluation was done. How many homes have been built and occupied in the Colonial Forge, Liberty Knolls, and Embrey Mill developments thus increasing the number of cars on area roads? How will the connection of Embrey Mill to Mine Road impact the number of cars travelling on both Winding Creek and Embrey Mill Roads? It doesn't take much imagination to guess how drivers will avoid the delays during the Courthouse and Garrisonville Road widening projects. Why sit in traffic, like I just did, when you can use the back roads and get to and from I-95? You asked for accident reports from Winding Creek Road. Those reports are no surprise to me. I hear the sirens. In fact, you can add one more accident to the Walpole/Flatford/Winding Creek intersection; it happened as I was writing my letter to my Commissioner two weeks ago. My 16-year old daughter just got her driver's license. Teaching her to drive has opened my eyes to the dangers of our Stafford roads. Winding Creek Road is at the top of my *avoid at all costs* list. Sadly, we can't avoid it often, but when we have the choice we do. Thank you.

Mr. Apicella: Thank you. Anyone else like to come forward?

Ms. Hall: Sorry, we came as a family.

Miss Hall: Hi, my name is Amanda Hall, her daughter. My mom asked me to tell you about my school, Colonial Forge. I'm a junior there. It's really crowded this year. I didn't get a locker because they didn't have enough for juniors and seniors. When it's time to change classes, the hallways are always full. It's hard to get to class on time if you have to get to the other side of the school. Lunch is crazy, too. If you get to lunch late, you have to stand there for a really long time before you can get your food; then you don't have much time to eat it at all. I really like the school but it's really crowded. And the bus system can get really crazy too, because all of the buses are just like... they're always packed. Like my bus last year had 3 high schoolers, sometimes 4 to a seat, and that doesn't work in high school. My mom also asked me to tell you about the figures 1 and 2 on the handout she provided. They show how crowded are schools get. In figure 1, my mom added the program capacity comparison numbers because program capacity is the measurement of how full the schools feel. In case you didn't know, some classrooms in school have been set up for special needs students. Sometimes these... they need special equipment or just smaller classes so they can get more help. The program capacity shows how much room you actually have when you take those special classrooms into consideration. As you can see, we're pretty full. Figure 2 on the handout shows the potential student increases and the 3,179 new residents that have already been approved and are zoned to attend Winding Creek, Rodney Thompson, and Colonial Forge. Apparently, we should expect between 2,098 and 4,133 new students at those schools, and these numbers do not include the 64 to 126 students from the Winding Creek development. It's a lot of kids. Thank you.

Mr. Apicella: Thank you very much. Anyone else?

Mr. Hall: I think I'll wrap it up here. My name is Charles Hall. I'd like to add to the comments that my wife and daughter just began. It's important to evaluate the Winding Creek application in conjunction with other things going on in the County based on the cumulative effect on our schools. As my daughter, Amanda, said, the numbers for Winding Creek, Rodney Thompson, Colonial Forge are surprising. However, there's an even bigger concern related to the schools and this is why every development application should be considered in light of its accumulative effect on our schools. Please consider these numbers from 2016-17 student accommodation report. They are figures 3-5 on the handout. The Stafford County active residential listing 3/16/16 lists 46 approved residential

*Planning Commission Minutes*  
*October 26, 2016*

developments. These developments represent 8,397 housing units. Using student generation rates contained in tonight's staff report and in the Winding Creek application, we can anticipate the addition of between 5,542 and 10,916 students to our school systems from already approved developments. Let me say that again -- we should anticipate an addition to 11,000 students in our school system from already approved developments. It gets worse. Figure 5 shows the projected countywide student enrollment through 2025. These numbers are also a part of the 2016-17 student accommodation report. Based on the totals of the design capacity for all schools, elementary, middle, and high school, we will be jam packed through 2025. However, if you use program capacity, which is a much better evaluation of how schools are being used, we will be at 100% capacity beginning in 2023 in all County schools. And I must correct Mr. Payne and staff's report regarding new construction. The 2017 through 2025 Capital Improvement Plan does not include any school openings until 2028. Given these dates for the new school construction for the schools will be over program capacity countywide for at least 5 years if no additional residential... IF no additional residential development is approved. The Planning Commission can no longer waive off concerns about school overcrowding with answers about redistricting and building new schools. It's time to get serious about recognizing the cumulative effect of each and every development that is approved, even the small ones. My family and I urge the Planning Commission to disapprove this application as submitted, and decline to amend the zoning of the parcel thereby limiting the size of development to the by-right total of 20 homes. Until such time as the infrastructure of the surrounding area has been improved to provide safer routes to and from the parcel, inadequate classroom space for children who will live in the development. Or, if the Planning Commission recommends approval of this application, we ask that the Planning Commission to remove all assumptions and contingencies included in the application related to the safety improvements to Winding Creek Road and to accept the recommendation of the Planning staff to require the applicant to upgrade the Winding Creek Road to an urban two-lane major local standard in accordance with the Comprehensive Plan. Thank you.

Mr. Apicella: Thank you very much. Would anyone else like to come forward?

Ms. Callander: Good evening, I'm Alane Callander. I wanted to comment on the Winding Creek project which impacts the whole County. Even though I'm from Falmouth, I know my husband commutes out of the commuter lot North Stafford and drives, you know, in an area that is heavily congested because of all the traffic. There's already been some comments about that and the relationship with this cluster proposal. Cluster developments have unique positives and negatives, but I am thinking tonight about whether this development will bring faster population growth. It looks to me like it will. I'd like to slow down our population growth because clearly we can't handle what we already have. One sign to me that Stafford isn't able to handle this development is its lack of commitment in general to full service bus transportation. Even in our most urban areas, Stafford has not adequately invested in bus transportation to make it convenient for people to take a bus to get to work, to shop, or go to the pool or to the doctor on whatever day of the week or whatever time of the day. This to me is incredible, the lack of foresight and commitment in this area. I come from communities, small communities, that had excellent bus service. And as a child, I took the bus to various places around town. As an adult, I have taken buses to work. We just don't get it here in Stafford and I just wanted to bring that to your attention once again. Thank you.

Mr. Apicella: Thank you very much. Anyone else like to come forward? Okay, seeing no one else, I'm going to close the public hearing... the public presentations portion of the meeting. Mr. Harvey, first agenda item.

PUBLIC HEARINGS

*Planning Commission Minutes*  
*October 26, 2016*

1. CUP16151433; Stafford County Schools, Moncure Elementary School Building Height - A request for a Conditional Use Permit to allow an exception to the maximum building height requirement of 35 feet for an elementary school in the A-1, Agricultural Zoning District on Tax Map Parcel Nos. 20-66B, 20-66C, 21-15 and 21-16, consisting of 24.51 acres, located on the east side of Juggins Road, approximately 400 feet north of Chadwick Drive, within the Griffis-Widewater Election District. The proposed building height is 38 feet, 8 inches in height. **(Time Limit: February 3, 2017)**

Mr. Harvey: Thank you Mr. Chairman. The first agenda item will be a conditional use permit for Moncure Elementary School, a building height exception. And please recognize Kathy Baker for the presentation.

Ms. Baker: Good evening Mr. Chairman, members of the Commission. This item is a conditional use permit for Moncure Elementary School. This is for a new school that will replace the existing Moncure Elementary School located on Garrisonville Road. The CUP request is to exceed the allowable building height in the A-1, Agricultural Zoning District. The current allowable height is 35 feet in that district and this proposal is up to 38 feet 8 inches. And the property is comprised of four parcels on approximately 24 acres. And Stafford County Public Schools is the applicant. I will note that the County still owns the property. Once the site plan for the school is approved, at that point then the property would then transfer over to the schools. As you can see, this is the current zoning of the property. You'll see the four parcels highlighted in red. The location is on Juggins Road, and this is north of the Perry Farms subdivision. And you'll note that this is where Juggins Road takes actually two 90 degree curves; so it basically has frontage on Juggins to the south and to the west. The property is, as I said, it's zoned R-1, Suburban Residential, and the adjacent properties are also R-1 to the south. And then to the north, west, and east is A-1, Agricultural. And this is what the property looks like from the air. It's primarily wooded, again, with the frontage on Juggins Road. Juggins Road from this point to the end is a gravel road; it is state maintained to the end beyond the property. You'll note that to the south again is the Perry Farms subdivision which is an R-1 generally quarter-acre lot development. To the north is Smith Lake Landing, just a small four-lot subdivision with a minimum of 3-acre lot sizes. To the west is primarily undeveloped. There is one single-family residence up to the northwest, and then there is a single-family resident on the larger lot just to the east of the property. There is one... there's an area, two areas of wetlands. There's a swale that runs in this general direction along the property line. And this is the view looking from Juggins Road, basically where it takes it first 90 degree curve; so the property is to the right. I will note there was one minor error in the staff report. It did indicate that there was still a residential dwelling on one of the parcels. That dwelling has actually been taken down, so there are no structures remaining on the property. This is the Generalized Development Plan showing the proposed elementary school generally in the center of the property. And just to reorient you, this is Juggins Road curving around, and that direction is actually to the west. So, we're flipped over to accommodate the plan on the screen. So this is the location of the school. You would have one entrance off of Juggins Road into your bus loop and parking area, and a second entrance in this vicinity which would be for car riders, as well as additional parking areas. There will also be a recreational field in this location. And then you can see there is a tree line that would be retained around the north and eastern property lines. These are the proposed elevations for the school. A little difficult to see on this screen, but I just wanted to point out, and I'll show you a different perspective of the elevation in just a minute, but where you're measuring the building height is measured from the front line of the building. It's based on averages and the types of roof that you have, but I'm just going to point -- this is the location, this is the high point and the low point of the roof where we're measuring an average height on this hipped roof. And at this point is where the measurement of the 38 feet 8 inches actually is. So that's not the tallest part of the building, but that is how the Zoning Ordinance, as well as the building code, defines the measurements. This is... at the top here is your elevation that you see

*Planning Commission Minutes*  
*October 26, 2016*

from the front as you enter into that secondary entrance on the west side of Juggins Road. And then you're going to see your different elevations; this is your northern elevation. So, you're actually going to see more of the building because the way that the property slopes from the front of the building back to the north and the rear of the building. This is actually the rear elevation that you'll see. So you're actually going to see three stories; there is a retaining wall in this location on either side. So the building is going to really sit lower than it is from the front elevation. And this just gives you a better idea with all your different roof heights. This is actually the area where you're seeing from that front elevation, that is the highest point from the front of the building, from the front line of the building, that is what's going to show up at your 38 feet 8 inches. I just want to make sure everybody has an understanding about how that measurement is taken. This is just your rear-view. So, this would be looking from the western... excuse me, the eastern property line where the single-family residence is. So, really it is three stories; these are where your classrooms are going to be located. And again, drops down from the front of the building. Staff is recommending proposed conditions as stated. Limit the height of the building to 38 feet 8 inches. The school would be constructed in the general location as shown on the GDP, and that's to maintain that central location so that you do have room for buffers on the north and the west... excuse me, the east side; which is the 100-foot natural vegetation that we're recommending be retained. Also, proposed to use dark sky lighting on the site. There is an International Dark Sky Association which has different standards and recommendations for how to keep lighting and glare and sky glow at a minimum. And then also the Fire Marshal has requested the installation of the NFPA standpipes for fire safety. And that would be in addition to sprinkler systems throughout the building. With regard to the Comprehensive Plan designation, it is shown within the Suburban Land Use within the Urban Services Area. This change was actually made back in 2012 before this latest Comprehensive Plan amendment. I just wanted to note the Marine Corps Base Quantico zones. These were result of a Joint Land Use Study that was completed in 2014. You see the red star is the location of the proposed school site. And you'll see the hatching area; there was a question about where actual flight paths are with relation to this school. And there aren't any identified flight paths. This is the location on this side as to where the actual airfield is on Quantico. So, your flight paths are limited to this area. What the hatched area is, is an overfly area. It is where you may have aircraft come and go, but they have a limited ceiling where they can't come below 500 feet. So there's no concern with structure height or anything. The school is technically outside of that fly zone, but it's more of just an area where they have to communicate with aircraft that comes in to make sure they're aware that they are in this zone. With regard to the positives and negatives, it is consistent with the established pattern of development being in the Suburban area. The conditions would mitigate any potential visual impacts. And it does conform with the Comprehensive Plan. And so we do find that there are no apparent negative aspects. So, we are recommending approval of the application with the conditions as specified in the Resolution. And I'll be happy to answer any questions.

Mr. Apicella: Thank you Ms. Baker. Any questions for staff? Mr. Coen?

Mr. Coen: Just a couple, if I could. On the map you showed where the 38.8 was, but that's sort of in the middle. Do we know where the building... how high the building is at its highest?

Ms. Baker: Yes. And it was shown on the GDP and I know you can't make it out here. Give me just a second. So the high point which you see, going back to this area, is 47 feet 9 inches. And then the low point right here on that particular roof at 29 feet 8 inches.

Mr. Coen: Oh okay. And then, just another question on the site plan it showed the, I think it was a hundred feet of natural buffer. And my question that I sent to you was sort of in relation to we had a project where there was supposed to be a certain amount of buffer by Stafford Elementary School. But when you drive by it, there's actually a... it's only one row of trees with the idea that eventually we'll

*Planning Commission Minutes*  
*October 26, 2016*

plant more. So I just was trying to get at, and this is something I know Mr. Harvey I've bothered you about, but it just seems as though we say, oh yes, there's going to be a hundred foot buffer, but it ends up being not the actual buffer that people are used to seeing there. It's we're going to put in little things and eventually it'll be a buffer.

Ms. Baker: Well, this buffer...

Mr. Coen: So do we know it's going to be the actual trees that are sitting there, or is this... that's what I was concerned about.

Ms. Baker: Yes, it's intended to maintain the actual natural vegetation within that 100-foot area.

Mr. Apicella: Anyone else? I've got just one question, and that is would there be any benefit to or any detriment to making the maximum height 40 feet versus 38.8? And the reason I suggest that or am asking the question is it's a very precise number with 38.8 and things can always change during the construction process. So, there seems to be not a lot of wiggle room here. So, I'd hate to have to come back because they were 1 inch off of what they proposed in the CUP. So, I don't know if that's a question for you or a question for the applicant.

From the audience: It's fine.

Mr. Apicella: It's fine, okay. Does staff have any concerns if we change that to 40 feet?

Ms. Baker: Not that I'm aware of, no.

Mr. Apicella: Okay. Thank you Ms. Baker. Would the applicant like to come forward?

Mr. Horan: I'm prepared to answer any questions you might have of the project.

Mr. Apicella: Any questions for the applicant? And you are, just for the record?

Mr. Horan: Oh, I'm sorry. Scott Horan, I'm the Assistant Superintendent for operations for the Stafford County Public Schools.

Mr. Apicella: Thanks Mr. Horan. Any questions for Mr. Horan? Okay, seeing none, thank you very much.

Mr. Horan: Okay, thank you.

Mr. Apicella: I'll now open the public hearing on this matter. This is an opportunity for the public to comment on this particular item. Please direct your comments to the Planning Commission as a whole, not to any specific member. You have up to 3 minutes to speak. Please state your name and address when the green light comes on. The yellow light indicates you have 1 minute left. And the red light means you need to quickly wrap up your comments. If anyone would like to come forward, please do so. I see some people kind of looking at each other in the back. Feel free to come forward and provide any comments. We can flip a coin.

Mr. Giannopoulos: Yes, my name is Steve Giannopoulos and I live to the east side of the proposed school land. And the only thing that bothers me is, we were told that most of the vegetation or the trees would remain and that only just the necessary trees would be cut down that's necessary for the school.

*Planning Commission Minutes*  
*October 26, 2016*

Looking at the proposed what I see here in front of me, all the trees are gone with the exception of maybe a hundred feet of that buffer on the east side. And then the other thing is, what's going to happen with the road and all the additional traffic that is going to be coming up and down Juggins Road now, which right now we're kind of confined. And I see a lot of traffic coming through, just like on Moncure Elementary School today. You can't get through there when it's time for the kids to come to school or to leave. So, what's going to happen on that narrow road that is *not* a specific road just for the school itself? It's... you know, it's got homeowners on this road now. Where Moncure is right now, it's a road all to its own. And I don't see anything that has been addressed to help eliminate that issue. Thank you.

Mr. Apicella: Thank you sir.

Ms. Carlson: My name is Anita Carlson. Our property is behind the school as his is to the east. I ask the same questions. Juggins Road is a one-lane gravel road back and forth. There are seven of us that live there and it's very little traffic. That school is going to bring a lot more traffic to our road. Are they planning on widening it? Are they going to make it big enough to accommodate buses and cars? How many entrances are going to be going into the school? Is it going to affect the homeowners being able to get into their driveway? These are the kind of questions that, as a homeowner, I'd like to know. Also, he brought up a very good point about the hundred-foot buffer. The trees there are mature, tall trees. If they truly do leave a hundred feet, we won't be able to see the school. We'll still be able to maintain our privacy, the people that bought homes in that community, bought homes because we're away from everybody else. We enjoyed having our privacy. We'd like to be able to keep that. I'd like to know how that's going to be addressed. Thank you.

Mr. Apicella: Thank you. Anyone else?

Mr. Cobb: Yes, my name is William Cobb. I'm one of the four homes in Smith Lake Landing; it is to the north of the property. One of our concerns is we received a certified letter today that also talked about the fact that there will be a softball field, several fields, and a multi-purpose field again. That's going to bring a lot of extra traffic because that makes it sound like it's not just a school but there's going to be all kinds of community activities planned to take place there as well. We actually live on a private road, so we do have some concerns; what is going to happen with the road, our private road which is maintained by four homeowners? It is going to be where everybody that drives past the school is going to come down and turn around. So we do have some serious concerns about who is going to handle the cost of all the extra traffic on our road repairs. We are currently covering that ourself. And I also do have some concerns, too, as well about the maintaining that hundred-foot buffer. And then there are, as was mentioned, some wetlands there. My property, which adjoins the property, does go down directly into Smith Lake itself, which is one of the County reservoirs, so I do have some concerns that that area buffer be maintained because there is a reoccurring stream that crosses through the property there that does feed into the lake.

Mr. Apicella: Anyone else? Okay, I'm going to close the public... oh, I'm sorry. I'm looking at my microphone and not the person walking up forward. My apologies.

Mr. Davis: Hi, my name's Tom Davis. I'm in Smith Lake Landing, along with him. Like he said, private road. The biggest thing... concern I have mostly is dealing with the road itself. Rumor has it that the road is going to be paved all the way down to probably the last entrance to the school and then we're going to get a chip and tar type system after that for the rest of Juggins Road. And with the athletic field being in place... well, going back to the road, the first snowstorm we have, the first plow that comes down through there is just going to destroy that chip and tar road that's going to go through there and it's going to be a disaster for the seven residences that live back there trying to get out of it.

*Planning Commission Minutes*  
*October 26, 2016*

Part chip and (inaudible), you know, all broke up and everything. But with the athletic field there, it looks like it's kind of on the corner of Juggins and the private road of Smith Lake Drive which is actually right in front of my house. It's going to bring a lot of traffic back to our private road. I can envision lots of cars parking on our private road or attempting to park on our private road, and then just walking through the woods. I've had kids in athletics and I've coached in athletics in Stafford County for like 15 years, and every park I've gone to I've parked in a strange area and cut through woods. So, that's one big concern I have, is multiple cars being parked in front of my house going to the athletic field that's just right basically in front of my house and through the woods. And also, as they mentioned, cars bypassing the school, coming back, turning around on our road is going to be substantial. It's going to put a lot of wear and tear on our road that right now we have to pay for. We would actually like the County, if possible, maybe take over the road; if not the whole road, at least maybe the first couple hundred feet of it where most of the turnaround is going to occur. Because right now, at the end of Juggins Road there's really no substantial area to turn around. It's pretty tight down in the bottom of that hill. And that's all the concerns I have right now. Thank you.

Mr. Apicella: Thank you. Anyone else? Okay... oh.

Mr. Carlson: Thomas Carlson. There's really only one benefit living back there that I see from the elementary school moving over there. It's the fact that we'll actually finally have internet/cable. We've been told that they'll actually run it finally, even though it should have been run a long time ago. But, is that actually going to happen? I mean, are they actually going to run the lines at some point in time? I figured it'd be a better idea to do it ahead of time before they put the infrastructure in, then to just sit there and just wait. Because we've been waiting for this school to come in forever. Because this is the only, the only positive that I can see from the school coming in there is the fact that I won't have to sit there and have a T-Mobile hot spot give me 3 gigs a month so that my kid can actually do her homework and stuff. If that's actually going to happen, that's great if we do it ahead of time. If not, I really don't want the school there in the first place I guess.

Mr. Apicella: Thank you. Last call. Okay, I'm going to close the public hearing on this item. Mr. Horan, do you have anything you want to add?

Mr. Boswell: Can you answer all these questions?

Mr. Horan: Yes sir, I'll try to address these in order. First, I think some of the public that spoke attended a community meeting that we had when we tried to kick off the school and what we were planning to do. We plan to hold another one as the design matures to give them an update on where we are with the school, where we are with the road. I don't know if all of you are aware, but the road design for Juggins Road was removed from the school project, and it's a County project being managed by the County staff. The one gentleman is correct, as far as I'm aware; I haven't seen the latest design. But it will be... the road will be improved to VDOT standards, so it'll be widened. It will be paved. There'll be appropriate ditches, etcetera, etcetera, all the way up to the last school entrance. There'll be two entrances to the school being proposed, as you saw in the GDP. Right now, again, as far as I understand the road design, after the last entrance to the school and some small distance past there, the design of the road will change to, I guess for lack of a better description, a chip and seal. I would imagine VDOT would require some type of roundabout/cul-de-sac at the end of the public road for folks to turn around. There are concerns, and I would sympathize with the landowners of traffic. But, generally speaking, traffic for the most part won't proceed past that. I know there'll probably be some instances during a school year that it will. And there probably will be, but I believe the road design with a cul-de-sac, if I'm correct, should allow folks that pass the school entrance to turn around. As far as the hundred-foot buffer, as far as we're concerned, that's going to be the natural habitat. And so we are not

*Planning Commission Minutes*  
*October 26, 2016*

going to tear it all down and then plant, you know, Leland cypresses or anything like that to grow up in 10, 15 years. So our plan is to leave as much of the natural habitat as possible. And we plan to do that in the front on the west and the south sides of the school as much as possible. But it will be very spotty. It'll be small areas of mature trees that'll be left, because we will have to develop for the parking lot, for the building site, and for the athletic field. The athletic field, it's your normal athletic field that we put as part of our elementary school program. The softball field, or the t-ball field is actually what it is, will be superimposed on the rectangular athletic field so it's not two, it's one in the same. And it's part of our elementary school program. Unfortunately, we don't have it at the current Moncure Elementary School because of the site conditions and the size. But all of our new schools have a rectangular athletic field as part of that. We do view schools, especially elementary schools, as hubs to the community and we do view that there will be a lot of community activities at the school, as with all of our schools in the County. We have specifically identified the gym to be an enhanced larger gym so that the County can utilize that for its programs after school and on the weekends. So that was specifically planned and thought out to do. And I would imagine the field has the potential, and I say potential to be used by the Parks and Recs although not all of our elementary schools are used for Parks and Recs programs. I think... did I miss anything guys? Okay, I think I addressed all the items that were of concern.

Mr. Apicella: Thank you. Any questions?

Mr. Boswell: Mr. Chairman?

Mr. Apicella: Mr. Boswell?

Mr. Boswell: If I'm understanding you correctly, VDOT is now taking over the road going in there?

Mr. Horan: No, the County staff is managing it.

Mr. Boswell: Okay.

Mr. Horan: But, it's a... and again, I don't want to get the wrong terminology... but it's a cost sharing project with VDOT. VDOT has matching funds that will be provided by the state to help us do the rest of the road; and so the County staff is managing that. So part of the funds that were originally allocated for the road under the school project are going to be moved to the County to manage that project. And then there will be some state funds that will be matched.

Mr. Boswell: But it's going to be a VDOT standard road.

Mr. Horan: Yes sir. There always has been.

Mrs. Vanuch: And VDOT will continue to maintain it in the future.

Mr. Horan: Yes ma'am, yes ma'am.

Mr. Boswell: So my question... that leads to the gentlemen's comments, a couple gentlemen commented on the blacktop ending and the chip and tar beginning.

Mr. Horan: Yes.

Mr. Boswell: Who is in charge of where that stops and if the thing starts to break up because of all this extra traffic?

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Horan: The County Transportation Department, I guess if that's the correct term. Their department is managing the project. They've identified, and I don't necessarily agree with that characterization of what happens to certain types of asphalt. I'm sure there's County roads that have again this chip and seal description and they fair well during all forms of weather throughout all of our seasons. So, I'm really not in a position to talk at great length to that, but I can tell you it'll be relatively within 10 to 20 yards passed our entrance is the way I understand it. I haven't seen the latest design. It's also going through a design process and we are provided those at appropriate stages of the design to look at it.

Mr. Boswell: So, you're saying this isn't a done deal yet on how that's going to be laid out?

Mr. Horan: No, but I do believe, and I don't want to talk for the County staff, but I do believe that there is going to be a different type of road after the school. You know, it will be paved but it won't be to the same standards that the road from the beginning of Perry Farm all the way to the last entrance to the school. But I could be incorrect.

Mr. Boswell: But their question on, you know, the private road, if it starts to break up and they're having to maintain it.

Mr. Horan: No, I think the question was, on the VDOT road; they're concerned with the portion from where the school... last part of the school entrance to the private road. The private road... it's a gravel road all the way to the back of there and then it... the private road's paved.

Mr. Boswell: Well, they're concerned they're going to get some turnaround traffic in there (inaudible).

Mr. Horan: Correct. And I would imagine all the projects that we've dealt with, VDOT and requirements, VDOT requires if you have a road that ends that a cul-de-sac is built so that people can turn around. And so, I would imagine... again, I haven't seen the last... the latest design so I really can't comment. But that would be my guess.

Mr. Boswell: Alright, thank you.

Mr. Horan: Yes sir.

Mrs. Vanuch: And I had a question. Somebody mentioned that there was going to be a softball field or a field in the back, and I think you mentioned that too.

Mr. Horan: Yes ma'am.

Mrs. Vanuch: Is that going to have lights to it as well?

Mr. Horan: No lights.

Mrs. Vanuch: No lights?

Mr. Horan: Yes ma'am. And it'll be... again, it's superimposed as a t-ball field and it's superimposed on the rectangular field. So it won't be two separate fields.

Mrs. Vanuch: Gotcha.

Mr. Horan: Yes ma'am.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Apicella: Mr. English?

Mr. English: You said you're going to have another public hearing or...

Mr. Horan: Well, not a public hearing, a community...

Mr. English: ... community meeting?

Mr. Horan: Yes sir.

Mr. English: When you have that community meeting, are you going to have somebody from VDOT and from staff there?

Mr. Horan: We'll have someone from the County staff that's managing the project there.

Mr. English: They're going to be able to answer that question?

Mr. Horan: Yes sir.

Mr. English: I think the chip and tar... I mean, what he's talking about, chip and tar road is going to be a nightmare that continues like that, and I think it's going to be put on the residents. So I hope you really address that so it can get paved all the way.

Mr. Horan: It's not my position to address it.

Mr. English: Understand, understand.

Mr. Horan: We were just, originally as part of the school project, we were just going to ask (inaudible) to the last entrance.

Mr. English: And what about his internet question?

Mr. Horan: Well, we're going to have fiber optics, our fiber network that we have for the County schools which the County... many of the County buildings are on that loop. We're going to have fiber to the school. I don't know and I don't necessarily think that means there's going to be internet available if it's not available. I'm not familiar with it being available or not. So, it'll be on a fiber network to our school. Can we work with the provider? We are the provider, so, I mean, it's our fiber network that we're going to have on there. And of course we tap into the providers at different within our loop around the County. So, I'm not sure; I don't know enough to be able to answer his question but I'll certainly take it back and talk to our IT folks, as well as the providers. Again, I was not... I don't believe I was aware that there wasn't internet back there.

Mr. Apicella: Mr. Coen?

Mr. Coen: Just a couple quick questions. And this is a tag team to Mr. Boswell. Who can they contact about finding about the road? Because, obviously, that's not on your bailiwick, but who could one of those people call up?

Mr. Horan: Stafford County...

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Apicella: Would that be Chris Rapp?

Mr. Horan: It's actually... yeah, it falls under Chris Rapp and Alex... I don't want to butcher his last name, but he's the project manager.

Mr. Coen: Okay. And it's R-a-p-p?

Mr. Harvey: Yes.

Mr. Coen: Okay. And then the second question, sort of back onto the road thing and I'm not sure it's sort of you, but again, if I were one of those residents I'd have a question and you raised it, so thank you. You talked about a turnaround. Logic would say that if this is... and I've been up there; it's a narrow, you know, tiny little road... there's not... I would not anticipate there's a space for a turnaround so you'd have to get the land from somewhere. So is that coming from the County space or is that going to have to come from the landowners? And again, that's not so much for you...

Mr. Horan: Yeah, I really can't comment on that.

Mr. Coen: ... but it's something that they might want to think about. Because if there's going to be a turnaround, it's got, you know, there's just not mythical land up there. But the one thing you might be able to do, because looking at the plan, and you said that the trees would be spotty on the other part that's not the hundred-foot buffer, is I noticed I the drawing -- and I know it's just a rendering -- but it bops in and out. You may even want to have it that there are more trees between the field and the road so that the neighbors don't hear the noise.

Mr. Horan: Yes sir. Being on the west side?

Mr. Coen: Right, and that also would address your concern and his concern about having more of the natural foliage around it. I mean, that's one of the nice things about some of our other schools and other properties is that the natural vegetation sort of just makes it look like the area that it's supposed to be. So that's just to take into consideration.

Mr. Horan: Yes sir. We're probably at, I want to say, three weeks out I believe... three, maybe four... from submittal, our first submission to the TRC. And obviously that site plan will show what we're trying to accomplish with the trees. And so we'll certainly try to enhance it or retain as much as possible during that process.

Mr. Apicella: Any other questions? Mr. Boswell?

Mr. Boswell: Last thing. If possible, could you on the way out, could you meet with a few of those people and let them know who they can get in contact with in reference to the road? Maybe give them a contact name and number?

Mr. Horan: Certainly, yes sir.

Mr. Boswell: Chris Rapp's number, email or something? Alright, thank you.

Mr. Apicella: Anyone else? Thank you Mr. Horan.

Mr. Horan: Okay, thank you.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Apicella: And I just want to clarify for the public's sake, a lot of good questions and concerns were raised. The only issue in front of us tonight is a CUP...

Mr. Boswell: Height increase.

Mr. Apicella: ... on the height; whether or not we're going to grant something over what is currently the maximum of 35 feet. Okay, I'm going to bring it back to the Commission. Mr. Boswell, this is in your district.

Mr. Boswell: Yep, thank you Mr. Chairman. And as you put it, we're here tonight to just vote on the height increase. But I appreciate everybody coming out and thank you for your questions and hopefully we can get something resolved a little later down the road with the road and the other questions. But, for tonight, I'm going to recommend approval of CUP16151433.

Mr. Rhodes: Second.

Mr. Apicella: Okay, there's a motion and a second. Can I just offer, perhaps out of order, would you be willing to change that one condition to 40 feet instead of 38.8?

Mr. Boswell: That's fine.

Mr. Apicella: Mr. Rhodes, are you good with that?

Mr. Rhodes: Yes, great with that.

Mr. Apicella: Okay, there's a motion to approve the CUP with a modification to the height maximum to 40 feet. Please cast your vote. Okay, the motion carries 7-0. Thank you. Next item Mr. Harvey?

2. Amendment to the Zoning Ordinance - Proposed Ordinance O16-21 would amend the Zoning Ordinance to remove content-based provisions pertaining to the regulations of signs and establish new County-wide comprehensive sign regulations. The new regulations would prescribe the area and height of signs and the material from which signs are made, define which signs are permanent or temporary, establish display time limits for temporary signs, and establish when a sign display permit is required. **(Time Limit: November 6, 2016) (History: October 12, 2016 Public Hearing Continued to October 26, 2016)**

Mr. Harvey: Thank you Mr. Chairman. The next item will be a discussion about amending our Zoning Ordinance specifically for signs. And Susan Blackburn will give the presentation.

Mrs. Blackburn: Mr. Chairman, members of the Commission, this is still a public hearing left over from October 12<sup>th</sup>, the last meeting. And to do a quick rundown just of kind of where we started, the Sign Ordinance had been in the process of being reworked. But there was a Supreme Court decision, Reed v. the Town of Gilbert Arizona, and the final outcome of that case was that signs cannot be regulated due to content. And the Virginia Local Government Attorney's Association developed an ordinance to help the localities try to maneuver through these new regulations. And the proposed Ordinance that we had presented to you all is a blended version of both that document and the current County regulations. And one of the issues was the sign ordinance cannot regulate signs by content. And we listed several of them, as they show here; shopping centers, schools, subdivisions, model homes. And the changes in the ordinance were not to be designated... signs were not to be designated by specific zoning districts, but by residential, commercial, office, industrial, or planned development. Signs were designated as

*Planning Commission Minutes*  
*October 26, 2016*

permanent or temporary. And we further defined types of signs by adding more definitions and we discussed in the ordinance prohibitive material for permanent signs and gave a distinct list. Now, one of the items that you all had requested at the October 12<sup>th</sup> meeting after your discussion on the proposed changes, and you did have several concerns, and they were regarding the involvement of the business community in this process, how the two ordinances differed from size of signs, permits required; you also wanted to know regulations that were generated by the Court case and which regulations were not; and you instructed staff to provide a chart showing the comparison of the ordinances and also list the changes in the new regulations that were generated not by the Supreme Court case. This information was provided to you prior to the meeting so that you had a chance to read it and digest it and hopefully have comments and questions. And the items that were not determined by the Court case that we have in the ordinance are temporary sign regulations, no permit, there is a time limit, there is a number of signs, size... and the size of signs. Window signs, a permit is needed; no more than 25% of the window to be covered. Off premise signs, or what is also called general advertising signs, there is no setback, there is no distance between signs in the new ordinance, and they are expanded where they are allowed to be located. We clarified types of signs and materials that are prohibited, and restricted the use of changeable copy and EMC signs in agricultural and residential districts to be for non-residential uses. And any sign 2 square feet in area is no longer exempt from permit process unless temporary.

Mr. English: Mrs. Blackburn, I have a question for you. In reference to the temporary sign regulations, you say there's no time... I mean, there's a time limit; what's the time limit?

Mrs. Blackburn: The time limit is 60 days.

Mr. English: Sixty days, and who sets that time limit? Would you go out and say okay, you've got your signs up, and who keeps track of the time limit?

Mrs. Blackburn: The staff would have to keep track of the time limit.

Mr. English: So, if I... if you've got, hypothetically, you've got a hundred businesses in Stafford County that want to put a temporary sign up, I can't see where staff's going to have a hundred people to go around and checking that time limit. And you say that they would be cited, is that correct?

Mrs. Blackburn: We would develop a process for to validate when the signs were going up and how long they would be allowed to be there, and then when the signs would need to be taken down.

Mr. English: Okay, thank you.

Mrs. Blackburn: Yes.

Mr. Apicella: So, I kind of have a question about the sign temporary; I'm looking at the definition that's on page 8 of 37 of Attachment 1. It says, Sign, temporary; any sign intended to be displayed for a limited period, not to exceed 60 days in duration, for no more than two 60-day periods in a calendar year. It's neither permanently installed in the ground or permanently affixed to a building or structure which is permanently installed in the ground. My question is about any sign intended. Who makes the determination about whether a sign is intended to be displayed for a limited period or not?

Mrs. Blackburn: Well, if it were a permanent sign, it could not be... it would have a different type of construction because it goes... when you talk about the other types of signs in the ordinance, they have to be a monument type sign if they are a freestanding sign.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Apicella: I apologize; I'm not trying to be petty here. So, is anything that's not permanently installed therefore a temporary sign under this definition?

Mrs. Blackburn: Yes sir.

Mr. Apicella: Yes?

Mrs. Blackburn: Yes. Without getting into it in great detail, yes, that would be my first response.

Mr. Apicella: Okay.

Mr. Boswell: I have one.

Mr. Apicella: Mr. Boswell?

Mr. Boswell: On page 12, i. and j. talking about a temporary sign and the construction materials, it looks like... I'm confused. Can you put up a temporary sign constructed... it looks like you're saying you cannot use cloth, canvas, vinyl, paper, cardboard, fabric or other lightweight material under j. So, my question is, on these I call them vinyl signs -- I see a lot of the churches use them when they're having an event. Are they going to be allowed to continue to purchase one of those and put it up as a temporary sign?

Mrs. Blackburn: Yes. The sentence says any sign other than a temporary sign, and then it goes on to list constructed of cloth, canvas, and all of that fun stuff.

Mr. Boswell: But then j. seems to contradict...

Mrs. Blackburn: And then any temporary sign constructed of cloth, canvas, vinyl, paper, not well suited to provide a durable substrate.

Mr. Boswell: It seems to contradict itself, to me, is what I'm asking.

Mrs. Blackburn: Mr. Harvey, do you have any insight into that?

Mr. Harvey: Yes, and as we're discussing this and part of the code recommends is, in other words, something that's not temporary is going to have to be essentially made of wood or steel or durable plastic or something that's intended to last for a duration of time if it's going to be considered permanent. Whereas, any sign that's temporary, these things don't necessarily apply to it.

Mr. Boswell: So it's saying you can use that as a temporary sign?

Mrs. Blackburn: Yes.

Mr. Harvey: Yes.

Mr. Boswell: Okay. Alright, just making sure.

Mr. Apicella: I'm sorry, I need a follow-up in my logic trail here. So, again, if a sign is not permanently affixed to a building or structure, which is permanently installed in the ground, it is therefore a temporary sign and therefore those temporary signs that are not permanently meeting the

*Planning Commission Minutes*  
*October 26, 2016*

definition of a permanent sign, they can only be displayed for 60 days up to a maximum of two 60-day periods.

Mrs. Blackburn: Yes sir.

Mr. Apicella: Okay, just wanted for clarification. Thank you.

Mr. Boswell: The section... I've got to go back again real quick. The section that I'm reading it under, it says prohibitions based on materials and then it's saying, I read that j. to read that it's prohibited if you use those materials, is the way that I read it in the section that it's in.

Mr. Harvey: Mr. Boswell, I see... I was looking at subsection i. versus subsection j.

Mr. Boswell: Right.

Mr. Harvey: So the temporary signs that would be prohibited are the ones of cloth, vinyl, paper, cardboard, fabric.

Mr. Boswell: So I'm reading it right, they are prohibited to use that material to put up a temporary sign?

Mr. Harvey: They are not; that would be prohibited.

Mr. Boswell: Say what?

Mr. Harvey: Those materials would be prohibited.

Mr. Boswell: Yeah, you can't use that stuff, that's what I'm saying.

Mr. Harvey: Correct. So, you could use plywood, other lightweight materials that are durable.

Mr. Boswell: So these, I call them vinyl banner signs. We see them up and down... I bet there's a hundred of them between here and the County line on both sides of the road if you want to go through and count them up. Several churches, they put two (inaudible); the winery, I know the Economic Development Department certainly supports the winery. I let the Potomac Point Winery put one up for 30 days every year on my property to promote an event that they have. So, if we do this, those types of signs aren't going to be allowed is the way I'm understanding it. I just want to make sure.

Mr. Harvey: That's correct.

Mr. Boswell: Okay.

Mr. Apicella: So, again, going along the same path, all the political signs that are currently sitting out throughout Stafford County are made of either... are they exempted? No. So, they're made out of cardboard or paper or vinyl or plastic; they would not be allowed.

Mr. Rhodes: (Inaudible - microphone not on).

Mr. Apicella: I just want to clarify that's the case.

Mrs. Vanuch: You just have to get the real flimsy plastic ones.

***Planning Commission Minutes***  
***October 26, 2016***

Mr. English: I've got a question.

Mr. Apicella: So, the only political signs that would therefore be allowed are going to have to be made out of what's under i.?

Mr. Harvey: It could be wood, it could be metal, it could be a hard plastic, it could be anything that's durable.

Mr. Apicella: Wow, Stafford's really raising the cost of having a political sign. Sorry, just to kind of work our way through it here.

Mr. English: My question is, the temporary sign regulation again, what about for sale signs that the realtors put? They've got to sell in 60 days and then they've got to pull those signs up too?

Mrs. Blackburn: The sign needs to be removed in 60 days.

Mr. English: After 60 days when you're selling your house.

Mrs. Vanuch: So then you'd have to take it away for what, a day, and then put it back for another 60 days? And if you don't sell within that period, sorry for your luck.

Mrs. Blackburn: You're allowed a temporary sign for two 60-day periods, yes.

Mrs. Vanuch: Okay.

Mr. Boswell: Some of these signs on property have been up for 8 to 10 years that haven't sold yet. I mean, it's just...

Mrs. Vanuch: The one on Shelton Shop by the mulch place.

Mr. Boswell: I mean, it's really... we're really getting into something here folks.

Mr. Apicella: Okay. Sorry Mrs. Blackburn, please proceed.

Mrs. Blackburn: And I have provided the comparison charts just listing what the existing sign standards are, what the new sign standards would be, for permanent signs and then for temporary signs. And if you have any questions about any of this, I (inaudible).

Mr. Apicella: So I do have a question, just as folks are looking at this, the two people who are watching this on TV, the X in the new sign standards. What does that mean?

Mrs. Blackburn: It was to state that that is going to be the same sign regulations all the way down. I put it as an X as yes, this is what it's going to be. And I probably did not clarify that very well.

Mr. Apicella: So, I'm looking at, for example, residential, I'm looking at subdivision where it's 60 square feet in area and 6 feet tall...

Mrs. Blackburn: The new requirements would be 25 square feet for a detached and 20 feet in height.

Mr. Apicella: So less than half of what's currently allowed.

*Planning Commission Minutes  
October 26, 2016*

Mrs. Blackburn: Right, and taller.

Mr. Apicella: Okay. Sorry, just again for clarification.

Mrs. Blackburn: Okay, yes.

Mrs. Vanuch: I have one question, can I ask?

Mr. Apicella: Mrs. Vanuch?

Mrs. Vanuch: I think I asked this last time; I just wanted to clarify for all the folks listening at home and in the audience today. So, for all the horse farms out there that have the vinyl signs hanging up on fencing that say lessons here or board your horse here, those would now not be allowed?

Mrs. Blackburn: They would be temporary signs.

Mrs. Vanuch: Temporary. But if they were made of the materials that Mr. Harvey said, they would be prohibited and that Mr. Boswell pointed out?

Mrs. Blackburn: Yes.

Mrs. Vanuch: They'd have to be hard plastic and cardboard or wood, right?

Mrs. Blackburn: Yes.

Mr. Harvey: Yes, the cardboard would not be permitted but it'd be hard plastic, wood, metal.

Mrs. Vanuch: Got it. And so, for example, right now let's say I had a farm and I wanted to advertise my farm name on my property. Would I be able to do that, put a sign up, a permanent sign even, in my yard to advertise my farm?

Mrs. Blackburn: To state the name of your farm?

Mrs. Vanuch: Yes.

Mrs. Blackburn: Yes.

Mrs. Vanuch: And now, if we change the sign ordinance, would I still be allowed to do that without restriction?

Mrs. Blackburn: You mean without restriction?

Mrs. Vanuch: Without restriction... like with this new... so I can do that now, but if this ordinance passes, would I still be able to do that the same way I can do it now?

Mrs. Blackburn: You would be allowed 25 square feet in area and 20 feet in height.

Mrs. Vanuch: And would I have to get a permit?

Mrs. Blackburn: Yes.

*Planning Commission Minutes*  
*October 26, 2016*

Mrs. Vanuch: Okay. And what's the permit fee?

Mrs. Blackburn: That I don't know. That varies with square footage.

Mrs. Vanuch: Okay.

Mr. Apicella: So, I apologize. So, going under the notion that these X's just mean that these provisions carry forward under each one of these categories, so I'm looking at... I'm looking at home occupation for example. Currently, the existing standard is 4 square feet... I'm trying to understand what the last part of this means; 3 signs, 32 square feet each...

Mrs. Blackburn: That would be if you did a temporary.

Mr. Apicella: So, in a home occupation, somebody could have a sign that's 32... so I'm looking at the contrary here, where I think you hear us kind of questioning some of these parameters that seem restrictive, on the other hand this seems very generous for someone who has a home business and folks driving by to see a sign 32 square feet in size. That's what we're allowing.

Mrs. Blackburn: For a temporary sign, yes sir.

Mr. Apicella: For 60 days.

Mrs. Blackburn: Yes.

Mr. Apicella: Is that... can you help me understand the logic there?

Mrs. Blackburn: In working on this sign ordinance and staff worked on it, the... making the transition in our thought process for signs that we have always designated basically per use. And historically, sign ordinance have done that on all jurisdictions. And now that this court case has stated we really can't do that, we can't do it by content. Then it is to try and make sure that a temporary sign that we are used to, as you have spoken, are real estate signs which are usually small, two square feet to 3 square feet. Maybe four, that is put out in front of a person's house. That is a temporary sign. And we also have a political signs that some people put up as 4 x 8s, and those are temporary signs. We can no longer make a distinction on the one used for real estate and the one used for political signs, particularly when it is on a residential piece of property. So that is where any recommendations that you have, we can take forward to the Board. As you know the decision does have to be made tonight. On... a decision on what you want to do with this... you know how you want to recommend or not recommend this ordinance, and then any recommendations that you want to make can go forward to the Board. But these were the kind of situations that we have run into.

Mr. Apicella: I get that.

Mrs. Blackburn: Yes.

Mr. Apicella: And we talked about this at the last meeting...

Mrs. Blackburn: Yes.

Mr. Apicella: ... and I certainly understand. I think we all understand and appreciate the content issue. I think we are looking at the size of the signs and so, on the one hand, while you cannot have a real

*Planning Commission Minutes*  
*October 26, 2016*

estate sign sitting out for more than 120 days, two 60 day periods, you can have one that is 2 foot, 10 foot, 32 feet. That is huge. It seems crazy to me. So, I am just trying to look for the balance here and I guess I am having a hard time trying to grasp why it would make sense to have a 32-foot size sign for a home occupation or a real estate situation.

Mrs. Blackburn: Can you add any insight into that Mr. Harvey?

Mr. Harvey: I will say that was a lot of the discussion debate with the staff, as well as the Board Committee, in how do you strike the right balance since you have to categorize these all as similar signs. Because intuitively, we know that in a residential setting a real estate sign is relatively small and is customary and usual and acceptable. But something that would be five times that size may not be. But for an election sign or a political sign, we are fairly accustomed to those large signs, too. So where do you strike the middle ground?

Mr. Boswell: If you go down Route 1, there is a comparable, I believe, to that size on top of the hill at the subdivision in between the car dealer and the Catholic Church. Drees Homes has an Augustine sign that is... I have not stopped to measure it, but it is definitely over 15 feet. It is an A sign at the entrance to that subdivision that is being built out. I imagine it will come down once all the houses are sold.

Mr. Apicella: But in theory, your neighbor could have a 32 foot sign sitting in their front yard...

Mr. Rhodes: No, 32 square feet.

Mr. Apicella: ... saying for sale for 120 days.

Mr. Boswell: Thirty-two square feet.

Mr. Apicella: Thirty-two square feet.

Mr. Rhodes: Mr. Chairman?

Mr. Apicella: Mr. Rhodes?

Mr. Rhodes: Just so I can make sure I understand. So, what I... if I could characterize what you said in the development of this recommendation, you looked at the various types of signs that you could not differentiate by the use, location, or content, and you found that probably more likely the largest you would find out of all those temporary signs is about a 4 by 8.

Mrs. Blackburn: Yes sir.

Mr. Rhodes: Not that they all have to be 4 by 8...

Mrs. Blackburn: Exactly.

Mr. Rhodes: ... but up to a 4 by 8.

Mrs. Blackburn: Yes sir.

Mr. Rhodes: And so you defaulted to what would accommodate most of the types of signs that typically would have different sizes associated with and just aligned that in there.

*Planning Commission Minutes  
October 26, 2016*

Mrs. Blackburn: Yes sir.

Mr. Rhodes: Yes, okay.

Mr. Harvey: Another option that we have talked about with staff, it was part of the draft that came from the Local Government Attorney's Association, was we have a definition for a minor sign; it's 4 square feet or less. Currently in our definitions for signs in our current ordinance, anything less than 2 square feet is not a sign.

Mrs. Blackburn: Exactly.

Mr. Harvey: We could say that minor signs are exempt from permits, if that was something that the Commission felt was important. But I am not sure that will capture all the real estate signs. It may capture the bulk of them, but that means that people could put as many of those 4 square-foot signs on their property that they would want to.

Mr. Apicella: The Supreme Court decision, I don't remember what the date was, affects all localities across the country, there are thousands of localities. Did we gather some good model sign ordinances from various counties, cities, even just neighboring counties and cities to see how they are addressing these issues?

Mr. Harvey: No sir, we went with the Virginia Local Government Attorney's Association model ordinance.

Mr. Apicella: Well there you go.

Mrs. Bailey: I was just going to ask, did we check with other localities, such as the City of Fredericksburg and Alexandria? Because I believe that they have adopted their new sign ordinances and they do have a lot of exceptions by use that they retained. Did we look at that?

Mrs. Blackburn: We did receive a copy of the Alexandria sign ordinance but got that today and I have not had a chance to go through it. As far as dealing with the one from the attorneys, it was... we knew that that would stand the test, as opposed to maybe not quite standing the test or anything like that. And I know Mr. Harvey went through all of that and tried to blend, along with staff's help, how we would hope that it would at least be a start for an ordinance for us.

Mrs. Bailey: Right and I appreciate that, but it just doesn't come across as very feasible, unfortunately.

Mr. Apicella: Mr. Coen?

Mr. Coen: Yes, and I appreciate all the hard work staff had to do with trying to do this. But I am going to ask questions anyways. You mentioned an A sign, so if there's an A sign, is each one of those considered a separate sign? Or do you measure from one part of the sign to another part of the sign?

Mrs. Blackburn: You would... oh let's see. It's a two face sign and you would be allowed to measure one side and they are included in the term portable signs.

Mr. Coen: Okay, thank you.

Mrs. Blackburn: And that's in our definition.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Coen: Secondly, I guess we will go back to the political signs because that is more where I have a hot problem. But if your 8-foot tall or whatever, that doesn't include the post, that is just the actual sign? So I could put...

Mrs. Blackburn: No that is from the ground.

Mr. Coen: From the ground. So if its hanging up from the ground by a foot or two so people actually can see it, that sign may have to be shorter than the normal sign. So I would have to order signs per... Okay. And then if I am reading this chart accurately, I think if I go straight across from political it says three signs, 32 square feet, each 8-foot tall, etcetera.

Mrs. Blackburn: Yes.

Mr. Coen: So if in my front yard I wanted to put 4 Jeff Harvey for President signs, I am not allowed to or I would have to get a permit? How does that sort of work?

Mrs. Blackburn: This would allow you to have three temporary signs and the fourth one would be a permanent sign that either would have to be permitted or it would have to be removed.

Mr. Coen: Okay, thank you. Sorry Jeff. Oh, lastly, so if I am Harry Hockinsmocker and I want to start a business, a haberdashery, and I am going to have to contact the county and figure out which signs are accepted and what aren't accepted and go through this chart and go through all that... it's sort of a softball question... but doesn't this put a larger burden on businesses? Because now I have got to go through this where before the sign ordinance was a little bit easier. But now if I put it on this side of the building it's X and if I put it on this side of the building it's Y and if I put it in the ground... isn't it a little bit more odious on business than status quo?

Mrs. Blackburn: For me, looking at this and having to reiterate that information to people, from compared to what we have now in the ordinance, I actually found it easier.

Mr. Coen: Okay.

Mrs. Blackburn: There was no differentiation between a pad site in a shopping center, a freestanding building, a pad site that has street frontage, a pad site that does not have street frontage; so in some ways it ended up being a little simpler.

Mr. Coen: Okay, thank you.

Mrs. Bailey: Mr. Chairman, I have one more question.

Mr. Apicella: Mrs. Bailey?

Mrs. Bailey: With the ordinance, when it is implemented, how will we go about letting all the business owners and homeowners know about the new requirements? And then how will we go about making the existing signs that would reflect the new ordinance? What's the process for that? So if you have an existing sign that doesn't currently meet or it doesn't have... or a permit is not required, now possibly a permit may be required. There may even be a... they may even have to restructure their sign. What is the process for that?

*Planning Commission Minutes*  
*October 26, 2016*

Mrs. Blackburn: As far as any existing structure or sign, anything like that, if an ordinance is changed the first thought is that it is just considered non-conforming. And in some instances that ends up getting to be somewhat complicated at sometimes, depending what the situation is. But that would be the first thought, would be that it just considered non-conforming. And then as within the non-conforming rules any changes to anything that is considered that does need to comply to the current regulations, whatever they are.

Mr. Apicella: Again, I apologize to cut you off. I think you probably have more to present.

Mrs. Blackburn: As I stated, a decision from the Commission needs to be made this evening. We will be more than happy to carry on any recommendations that you may have and we do recommend approval of proposed Ordinance O16-21. It does remove the content base provisions, it clarifies the methods of calculating sign area, it does allow for deviations from sign area in height in a comprehensive sign package and that can be approved by a conditional use permit. It consolidates sign regulation into four types of zoning categories. There are rules for temporary signs and specific requirements for permits and enforcement regulations. And any other questions? Or any...

Mr. Apicella: Any further questions for staff?

Ms. Blackburn: ... recommendations?

Mr. Apicella: Okay, thank you. I am now going to open the public hearing on this matter. This is an opportunity for the public to comment on this item. Please direct your comments to the Planning Commission as a whole, not to any specific member. You have up to 3 minutes to speak. Please state your name and address when the green light comes on. The yellow light indicates you have 1 minute left. The red light means you need to quickly wrap up your comments. If anyone would like to come forward, please do so now.

Ms. Howell: My name is Cessie Howell and I have been involved in the Ferry Farm project for a long time. And I am just thrilled and I think the community will be thrilled when the boyhood home is completed. And it's almost completed and this has been a lot of hard work on the foundation and the community is just really thrilled to have this. I feel that Ferry Farm is one of the key historic areas in Stafford County, if not the key area. And it will be drawing a lot of visitors. It already has drawn a lot of visitors. I am looking at your sign ordinance and I ask you to consider an amendment to your ordinance and that is the 7-Eleven sign and the McDonald's sign. Those signs will be taken down because of the widening of the road which is needed on Ferry Road. And they will have to, as she said, reapply for their sign. And you have in Section 28-129, you have that the maximum height that they can go now, with this new ordinance, is 30 feet. And I wanted to ask if you would limit those two signs to 12 feet. And the reason is when the project is finished those people... what we are trying to do is make this an 18<sup>th</sup> Century look. When you enter that Ferry Farm area and you are at the house, and to look back and see a 30-foot sign or a 20-foot sign, it takes... it destroys the ambiance of what we are trying to do for a historic project. We are about just making those people that come get the feeling that they are back in that era. We know we have Route 3, we know we have a lot of cars. We know we have a lot of noise, but the thought of those two 30-foot signs coming, I think destroys. Because that is exactly where the eye will go to the... when they look at Route 3. And so I am just asking you as a history lover and also Ferry Farm lover, if you would possibly consider limiting those two signs when they reapply to 12 feet. Thank you very much.

Mr. Apicella: Thank you. Anyone else?

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Garner: Good evening Mr. Chair and members of the Planning Commission. I am Bill Garner, President of the George Washington Foundation. We are delighted to bring you a quick report, as you know the house is underway and we want to thank Cessie Howell for her leadership and the leadership of our trustees and our regents and your county government and the people of this community and our county staff. I wanted to report as well that not only is the Washington house underway, but we will have within the next two months, two more buildings underway on the site. This will be a maintenance and operations building and a utility building that will serve the main house at Ferry Farm. The mention of the project at the intersection is an important one. It's a partnership between the Commonwealth of Virginia, Stafford County and the George Washington Foundation. And many people are aware, but not all, that the good news is that intersection will have dedicated turn lanes on Route 3 east and west into Ferry Farm. Also, the County has worked very hard to design and certainly re-signaling an intersection is a lot more complicated than I realized. But one of the things that will happen as well in that intersection is sort of a decorative signal arm which will be in keeping with the historic spirit in nature of the entrance of that site. So as part of the VDOT project, as Mrs. Howell mentioned, signs and trees and other things will come down at the intersection as required for the work that will be implemented. But what we are asking for as she noted, is really a different standard with the height requirement adjacent to that HI. So that is the only Historic Interpretation zoning district in the county. And so we are asking for that special standard to be applied here. We are hopeful that will make some sense to you. A good many people have gone to a lot of trouble and have given their heads and their hearts to this project and a good many as well have donated from their own wallets and purses to support something that we know will be a world class destination, right here in Stafford County. So the principal effort really is to transport our guest, friends and neighbors to the time of the Washington's as quickly as possible when they have come on the landscape. And as you know the McDonald's sign is across the street was designed to be sympatric to the Ferry Farm landscape. And so really we are asking that it go no taller than the 12 feet it presently is and then for consideration for the amendment, it would keep the 7-Eleven sign on opposite corner, about the same height. And those are two local businesses mostly known to local residents and not on the interstate. I think that we can find a good solution that will be workable and good for the business owners and good for the historic nature of the site. So that's the request that there be a different standard applied just to the two sign adjacent to that HI. We thank you very much for your consideration and your hard work.

Mr. Apicella: Thank you. Would anyone else like to come forward?

Ms. Callander: Good evening, Alane Callander. Unfortunately I am just now tuning in to this topic of the sign ordinance. And I suspect most people in the county, including the business community, is not aware of this ordinance being discussed tonight and voted on tonight. Haste makes waste and I think it is really sad if you have to vote on this tonight. I think it is premature to do so. And if you have to vote, I think you have to vote no. Just at getting a general concept of what's going on here, it seems the ordinance is way too cumbersome. It seems that someone like myself and obviously the Ferry Farm folks are interested in approving the aesthetics of the county and sign ordinance, if properly done, can improve the aesthetics. This, I think, what we have before us is sort of a hodge-podge. You really don't know what is going to happen to the county if this is passed. And I think there are various issues, such as freedom of speech issues. The differences between temporary signs and permanent signs are confusing. The topic of political signs, I think, needs a special consideration. My understanding is they are governed differently than regular business signs and so forth. In fact I was told that when Home Owners Associations say that you can't put up a political sign, that they really don't have the ground to stand on, on that topic, that at least during a certain time frame anyone can put a political sign in their yard. So these are all very complicated topics from what I have heard tonight and a little bit that I have read through of the ordinance, I don't think you should pass this. I think you need to almost handle this like a comp plan, where you have several sessions with citizens, businesses, organizations. Get input,

*Planning Commission Minutes*  
*October 26, 2016*

do a real close look at every aspect. It's just premature tonight. I am sorry, I am sure there is something good in the ordinance, but I certainly could not support it this evening. Thank you.

Mr. Apicella: Thank you very much. Anyone else? Okay, seeing no one else I am going to close the public hearing and bring it back to the Commission. I do have a couple of additional questions.

Mrs. Blackburn: Yes sir.

Mr. Apicella: Since the last meeting, what if any, outreach has been done to contact stakeholders to kind of get a sense of what they think of the ordinance changes?

Mrs. Blackburn: Mr. Harvey, have you had some conversations?

Mr. Harvey: Mr. Chairman, there's not been any outreach specific outreach on the part of staff. We have received commentary from a number of individuals, some of which are here tonight.

Mr. Apicella: Okay. Has there been any estimate conducted on the amount of staff time it will take to administer these new requirements?

Mrs. Blackburn: No, I have not done that.

Mr. Apicella: But you would say it's going to take some additional staff?

Mrs. Blackburn: Yes.

Mr. Apicella: Okay. Last question for you; why not a special exception versus a CUP for deviations? That's an expensive and time consuming process, CUPs are versus a special exception.

Mrs. Blackburn: Yes, well I think it was more or less a process that both the Planning Commission and the Board are very familiar with. It is to be a comprehensive sign package, and it was what we chose.

Mr. Apicella: And there's no graduated cost for CUPs, it's one price, right? What is that?

Mrs. Blackburn: Yes, except if you were going to amend one. But your initial application yes, is one fee.

Mr. Apicella: And how much is that?

Mrs. Blackburn: For businesses it's \$10,000 plus.

Mr. Apicella: Okay, and what's the smallest deviation that would necessitate a CUP?

Mr. Harvey: Mr. Chairman, under this proposal if there was anything that they wanted to deviate from the maximum size, maximum height, they could do that through a conditional use permit. It would require a comprehensive sign plan, so we would have to get diagrams and proposals for all the signage on that entire building or that entire site.

Mr. Apicella: So again, a rather costly undertaking for a business for what could be a slight modification to the requirements. Any other questions for staff?

*Planning Commission Minutes  
October 26, 2016*

Mrs. Vanuch: I had one question.

Mr. Apicella: Mrs. Vanuch?

Mrs. Vanuch: I just wanted to address Ms. Cessie Howell's point around the historic areas.

Mrs. Blackburn: Yes ma'am.

Mrs. Vanuch: I don't know if this is possible, but I just wanted to ask it. Is there a way, I know we can't do it in this particular ordinance because the Board did not give us the discretion to edit it. However, can we do some type of a recommendation or is it possible to add a historic section in here saying if you are X amount of feet or yards away from a historic area or if you located within a historic zone, you can't... then there is like a whole other restriction of height levels, to kind of go along with the scope of the land in the area.

Mr. Harvey: Yes Commissioner Vanuch, that could certainly be a recommendation from the Commission.

Mrs. Vanuch: Okay.

Mr. Harvey: I have had some discussions with some of the folks in the County Attorney's office to that effect. If that recommendation is made to the Board and the Board's inclined to do that we would have to determine how to actually get there...

Mrs. Vanuch: Yes.

Mr. Harvey: ... in the wording and then whether that requires a separate public hearing or could be rolled into this amendment.

Ms. Vanuch: Okay. And I just had one more comment, not necessarily a question. These particular ordinances, when they come to the Planning Commission, I agree need to be broken out in maybe a subcommittee. I know there's lots of subcommittees that we have broken out on for much lesser changes than this massive sign ordinance. I realize that the Board broke out into a subcommittee but, when it comes to the Planning Commission, I certainly would like to have a little more time be able to divulge into these very specific details and solicit feedback from the residents and the business owners around the county so that they don't feel like we hastily did this and all of a sudden all of their signs are non-conforming and we are charging residents \$10,000 to put up a sign at their farm, which the sign won't even cost \$10,000. So that is just the comment that I wanted to make.

Mr. Apicella: Anyone else for staff? Thank you. Okay, what's the will of the Commission?

Mrs. Bailey: Mr. Chairman?

Mr. Apicella: Mrs. Bailey?

Mrs. Bailey: Yes, I would like to make a motion to deny the proposed ordinance for the zoning text amendment for the sign regulations.

Mr. Coen: Second.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Apicella: Okay, there is a motion to deny and it's been seconded. Any further comment Ms. Bailey?

Ms. Bailey: Yes Mr. Chairman. I appreciate the task at hand in revising the sign ordinance and I understand there is a lot of hard work that's been put into this thus far. But in its present form there is no way that I could support this for many, many reasons, but I think in particular it's just not business friendly and we are a business friendly county. In particular, I just want to address the temporary signs of more than 60 days requiring a permit. And since this... a lot of the commentary has been in regards to real estate, I feel like I can address that pretty adequately. But the additional requirement for a property owner to get a permit to place a for sale sign on their property adds another 20 days to the process, not to mention the cost of their permit. Marketing properties, there are all different types of properties that need to be marketed, whether they are for sale, for rent, they could be commercial, they could be land, they could be farms. Depending on certain market conditions at the time, 60 days is hardly enough in even a really good market. Not to mention by the time you get a property under contract then you have to wait for it to get to settlement. The advertisement of signs in any business is still a very good market trend for all of us to follow. It's not feasible to undertake this, I mean I can take a look at any given time, just in Stafford County where we could have anywhere from 300 to 800 properties on the market at a time. I can't even imagine how we would be able to manage the permit process for all of those properties. I mean it's just... you would have so many people out there in violation it just doesn't even make sense. So I don't even understand why it would be a part of this process. I do believe that we can take a look at the sign ordinance and I do suggest that we look at a way to be able to have exemptions based on use rather than content. The historic district too is very important. We've got several districts as well as historic properties that we need to take into consideration. We could add additional verbiage such as when we are talking about marketing of properties that it would be exempt so long as the property owner has given written consent and the authorization for a sign to be placed in their yard. There could be additional verbiage to work with that. The timeline of 60 days just does not work, even if you were to say a maximum of 120 days with the opportunity for an automatic extension for commercial properties, that is just not going to work. We've talked about on many different occasions about the many businesses that we have in the area that are vacant. A lot of commercial properties and office space tends to have, in some instances, a pretty high turn around or you may have a building that site there that is only partially filled. I don't think we can restrict that property owner from trying to fill up their building. So those are just a few things that I wanted to make a comment on and I just think this is a step in the wrong direction rather than the right direction. Thank you.

Mr. Apicella: Thank you Mrs. Bailey. Mr. Coen.

Mr. Coen: Yes, to add to what Mrs. Bailey very eloquently put, definitely this is not business friendly. It was brought up about the non-conforming; that would make existing businesses go through a hardship. The idea of a \$10,000 fee being charged to people because they need a CUP is alarming and costly to business. And if we are supposed to be a business friendly community, one would think you would not be adding an onerous burden to the business. It is going to be difficult to enforce, it either is going to take staff away from existing duties or we will have to hire additional staff, which will increase the budget. So I have concerns about that. I believe last meeting it was raised that there would be allowed to be electronic signs in the A-1 district and I just find that rather disconcerting because these are roads that are winding and narrow and you are going to put signs that flicker and people going to have their eyes taken away from the road. And I don't see the logic in that. The greatest element to this that I have a problem, and I agree with what was raised about trying... it doesn't take into account that we have historic districts and not just the wonderful Ferry Farm, which I agree with because that is my area, but also the beautiful... the latest I hear from the beautiful downtown Falmouth or up by Aquia by

***Planning Commission Minutes***  
***October 26, 2016***

the Church. There's certain things that logic would say that we come up with zones and you would sort of want to have a policy that would take that into account. To me the greatest element of this is I firmly believe it's unconstitutional. That the biggest problem with this is putting up a sign is freedom of speech. The Supreme Court has ruled repeatedly, and maybe it's because that's my bailiwick and I have too many degrees in this, but that including in Citizens United, but other Supreme Court rulings that in action, so putting a yard sign in and if I wanted to put four for Mr. Harvey, that is freedom of speech. And this limits that and I am just going to quote from the concurring decision. The decision of Reed, which was unanimous, which is rather ironic for the Supreme Court, it's not a norm. But Justice Alito in his concurring opinion wrote "*While the ruling does not preclude Towns from regulating but it does stop them from restricting them in an unconstitutional manner.*" And my greatest concern on this is that by limiting the signs for political purposes, if I wanted to put up a sign in my yard for Mr. Harvey for President in 2020 and I have it up for the primary I am going to have to take it down and then throw it back up. And if it's one of those big ones, somebody has to come out, dig up those big poles and then come back and do it. That is just problematic, it pits neighbor against neighbor if somebody really did not want Mr. Harvey to be President in 2020, that would purposely be calling up and then staff has to come out and ask him when did you put that sign in somebody's yard. And if I understood from staff, and I have great empathy for staff on this, I really do. I feel for you. But you would have to say, okay when did not put it up? And then it's sort of your word versus the person and then the fine would go to the landowner. So put the sign up because I love Mr. Harvey, I get a fine because he has not come and taken his sign down. And to me it's just unworkable, it unconstitutional, and it just is really a bad idea.

Mr. Apicella: Mrs. Vanuch?

Mrs. Vanuch: I was going to say before we vote I just wanted to offer up one suggestion that we amend the motion on the floor to also provide feedback to the Board that we would like to see a historic zone implementation in the new ordinance. You can wordsmith that Steven or Sherry.

Mrs. Bailey: I don't have a problem with that.

Mrs. Vanuch: Okay.

Mr. Apicella: Other Commissioners?

Mr. Rhodes: Yes Mr. Chairman.

Mr. Apicella: Mr. Rhodes?

Mr. Rhodes: If I could preface a quick question to Mr. Harvey. When this gets acted on, however it is acted on, when would the Board be advertising a hearing?

Mr. Harvey: Mr. Rhodes, it is not certain right now when the Board hearing would be.

Mr. Rhodes: I am sorry, that is a good point. What would the earliest be? I am just trying to figure out the calendar.

Mr. Harvey: The earliest would be, I believe, December 13<sup>th</sup>.

Mr. Rhodes: Okay, December 13<sup>th</sup>. Mr. Chairman, my comment would be that the last couple subcommittees have done some amazingly quick and thorough work. I would think that even while we act on this, however it goes forward we might get a subcommittee or a group together to lock ourselves

*Planning Commission Minutes*  
*October 26, 2016*

away for several hours and start prioritizing a list of issues to take before the them. Who knows how the Board will decide to act on this, but I think it would be good to have a very definitive input. We are still trying to wrap our heads around what this is and we don't have... we have a few thoughts that have come out, but I think it would be good to get a very deliberate listing and prioritization of the actions and issues that they ought to be considering if they hopefully defer or rework it, then they have got that in hand, if they choose to do a subcommittee in their route verses handing it down, however they might go. I think it would be good to have that on the record verses waiting to see if it might get referred back. That is it Mr. Chairman.

Mr. Apicella: Other Commissioners? First of all let me say Mr. Harvey, you have my vote if you run in 2020. We got, what I would say, a great letter from Kim McClellan yesterday afternoon. And I am going to ask my fellow Commissioners' indulgence because I think it's spot on. And while she is speaking for the Realtors Association, I think she is speaking for the business community in general, so please bear with me here. I am not going to read the whole letter, I am just going to paraphrase some of the points. So I am sure the letter was sent to all of us and it basically says the Fredericksburg Area Association of Realtors strongly opposes the proposed sign ordinance. I appreciate the county is considering the Supreme Court ruling in *Reed v. Town of Gilbert* and needs to strike any content based regulation from the sign ordinance, but this ordinance in its current form is extremely onerous for the real estate industry and property owners. It would require a permit for any sign with an installed duration of longer than 60 days. In the real estate market, it is impossible to determine how long a property will take to sell. It will almost certainly take longer than 60 days. The permitting burden for the county could quickly become an overwhelming task requiring significantly more resources. Stafford prides itself on being a very business friendly locality and this ordinance goes against the business friendly nature of the county. Realtors must now track how long their sign has been up in Stafford County, and I would say anybody would have to track how long their sign has been up, advise their client that they may have to pay for a sign permit, and navigate the permitting process well before the 60 days expires so they can guarantee continuity in their advertising. Stafford is the only jurisdiction that I can find that is looking to require a permit for a temporary signs. The City of Fredericksburg will retain the vast majority of their exceptions based on use, not content. The City of Alexandria has done the same thing. As long as a property is actively listed for sale or for rent it is considered an allowable sign in certain zoning districts. FAR strongly encourages Stafford to look at other use based sign ordinances that will eliminate the need for this onerous sign permit regulations. There is more to her letter but I am going to speak for myself now. I agree that this proposed ordinance is onerous. It is not business friendly; it's very restrictive and prescriptive especially as it relates to temporary signs. I think we really need to take our time, consult with stake holders and look at the sign ordinances from the many jurisdictions who are affected by this Supreme Court decision before acting on this. And unfortunately we are in a situation where time has run out, the referral was made on September 7<sup>th</sup>, we were given only 60 days from that date to make a decision on this sign ordinance. They gave us no ability to make any recommended changes. We do need to fix our sign ordinance, I think there is definitely some proliferation of signs in Stafford County and I in some ways call it sign litter. But I don't think we should be in the business of hurting our business community. I think we may be solving one problem or series of problems by creating other problems for ourselves. So with all due respect to the Board, I don't believe this is the right and best measure that we can come up with. We need to take our time, we need to get it right. I agree that we need to form a subcommittee, I am not sure that we are ready to do that at this point. I think that we need to ask the Board to allow us the time to set up a subcommittee because I think this is going to take a long time. And even if we had two months between now and the time this gets before the Board, I don't think we can get there from here. And part of that again is reaching out to other jurisdictions and seeing what they have put together in terms of their sign ordinance. I am not an expert here, but I certainly like to look at other ordinance before I decide what's best for Stafford County. So I think it's unobtainium at this point in time, between now and when the

*Planning Commission Minutes*  
*October 26, 2016*

Board is probably going to act. So for the reasons that my colleagues have stated and the ones that I have stated as well as Ms. McClellan has artfully said in her letter, I am also going to support this motion to deny. Okay, the motion has been made. All those, cast your vote. The motion to deny carries 7-0.

Mr. Rhodes: Mr. Chairman?

Mr. Apicella: Mr. Rhodes?

Mr. Rhodes: If I might just... if I could just follow on just a second. My suggestion was not to set up a subcommittee to write a new ordinance, my suggestion was to provide distinct feedback to the Board versus just the recommendation of denial going forward. I think if we, again I think if we lock down for about three hours we could write down a very thoughtful distinct feedback to them which would be impactful as they consider this forward versus just going forward with a few anecdotal comments in the process. That would have been the thought. Certainly if they had referred something forward then we could go forward with a deliberate effort and a full blown subcommittee to develop up a more thoughtful draft ordinance and get public input and a broad cross section. But the thought there just to clarify was just to get some distinct feedback back for the Board.

Mr. Apicella: Thanks Mr. Rhodes. Okay Mr. Harvey, next item.

Mr. Harvey: Thank you Mr. Chairman. The next item on the agenda is the Winding Creek project. This is a carry-over for Unfinished Business and Kathy Baker will make the presentation.

UNFINISHED BUSINESS

3. RC16151333; Reclassification - Winding Creek - A proposed reclassification from the A-1, Agricultural Zoning District to the R-1, Suburban Residential Zoning District, to allow for a greater density, single-family detached dwelling unit subdivision, of up to 97 units, to be developed on Tax Map Parcel No. 29-4. The property consists of 61.23 acres; is located at the intersection of Winding Creek Road and Embrey Mill Road, within the Garrisonville and Rock Hill Election Districts; and is concurrently under consideration for a conditional use permit to allow a greater density cluster subdivision in the R-1 Zoning District. **(Time Limit: January 6, 2017) (History: Deferred on September 28, 2016 to October 26, 2016)**
4. CUP16151334; Conditional Use Permit - Winding Creek - A request for a Conditional Use Permit (CUP) to allow a cluster subdivision of up to 2.25 dwelling units per acre on Tax Map Parcel No. 29-4, which is concurrently under consideration for a reclassification from the A-1, Agricultural Zoning District to the R-1, Suburban Residential Zoning District. The property consists of 61.23 acres, located at the intersection of Winding Creek Road and Embrey Mill Road, within the Garrisonville and Rock Hill Election Districts. **(Time Limit: January 6, 2017) (History: Deferred on September 28, 2016 to October 26, 2016)**

Ms. Baker: And I will note I will be discussing item 3 and 4 together, which is the reclassification as well as the conditional use permit. So, these applications for Winding Creek went to public hearing on September the 28<sup>th</sup>. And just to recap, the request is to reclassify the property from A-1, Agricultural to R-1, Suburban Residential, and the conditional use permit is for a cluster subdivision with an increased density. This is just an overview of the property again, with Winding Creek Road generally through the... bisecting the parcels and Embrey Mill to the bottom of your screen. And this was the proposed Generalized Development Plan for 97 single-family lots with two entrances on Winding Creek Road.

*Planning Commission Minutes*  
*October 26, 2016*

To the top of the screen you see approximately 11-acre parcel that would be dedicated for open space. At your public hearing, there were several issues raised by the Commission that staff went back to provide information for. And that included providing further information on potential school impacts, and I'll get into a little bit more specifics on the next couple of slides. Also, the request to obtain accident reports from the Sheriff's Office on Winding Creek Road, specifically focusing on the area of the... in front of the proposed site. But we also obtained the information for the entire length of Winding Creek Road, knowing that that was some information that the public spoke about. We were also requested to show a comparison of the Comprehensive Plan typical section of what would be required for upgrades to Winding Creek Road versus your existing road. Also, to provide more information for the proposed park site or open space area, and then to reach out to speakers for the prior application. With regard to that, I will note that we went back to the 2014 and '15 public hearings we found the speakers that spoke at those meetings and we did send out notification letters I'm going to say last week -- I don't remember the exact date -- just to let them know of the meeting tonight, that the public hearing was held, and provided them where they could find more information on the application. So, with regard to some of the school information, you did request that we provide the current enrollment of the three schools impacted by this proposal, which is Winding Creek Elementary School, Rodney Thompson Middle School, and Colonial Forge High School. At your last meeting we showed the projected forecast and then we reached out to the schools to see if they had updated numbers based on actual enrollment. So you see the comparison specifically in this column. And this column the enrollment, actual enrollment for Winding Creek is actually a little bit lower than initially anticipated in being forecast. Rodney Thompson was higher, as well as Colonial Forge. So in the fourth column you'll see the percent capacity of each of those schools, and then available seats left. And this information was in your report.

Mr. Coen: Mr. Chairman?

Mr. Apicella: Mr. Coen?

Mr. Coen: I'm just curious, Ms. Baker. Have we received, and I think I mentioned it to Mr. Harvey in my email, have we received up-to-date numbers? I mean, these are the projections. Have we... I know that the school system, and Mr. Apicella served on the same committee I did at one time where they had up-to-date numbers of actual enrollment. Did we get any current numbers?

Ms. Baker: This third column shows current as of two weeks ago.

Mr. Coen: Okay.

Ms. Baker: We didn't update it today, but that was what the school provided after the actual enrollment at the beginning of the school year. The forecast numbers were from I want to say July. The Commission had also asked to compare the countywide average of student generation rate versus the new neighborhood average. And just for some background on that, staff right now uses the countywide average of .66 for single-family. The new neighborhood average is the average of .96 which was discussed back in 2015 with regard to updating proffer guidelines. That number has never been officially adopted; it's not a policy that we use, so we still do go with the .66 rate which is the countywide average. But we did, however, provide the comparisons for that which you can see on this chart; the total student generation of 64, which breaks out across the three different levels of school, and then compared to the new neighborhood average of 93 students, broken out by school level. You had also asked us to project out how many students per year, based on this application, and based on information provided by the applicant that said that they would likely be built out between 5 and 8 years. We kind of took that timeframe and estimated from 2020 through 2024 what your total student

*Planning Commission Minutes*  
*October 26, 2016*

generation rate by year, by school is. And you can see on these two charts, again the countywide average at the top and the new neighborhood average at the bottom. And these charts were also included in your reports. One more note on the schools -- you did ask us to reach out to Holly Hazard, the Chairman of the School Board. We did send a letter to her... or excuse me, an email. She did respond to us that she nor the School Board was actually taking a formal action or recommendation on this report, but leaving it to the school staff if they had any additional comments. You'd also asked us to reach out, as I said, for the accident report. And keeping specific to the section of Winding Creek Road on this slide, between Embrey Mill Road and the Flatford Road intersection, there was a total of 28 accidents over a 6-year period going back to 2010. This includes 13 accidents at the intersection of Winding Creek Road and Flatford Road/Walpole Street, which is a four-way intersection. There were 12 over the 6-year period at the intersection of Winding Creek and Embrey Mill Road. And 3 actually between Flatford Road/Walpole Street and Embrey Mill Road, which does include the frontage of this property. The full accident report over those 6 years for the entire length of Winding Creek Road was submitted in your report. With regard to the Comprehensive Plan street section, this does show the urban 2-lane major local standard of having a 60-foot right-of-way, which the applicant is dedicating right-of-way for this project. The proposal would be to have two 11-foot travel lanes with 6-foot shoulders. The alternative, if you were providing sidewalk, would be to have a 5-foot shoulder with a 4-foot buffer area and a 5-foot sidewalk. As that compares to what's existing out there, you basically have two existing 11-foot travel lanes with 22 feet of pavement width total, you have no paved shoulders, and there's no sidewalks. So, that's how it compares. And then with regard to the open space site which is the area I've zoomed in on here at the top of the screen, we did reach out to the Parks and Rec staff. I didn't note in the previous report that we had reached out for the prior application and indicated under the former Parks and Rec Director that they would not likely accept this site as a County park site. And the maintenance would be difficult if it were just left in open space because it's treed. They would have to take into consideration if trees fell on the road or onto neighboring properties, how to maintain that. So, at the time, they indicated there wasn't a need or desire to own the property or take it on as a County school... park site. Not a school site, a park site. We did reach out to the current acting Director of Parks and Rec and he basically concurred with that assessment. You'd also asked about any additional access that could be provided and that would be up to whoever might take ownership in the long run of this property, or if it remains with the Homeowner's Association whether additional infrastructure such as a separate parking area could be provided on the west side of the road. Sorry, one thing I did not mention on this was the proffer that the applicant has revised indicating how would be... they've strengthened the language to ensure that it would be retained as open space. And the potential for a conservation easement would be considered. So just to recap, that staff is recommending approval of both the reclassification and the conditional use permit. We do still recommend that the applicant consider the urban 2-lane major local standard upgrade to Winding Creek Road in the vicinity in front of the site. I'll be happy to answer any questions. I have additional graphics or anything that you need (inaudible).

Mr. Apicella: Questions for staff? Mrs. Vanuch?

Mrs. Vanuch: (Inaudible - microphone not on). *Notification process; I got a couple of inquiries in my district that they were not notified.*

Mr. Harvey: Yes ma'am. The adjacent property owners, including those across the street, would be notified. That's what the Ordinance requires. So that's who we sent the notice to. That included open space parcels for both those neighborhoods, so the HOAs were notified.

Mrs. Vanuch: Okay. And do we send it by certified mail? What is our current requirement for the County? Do we send it by certified mail (inaudible - microphone not on)?

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Harvey: We send them by certified, yes.

Mrs. Vanuch: Yes. Do we have a copy of the certified letter that was signed (inaudible) HOA?

Ms. Baker: We don't necessarily receive a letter from them.

Mr. Harvey: Yes. We send them certified but not return receipt certified.

Ms. Baker: Correct.

Mrs. Vanuch: So, in the future, is there anything you can do (inaudible - microphone not on) just to ensure that the HOAs are receiving them and can verify that they have received them? Because in spite of this (inaudible - microphone not on) residents came forward and said that their HOA had not been notified in that time. So, again, we can't control what happens with the HOA and how they fill their notification processes. However, I believe we should be able to prove that they did in fact receive a copy of the notification so that we can share that with residents so that they... that the County can have that proof. And I just have a really hard time without having that proof when a resident comes to me and says that they... their neighborhood is saying that they didn't reply, that there are several neighbors who want to be able to reach out but they didn't find out about it until after the public hearing was already (inaudible - microphone not on) at the very beginning of this particular meeting on Winding Creek because (inaudible - microphone not on) didn't have the opportunity to speak to the Commission. So, (inaudible - microphone not on) other things that we can do for that because I feel like it's not (inaudible - microphone not on) ample time to (inaudible - microphone not on).

Ms. Baker: I'm going to just have to take time to look at the Ordinance and what's...

Mr. Harvey: Yes, it adds additional cost to the notification process. But the code does not require verification that the person sign for it, because often times with certified receipts, people won't sign for them because they're concerned it's some collection agency or whatever.

Mrs. Vanuch: (Inaudible - microphone not on).

Mr. Rhodes: Actually, if they're not home, it doesn't... you know.

Mr. English: I think what if we just sent it and maybe I'm not hearing you right, but could we just send it directly to the HOA President and then it'd be up to them to get the information out, for the certified part of it, for the signed, that way you would only do one certified and return receipt...

Mrs. Vanuch: Yeah, just to the HOA (inaudible).

Mr. English: ... just to the HOA President of each organization, that way you're not sending a thousand of these out.

Mrs. Vanuch: Or the management company or something. Or putting the sign out by the neighborhood or something because this is kind of common themed where the HOAs don't notify the residents. You know, we can argue all day long that that's the HOAs fault (inaudible - microphone not on), but I feel that (inaudible - microphone not on) our residents that what we're doing isn't working. We need to do something maybe a little bit differently. So, I would even encourage us to put a sign out (inaudible - microphone not on) hearing (inaudible - microphone not on). Just say hey, there's a public hearing on the neighborhood (inaudible - microphone not on).

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Rhodes: You need a permit for that.

Ms. Baker: We post signs on the property frontage.

Mrs. Vanuch: But if it's not something (inaudible - microphone not on). Like I know with my house, it's in the backside of the neighborhood. I would never drive down that road and so I would never see the sign; but I drive up and down 610 all the time. (Inaudible - microphone not on), I think in the future we should look at that.

Mr. Apicella: Mrs. Vanuch and other members of the Commission, Mr. Rhodes will remember this. There was a point in time when we talked about setting up a subcommittee to look at noticed requirements. It never really went anywhere. That's probably something we could revisit. Probably now is not the best time to do it, but that might be something we want to talk about at a future meeting. So, is that okay?

Mrs. Vanuch: That is fine. So that is the one thing that I just wanted to mention. And I don't want to derail this conversation today; I know we probably have a lot of other questions, but I feel very strongly because there are several residents in my district who feel they did not have the opportunity to come and speak. And I spoke to Mr. Harvey about possibly creating a new public hearing process for this particular development and there is a path forward. We could re-advertise, we can rehear this and have a public hearing a vote on it at the very beginning of December. That is a possibility. And, you know, I'm not going to make a motion yet because I want everybody to be able to ask their questions on this particular issue, but I feel very strongly about we should be able to re-notify the residents, especially the people who spoke at the previous meetings because we didn't do that until after we had the public hearing... oh sorry (turned microphone on) so none of those people could talk. Don't make me repeat everything I just said.

Mr. Apicella: Start from the first word.

Mrs. Vanuch: I have no idea what I just said. So anyway, I'm just going to throw those comments out there. I want everybody to be able to ask their questions before I move forward.

Mr. Apicella: Okay, other questions?

Mr. Rhodes: Mr. Chairman?

Mr. Apicella: Mr. Rhodes?

Mr. Rhodes: If I could, Ms. Baker, so on the accident reports, the 143 accidents were from the beginning of 2010 through October 2016?

Ms. Baker: That's correct.

Mr. Rhodes: So, almost 7 years. And only three of those were, over those 7 years, were on the segment that has that corner that's always been of concern, right? I just want to make sure I understood that right.

Ms. Baker: Let me find my information.

Mr. Rhodes: That wasn't just for the latest year; that was for the entire 7 years?

*Planning Commission Minutes*  
*October 26, 2016*

Ms. Baker: Over the entire 7 years...

Mr. Rhodes: You had one subset then you had another subset that talked about 28, we're on the segment between Embrey Mill and...

Ms. Baker: Correct, that was between the two intersections. And I can go to the screen...

Mr. Rhodes: Okay. But that's for the entire 7 years, not in a subset of.

Ms. Baker: Correct.

Mr. Rhodes: Okay. And the 25 were at the two intersections and three were between.

Ms. Baker: In between the two intersections, yes.

Mr. Rhodes: Okay. I just wanted to make sure I was understanding that correctly. Thank you. Thank you Mr. Chairman.

Mr. Apicella: Okay, any other questions for staff? Okay, seeing none, would the applicant like to come forward?

Mr. Payne: Mr. Chairman and other members of the Planning Commission, my name is Charlie Payne with the law firm Hirschler Fleischer and we represent the applicant. It's always a pleasure to be here before you and appreciate your time, appreciate staff's time. I know it's had a lot of information that was put together for your presentation this evening, and we've also been going through; so it's been quite a bit of information to respond to so we want to do that as quickly as we can. I've got Mark King from Bowman Consulting here, as well as our engineer on the project to address any questions you may have. I'm going to reiterate and sort of clarify a little bit of the crash data that was presented. I think Mr. Rhodes correctly identified the fact that it's fairly modest crash activity between the two intersections, most of it occurring at the intersections, whether all four-way stop signs and other traffic modes of control. And just on the traffic component, I think it's first important to just remind the Planning Commission that a Traffic Impact Analysis was performed in 2014. It was updated in 2016 and obviously approved by staff and also by VDOT, for purposes of the scoping. For purposes of that Traffic Impact Analysis, there were no recommendations for offsite improvements. Despite that recommendation, the application does provide in its proffers offsite improvements, including improving the site line north of the site where there is the curve that many have complained about in public hearings that would improve the site line. You've seen the before and after versions of that. We've also obviously proffered turn lanes and tapers into the site, both along Winding Creek. We've also proffered to improve the right-turn lane at Eustace and Northampton. And just for examples of all of that, including with or without our improvements, the Level of Services don't change with our project. They stay A or B along Winding Creek, which is very good. And the fact that we don't degrade the Level of Service is consistent with your Comprehensive Plan. In fact, at Eustace and Northampton, we improve that intersection from E to C even though we only contribute about 1% of the traffic there based on our traffic study. So, for folks to take the position or have the perception that somehow this project is going to cause more problems along Winding Creek is just simply inconsistent with the facts and the data. And, in fact, we went beyond the facts and data and saying we're not going to provide any improvements, we went ahead and provided about a million dollars' worth of improvements which we believe will not only benefit our project but also all of those traveling along Winding Creek. It's also important to know for purposes of the traffic component here that we've done the analysis for traffic accidents. The County does not have this in their 10-year plan for improvements and certainly not in the

*Planning Commission Minutes*  
*October 26, 2016*

VDOT 6-year plan. So, even for purposes of the County, this is not per se a priority for improvements. Suggesting that we should improve our segment of Winding Creek to a 2-lane collective road with sidewalks, etcetera, when the County hasn't designed or funded the entire project, and doesn't appear it's going to do so anytime soon, just doesn't make a lot of sense. What seems to make more sense is to address the issue that is more concerning to the community, and that is the site line issue north of Winding... north of our site by about 6 or 800 feet, which we think will vastly improve traffic activity on that corridor. In regards to the school data, we always appreciate additional analysis. We also appreciate comments from the public in regards to concerns about over-capacity issues, in regards to concerns about where kids are going to school, attendance zones, etcetera. I think it's important to note that this is a fairly modest project. It is an infill project that's consistent with your Comprehensive Plan. This Planning Commission just diligently went through that exercise to amend the Comprehensive Plan, and for that purposes, identified and continue to identify this site as a Suburban district site. It's an infill project. We're surrounded by very similar uses; 300-plus units at Autumn Ridge, close to 80 units at Berkshire, etcetera. We are developing or planning to develop or propose developing 97. Given the current market, we think that build-out of that project will be 5 to 8 years at best. If you just take a look at a very similar project which is at Shelton Woods, which was approved in 2012 if my memory serves me, construction started about 2013; they've only got 20 homes in there today. It's a very similar home that's going to be constructed at this site. High end, 495/525 and up type of development. So, those homes do sell slower but they also provide a greater asset, a greater punch if you will for the tax base. As you know, and if you read from our analysis, they provide adequate tax base not only for the cost of operations from each unit, but they also have a surplus which benefits the entire community and helps subsidize some of the losses that we have on a per capita basis for operating costs in our County. In addition to that, folks who live there have disposable incomes. So they're going to attract more commercial enterprises, they're going to attract retail, restaurants, etcetera, which is a priority from economic development perspective for our County. In addition to that, they're paying their share for potential impacts, even though I believe the analysis is fairly modest which was not only presented by us but also confirmed by staff. In that, we're paying \$17,000 a unit for schools over 1.6 million in addition to our other cash proffers. It's likely one of the highest cash proffers per unit for schools that's been before the Board. So I think that is something that we're very proud of and something I think addresses the concerns of the community. In regards to capacity issues at schools, it's not the developer's job to decide what school should be redistrict, when schools should be built. It's our job to address the analysis in regards to what the impact may be based on your guidelines and to provide and make a proffer, if you will, of how we think we can best address it. The public policy regarding redistricting is again beyond our pay scale, something we have little control over, and something that in my opinion should not be part of this application, respectfully. So, with that, I will move onto the next point. And parks, as you may recall, obviously the 11-acre site that is west of Winding Creek, part of this application, is proposed to be undeveloped. That was a desire of the leadership at the time when we moved forward with this application initially, it was the desire of the adjoining property owners and Berkshire and others, and what we were encouraged to do was leave it open for either active recreational space or passive, which we have done in our proffer statement. I noticed a comment from the Recreation Department. They were not interested in accepting it; for one reason, it's tough for them to maintain it and they've got to construct it and pay to do that. It's a resource issue, which we understand. The fact that there's a utility easement across there should not be an issue to deter or prohibit the use for recreational uses all the time. Those utilities were relocated and affects only about two-plus acres of the site; of course, that's close to 11 acres. We have, as an option, agreed if the County did not want to accept it for recreational purposes we would preserve it in perpetuity be undeveloped. I think fulfills the goals of the kind of leadership again that we were working with in the past, this Planning Commission, and also with the adjoining neighbors. In regards to notice, I do take exception if there is a desire to have another public hearing on this. I think that's inappropriate and unfair. This project has been before this Planning Commission more than just this time, and the public hearing process was quite extensive

*Planning Commission Minutes*  
*October 26, 2016*

before. Not only were there public meetings prior to the application... I'm sorry, prior to the public hearing last year, after the first public hearing I recall that Mr. Gibbons asked that the public hearing remain open so that we can meet with folks at Berkshire and in his district; which we did at Hampton Oaks. I believe Mr. Rhodes was there, I know Mr. Gibbons was there, my clients were there, as well as staff. Thereafter, obviously there were several public hearings. The main issue at those public hearings, as many of you recall, were the residents at Autumn Ridge who were concerned about Fireberry connection. Basically, in our opinion the project was turned down for that reason. We went back to the drawing board, we desired to appease and address the issues of the community, fought very hard thereafter, had several community meetings with folks, including this past April. I know that I met with residents personally on Sunday afternoons to talk to them about their concerns to address this issue. And, in all fairness, there was one person who came and spoke out against the project at the last public hearing, and her concern was schools. And she, in fact, I thin commended us for the efforts that we had undertaken in regards to the Fireberry Boulevard connection and listening to the neighborhood. In regards to notice for purposes of the first public hearing, it was my understanding that the County did go above and beyond its current ordinance and policy and notified not only adjacent property owners, but also persons who spoke last year at the public hearings against or for the project. They were all notified is my understanding. Staff can correct me if I'm wrong but that's my understanding.

Mrs. Vanuch: Can I interject? Mr. Harvey, were they notified prior to the public hearing?

Mr. Harvey: Mrs. Vanuch, no they were not. They were notified of this meeting tonight.

Mrs. Vanuch: Okay.

Mr. Harvey: The additional notification was.

Mr. Payne: Prior to the first public hearing, it was my understanding that the County sent notices to all the residences in Autumn Ridge. Is that not correct?

Mr. Harvey: No sir.

Mr. Payne: Okay. I'm sorry. Just the HOA. Sorry. We also, prior to the public hearing -- and I apologize if I provided misinformation; I was informed that we did notify them. It's not our responsibility, by the way. Prior to the public hearing last September 28<sup>th</sup>, the President of Berkshire's HOA was here, Philip Canoyer. And he was here because I asked him to come because we had a discussion about the hearing going forward. In fact, we were in discussions with him last year, met with him last year in regards to the improvements at Winding Creek, north of our site as we had discussed earlier. So, this has been a very extensive public process. I think a very transparent one and one that we have reached out to the community extensively. So, to... no disrespect, but to suggest that we have not undertaken all efforts to try to accomplish that goal I think is unfair. In addition to that, there's going to be another public hearing process going forward at the Board of Supervisors which folks can come to and speak. And we're more than welcome to meet again with the Berkshire HOA to discuss the project, or any other HOA for that matter. So, with that I'm happy to answer any questions you may have. But I just wanted to make sure that we got that information out and filled some gaps and some questions that may be out there. Thank you Mr. Chairman.

Mr. Apicella: Questions for the applicant? Could you just refresh our memory -- give us the highlights of what's changed between the version that was approved by the Planning Commission, what, a year or two ago? Versus the version that's in front of us today.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Payne: The only major change that has occurred is the fact that we have removed... well, the 1.2-plus acres is not part of the rezoning application which required the connection to Fireberry Boulevard. That is the major change.

Mr. Apicella: Thank you.

Mr. Payne: And the most recent change is in regards to preserving the open space that you have requested.

Mr. Apicella: Right, thank you. Other questions? Mrs. Vanuch?

Mrs. Vanuch: I have a couple questions. So, help me understand the site line improvement from... on Winding Creek Road. How... what changes are you exactly going to make in order to improve the site line to you said 6 to 800 feet, if I'm correct?

Mr. Payne: The site is 800... 6 to 800 feet from us. So, what we'll be doing is improving the site line to the curve where the curve is. So you'll be able to see through the curve versus the wooded area blocking that turn. Do we have the slide? We have a before and after slide that may be very helpful. And Mark, do you want to come up and talk about the details as the engineer on the project? About what has to be done.

Mr. King: I'm Mark King with Bowman Consulting. I'm the Civil Engineer on this project. This curve that you're looking at here -- see how it kind of bends right to left. On the left-hand side there is a very large exposed rock that's there. So, what we want to do is be able to help the driver as they navigate this turn to be able to see beyond those rocks. So, as Kathy just moved up here, we're going to lay that back. There'll be a small retaining wall. We need some property from Mr. Greg Henderson who we have met with and he has no problem with that. And what that does is you can see here; now as you're coming to that curve, you can see through all the way over to Flatford and Walpole Street, which is a four-way stop. So, that in my opinion really makes this area a much safer place, just not for our development, I think for the entire County and Mr. English especially if he has to respond to any accidents there. But I think it's significant. It's something that needed to be done years ago, probably even when Berkshire went in. But, you know, they don't have an access point on Winding Creek; it's both on Walpole Street.

Mrs. Vanuch: So, you said you have to obtain some property. And there are some contingencies in your proffer. So what happens if you can't get the... what happens if you can't do that?

Mr. Payne: So, we're not necessarily obtaining property. It's an easement. It'll be a site line easement and we'll landscape it if it's agreeable to all the parties. If we can't get the agreement of two parties, one of which will have to be the Berkshire HOA and the other will be Mr. Henderson, and Mr. Henderson's already given his permission. Berkshire gave us their OK last year; we want them to reiterate that again this year, that's why we're having a discussion with them. If we get one of two, then we would go ahead and make the improvements that we can to clear that area, and then the difference in cash would be paid in cash proffers. So, it's a million dollars total; the improvements just to this site is about \$412,000. If we get nobody to work with us, then we give \$412,000 towards transportation proffers. So it doesn't go away if we're not able to do it. And the formula is in section 4.c. of the proffer statement.

Mrs. Vanuch: And then I think you also said in a previous comment something about the retaining wall needing further engineering?

*Planning Commission Minutes*  
*October 26, 2016*

Mr. King: So we don't go and impact the properties, you know, Mr. Henderson's property, the HOA property, extensively. It is a big hill and a lot of... you know, to lay that back, to take up less property, we would put in a retaining wall that would stabilize that slope and then we would, you know, plant grass and replace what vegetation we need to. Yeah, we did, we provided that cost to the County. That's the \$412,000 that Mr. Payne referred to. Yeah.

Mrs. Vanuch: Okay. And then, I have a question on the traffic impact studies. So you guys are offering up some proffers for Eustace which obviously I think is a good thing for the County and for residents. Did you do any studies for Winding Creek and... the intersection of Winding Creek and Courthouse?

Mr. King: We did not. When we were doing this, we were looking to analyze our site and the intersections near our site. VDOT and Stafford County has done that work with the improvements that are about to start in January. Shirley Contracting has been, what I've heard, awarded the contract and it's supposed to start in early 2017, and all the improvements and I believe it includes the new interchange are supposed to be completed by 2020. At that point... that's going to clean up another really bad area because of the offset in the intersections of Ramoth Church and Winding Creek.

Mrs. Vanuch: Yeah, that's terrible.

Mr. King: So they're going to line up those two roads. There's going to be a stoplight. Right. The scoping was done by the County and VDOT and not us.

Mrs. Vanuch: And so that's the reason you didn't study it. It wasn't... because, you know, I think you guys did appropriate studies if you were to have the Fireberry connector. But if you remove the Fireberry connector, now most of that traffic's going to go out to Winding Creek because there's nowhere else really for it to go.

Mr. King: It didn't change. We updated the study here before we resubmitted this plan without the Fireberry connection, and it did not change the Level of Service; it was A and B.

Mr. Payne: The irony in the Fireberry connection is the fact that we were actually just contributing little traffic to cross Fireberry. Most of it was still going to Winding Creek. So the analysis didn't change that much.

Mrs. Vanuch: And so just... I want to just repeat it. So but you didn't do the analysis of Courthouse and Winding Creek because the County had already done an assessment based on the changes that were going to be coming to Winding Creek and Courthouse?

Mr. Payne: Well, I don't know the answer. I don't know if that's accurate; I just know that we go in and they say this is the intersections we want you to study and that's what we study, for the TIA. I mean, that's a basic requirement for the traffic impact analysis.

Mrs. Vanuch: Got it. So, I have an additional question on proffers. If you guys are... in your application package you talk about using some of the school impacts to 2020, you're counting on the road impacts of Courthouse and Winding Creek being completed by 2020 which you just mentioned. You also have mentioned that like neighborhoods that are selling in the high \$400's to mid-\$500's build out really slowly, they sell much slower. So would you be opposed to doing an occupancy permit for 2020 to kind of align with all of the other information that you've provided?

Mr. Payne: Yes.

*Planning Commission Minutes  
October 26, 2016*

Mrs. Vanuch: So you guys would be willing to proffer that?

Mr. Payne: Yeah, I mean, the market drives the development. But first of all in the scope... the only thing that we've addressed in regards to build-out is scoping because that's what you're required to do to see if the traffic impacts are based on your estimated full build-out plan. So I think that was five years or so. Is that what we did? I mean, that's pretty much a standard for the size of the development. For schools, we only provided that information; we provided it 5 to 8 years because we were asked what our build-out plan may be. But the market drives it. I don't want to handcuff my folks if the market picks up, especially in the high-end market, and say hey, you can't build a home till 2020. It just wouldn't be, in my opinion, fair or reasonable.

Mrs. Vanuch: Okay.

Mr. Payne: But if you think about the timeline that how these projects get up and running, even if it was approved today you wouldn't have the first OP or OC... occupancy permit, I'm sorry, you know, for 2-plus years, even if I was able to go fast. You've got to get a site plan approval, construction plans, you've got to get construction plans, you've got to get your building permits. And remember, we're building in the first phase of this all the infrastructure improvements up front. So we're not waiting till the last days of the development to put these improvements in; they're all happening up front.

Mrs. Vanuch: And then I think I just have one more question hopefully and then I can turn it off to the others. You guys did mention that in April you met with additional HOA's; I think you might have said you met with Autumn Ridge this April.

Mr. Payne: Mm-hmm, yeah.

Mrs. Vanuch: Did you happen to meet with the Bershire HOA in April to talk about your changes?

Mr. Payne: We didn't send out the invites, I think the County sent... Jeff, remind me. I think the County sent out the invites by the direction of Supervisor Sellers if my memory serves me. I don't think we sent out the invites.

Mrs. Vanuch: For the April meeting?

Mr. Payne: April, right.

Mrs. Vanuch: Okay.

Mr. Payne: Including anybody who spoke at the last public hearing; I think it included... it probably went to the HOA's. I'm not going to speculate but we did not handle those invitations.

Mr. Harvey: My recollection was it was a Town Hall meeting. My department was not involved in the notification for the Town Hall, so I don't know who was notified.

Mrs. Vanuch: Okay.

Mr. Harvey: I know that there was a fair attendance; there was probably 20 or more people there.

Mr. Payne: Right.

*Planning Commission Minutes*  
*October 26, 2016*

Mrs. Vanuch: Do we know if most of those residents were from Autumn Ridge or Berkshire?

Mr. Payne: My bet is Autumn Ridge.

Mrs. Vanuch: Okay. Because I think that's one of my underlying concerns is that we remove the concerns from Autumn Ridge, which is the Fireberry connector, which then creates a whole new set of concerns for the residents in the Berkshire neighborhood which they didn't have previously just because of the way the traffic pattern changes. So, I don't know if there's anything you can do to address those concerns.

Mr. King: Let me address that Mrs. Vanuch. We also had a meeting at Porter Library. And that was really a Berkshire meeting that Phil had asked us to do. And there were five people that attended.

Mrs. Vanuch: When did you do that?

Mr. King: That was... five people attended it and one of them was Wendy Maurer, before she was elected.

Mrs. Vanuch: So that was before the Fireberry connector was removed.

Mr. King: That is correct, that is correct, yeah.

Mrs. Vanuch: Okay. So that's the crux of the issue. Once you remove the Fireberry connector, then the Berkshire people have a different issue. So they were probably okay with that connector, but now they're probably not.

Mr. King: We are meeting with them Tuesday evening. They have their annual HOA meeting and they... Landmarc Realty had reached out to us about... Mr. Payne and I about attending that meeting which we are going to do.

Mrs. Vanuch: Well, I think that's great and I think that might even set us up for if we were to advertise for an additional public hearing for December, you guys have a chance to meet with those residents and hopefully can address their concerns so that I'm not getting hundreds of emails and Wendy's not and we don't have a very contentious Supervisor meeting.

Mr. Payne: I'm surprised that that many folks would be contacting you guys in regards to this project. It's been very public for a very long time, including... again, I'm not trying to throw the President of the HOA under the bus by any means because he's great to work with, but this project's not new to anybody in that area. So, we're happy to meet with them. We're going to meet with them next week. They'll have an opportunity to come to the public hearing with the Board of Supervisors. I think it's, just in my opinion, not equitable to open this back up to another public hearing. It's not my call; if you're able to do it I'll have to come and do my job. I'm asking respectfully, since this project has been out there for quite a while, again we worked very hard to go back to the community to address their concerns, their major concerns that came up in the last run of this if you will, including going to the County Board of Supervisors to get a waiver for the 12-month re-application process. So, that's my request respectfully. Not trying to be disrespectful to you. I understand that your addressing your constituents' questions and concerns. But again, we can do that next week and we can also play a role in the public hearing process thereafter.

Mrs. Vanuch: I'm done.

*Planning Commission Minutes  
October 26, 2016*

Mr. Apicella: Other questions?

Mr. Rhodes: Yes, Mr. Chairman.

Mr. Apicella: Mr. Rhodes?

Mr. Rhodes: Mr. Payne, just to confirm, when in the schedule would you be doing the work on the improvement north of the property for the corner there?

Mr. Payne: During the construction of the first phase of the units.

Mr. Rhodes: Could you help me understand?

Mr. Payne: It's in the proffer statement on the bottom of page 3.

Mr. Rhodes: Right. So, once you start constructing the first units, you'll start the work on the corner there?

Mr. Payne: Is that the plan? We've got to do the site work obviously.

Mr. Rhodes: I know. You've got the site work...

Mr. Payne: While we're doing the site work it's going to be cheaper, if you will, you know, more efficient for us to go ahead and do it all at the same time.

Mr. King: We would include that as part of the design construction plan.

Mr. Rhodes: Okay.

Mr. King: Which what we're looking at, if this got approved here by the Planning Commission and the Board in this calendar year, this wouldn't even start construction until 2019.

Mr. Rhodes: Right.

Mr. King: So, it's, you know, it's a couple years out.

Mr. Rhodes: But when you start that site work, it's in that front end... that is part of your site work (inaudible).

Mr. King: It's going to be in that first phase... it'll be in the first phase of it. We know what has to happen. We've looked at it already. It's just a matter of getting the... all the elevations and surveying that all in to make sure it ties off correctly.

Mr. Rhodes: And when you do the turn-in, you've got a tapered turn-in for one of the entrances, right?

Mr. King: Right. Both of them.

Mr. Rhodes: Both of them, okay. And how will those be finished? Will they be curbed?

*Planning Commission Minutes*  
*October 26, 2016*

Mr. King: We will run the curb out around the returns toward Winding Creek. And then there's tapers...

Mr. Rhodes: Right, so in and out and along the taper you'll have curbing.

Mr. King: Yes.

Mr. Rhodes: So there'll actually be a little improvement on there.

Mr. King: Yes.

Mr. Rhodes: And lastly, I didn't think to try and pull it up and it just triggered my mind as we were talking tonight, do you recall what percentage of the traffic was estimated to be towards Fireberry versus (inaudible)?

Mr. King: I want to say it was like 10%.

Mr. Rhodes: Okay, that's what I kind of thought too. So it flowed the other 10% back out that way.

Mr. King: Yeah, yeah.

Mr. Rhodes: Okay, thank you. Thank you Mr. Chairman.

Mr. Apicella: Other questions? Okay, seeing none; thank you.

Mr. Payne: Thank you Mr. Chairman.

Mr. Apicella: I'll bring it back to the Commission. Mr. Rhodes, Mrs. Vanuch, it's in your districts.

Mrs. Vanuch: So, I just want to reiterate and I'm willing to get some feedback from my fellow Commissioners about the public hearing process. I know I kind of went off on a tangent earlier.

Mr. Apicella: I'm sorry, I never do that.

Mrs. Vanuch: I know... I was going to say I was trying to be like you but I didn't want to hurt your feelings. So, I feel very, very strongly that we give the Berkshire residents the opportunity to come speak. And if nobody shows up, then we know our path forward. And if only one person shows up, at least we know where that neighborhood stands and we've given them the opportunity and we've set up a very successful recommendation to the Board of Supervisors. So, I'm willing to listen to feedback. Anybody?

Mr. Rhodes: I would just, and certainly if that's the will of the fellow Commissioners, you know, I wouldn't stand in the way. I think the beauty of the process that we have, while it's if you're not involved with it, it is a bit surprising as we go along at times, you know, when you learn things and start understanding how it works. But the beauty of the process is really, the Planning Commission process is the feeler. And it's to get the awareness. Part of it is just getting the awareness and the attention of people realizing that something's out there. And sometimes it comes at the public hearing and sometimes it comes following the public hearing as you do in the continuing sessions like we are tonight, and it gets that awareness. But it's that first stage... there is the entire additional public hearing portion, so there's a whole nother opportunity for the voice in the other sessions to occur in the process.

*Planning Commission Minutes*  
*October 26, 2016*

So, I'm not sure for the cost involved in the other notifications and delay, that there's a part of me that just doesn't know how much more it adds because there is the other public hearing. I would never want anybody to be lost out on their opportunity, but we do have that there. And there's a part of me that says with the commitment of Mr. and Mrs. Hall, there is not going to be anywhere in Berkshire that's not aware of the public hearing that's happening with the Board of Supervisors, if that were the way it's going to go. There's not going to be a lack of awareness, even if we only did the limits of the ordinance of the public hearing and it only went to the HOA, I have a funny feeling that it wouldn't matter if it only went to the management company. There's still going to be a lot of people who are going to know about it, if that's the route that we go with. So, there's a part of me that's not as concerned there. I will tell you what has motivated the heck out of me and excited the heck out of me on this project, and it's not the project. I started learning about public hearings and stuff because I didn't have a clue how they worked when I got roped into doing this weird thing called the Youth Driver Task Force. And it kind of just came out of the blue and it was after four kids got killed on these roads, and my daughter was getting ready to get her driver's permit, my eldest daughter. And, so there's been nothing that has motivated me more than improving the dangerous curves than limiting the amount of sprawl and trying to do anything we can to keep it from spreading out onto those crazy roads that cannot support any infrastructure, and keep it as close in as possible. Maybe not perfect with the infrastructure, but as close in as possible with the infrastructure that we do have and that will get improved. But it's the things about the road. So, when I saw in the proposal that they were going to attack that corner, which is not going to get touched -- it is not going to get touched for the next 10 years. It's probably not going to be touched for 15 more years. When I saw something that's going to touch that corner, and it may only be 3 accidents on that road but it scares the heck out of me because I drive it almost every day and it's always kind of freaky when you come around the corner and you actually see another car that's over there. So I was so surprised those numbers were down. I thought maybe it was a one-year number. I just wanted to make sure I (inaudible). When I saw that in there, I've got to tell you, I was motivated forward; because there's no other way that's going to get done for a long time. And then we add to that the fact that this is one of the last things, at least the way the state legislature has it for us, to actually have \$1.6 million that's going to go towards the schools, that's going to have other proffers that are coming forward. There's a part of me that's actually attracted to this in many ways. It is a Level of Service A/B, it doesn't change. You know, those are things; we are going to have Courthouse Road that's improved there. So, I have some... I just have a lot of positive leanings. I'll just lay it out there. But a bunch of it is because they finally directed it towards that corner. I like seeing that corner that's improved. So, if others feel they'd like to go back and do another public hearing, I just... knowing that there's another one, that's always important to me and this is what stimulates a lot of times the interest that actually gets all the comments out there. I'd certainly go with how others want to go, but I don't know that that's necessary. And I think moving it forward... and if the Board isn't satisfied -- it's going to come down to the Board's the deciding entity. Are they satisfied with the improvements in the corner and the amount limit or scope of the implications that are on there or not. I think there's not much new that's going to be (inaudible) by having another six weeks in the process. It's going to be the same issues that'll be brought forward. So, those are my points. Thank you, Mr. Chairman, for that long-winded thought.

Mr. Apicella: Are there other comments? I guess I think you've said it well, Mr. Rhodes. And you always hear me raise concerns about setting precedents. I've been here 5-plus years; you've been here a lot longer. I can't remember a time where we re-advertised a public hearing for a reclassification. We may have done it for ordinance changes, but that's because we made a change that necessitated us to have to have another public hearing -- if that even happened; I can't even recall that happening. So, I appreciate that some issues and concerns have been raised by one of the residents. And it's why I ask the question: what's changed between the last time this was in front of us and I think it passed almost unanimously, and the one that's in front of us today and it's only a minor change in the grand scheme of

*Planning Commission Minutes*  
*October 26, 2016*

things, which is taking out the Fireberry Road inter-parcel connection which was requested by some of the property owners. So, I would be concerned about, again, setting a precedent and re-advertising for another public hearing without having a real driving force, a very strong reason for doing it. I'm not... I hear what you're saying; I appreciate it. We're always going to have somebody who is going to be opposed to a project. And if that's going to be our... or somebody who didn't know there was a public hearing although it's advertised in the paper, somebody's always not going to be happy that they didn't get the notice that they thought they should have gotten. And so, if we're going to reopen public hearings because of that, then we're going to be doing it quite often. So, again, I respect and appreciate all of the comments that you made. And we're not the last stop here. If we were, I might see it differently. I think Mr. Rhodes is spot on; all we do is make a recommendation. The folks you really need to talk to at the end of the day are the Board of Supervisors and they're going to make the final decision. Everything that you've provided to us you can certainly provide it to them and then some. And, as Mr. Rhodes said, you can certainly, you know, rattle the tree with your neighbors and get them to come to that public hearing as well. So, I'm not quite sure there's a motion.

Mrs. Vanuch: I didn't make a motion because I wanted it to be up for discussion.

Mr. Apicella: So, I just wanted to offer my comments. So I'm going to throw it out there again. Is there a motion on these two matters in front of us?

Mr. Rhodes: I make a motion to recommend forward to the Board of Supervisors recommending approval.

Mr. Apicella: Is there a second?

Mrs. Bailey: Second.

Ms. McClendon: Mr. Chairman, you need to take them up separately; the reclassification first and the CUP second.

Mr. Apicella: Okay.

Mr. Rhodes: I'm sorry, RC16151333, Reclassification, Winding Creek, a motion to recommend it forward.

Mrs. Bailey: I'll second.

Mr. Apicella: Okay, there's been a motion that's been seconded. Any further comment Mr. Rhodes?

Mr. Rhodes: Yeah, not to belabor because I took way too long in my other comments. I appreciate and respect the passion that Mrs. Vanuch showed in responding, and this is in no way against it. I believe absolutely in everything you said. And it is in no way meaning to diminish or slow down the roll. It's just knowing... I now know absolutely the Berkshire community and all those that have comments and want to make those known will be able to bring that. And that is the positive part that works in the Planning Commission. So, I mean that. The long diatribe was not meant in any way to be a negative towards that. I just think all the facts are out there. We know exactly where... I think we know most of the facts that are out there. And that's what the Board is elected to consider. And now we know a fulsome version of the facts from the Berkshire's perspective will definitely come out along with all the others. So I think it'll be good, I think it'll be fulsome. As you said, Mr. Chairman, if this were the public hearing, I'd have a completely different perspective. I'd be much... not that I'm not concerned,

*Planning Commission Minutes*  
*October 26, 2016*

but I would much more concerned if there were folks that didn't feel they were getting it. But knowing that there was a full cycle to go, I feel comfortable recommending it forward. I do think... I don't think anything's perfect; I do think the pros outweigh the cons, that's why I would recommend approval. It can always be better and I'm sure the Board will glean out the best parts of it and take it to the right place. Thank you Mr. Chairman.

Mr. Apicella: Thank you Mr. Rhodes; Mrs. Bailey?

Mrs. Bailey: Mr. Chairman, just briefly. I do appreciate the comment and the concerns that Mrs. Vanuch expressed in regards to making sure that we have adequate and appropriate sending out notices to the public. And there are always going to be those that don't receive notices, thought that they received notices, and so forth and so on; I don't know what the cure is to that. But I do believe that Mrs. Vanuch is acting out in trying to just protect the interests of the people within her district and I applaud that. But having said that, I do believe that we're also in abeyance with our due process that we have here, and the applicant has indicated that they will be meeting with the residents of Berkshire. So, I'm sure that within that meeting, when it goes forward towards to the Board of Supervisors, there'll be plenty of time to discuss the issues and concerns and to take a look at those at that particular point in time. This project does bring... for me I'm a little bit on the fence, pro and con, but I think the positives outweigh the negatives. The curves in Winding Creek Road, you know, that's the way that God made it and when the road was first put in, that's the way that the individual saw fit. That doesn't mean that it's right for public transportation and automobiles and so forth and so on. But that is one part of the road there that I'm glad that the applicant is willing to take on and try to correct. If not, then that road would be there in that condition even longer. So that is really the point out of all of this that persuades me in that direction, as well as the... I think it's a very good strong proffer package from the applicant and I do appreciate that.

Mr. Apicella: Thank you Mrs. Bailey. Mr. Coen?

Mr. Coen: Yes, and a lot of my comments I'll save for the second vote. But just since we're spending a lot of time on what Mrs. Vanuch said, I sort of agree with her. I hope, and I think I asked Mr. Harvey that in the future, if we have something that has come before us and for whatever reason the Supervisors reject it and then it comes back, that our normal protocol will be to automatically when we send out notices contact people who spoke at the public hearing when it came before us the first time. I think that's the least we could do. And then to the applicant, since they're having to meet with the Berkshire people next Tuesday, that might be a lesson for future reference that when there's something and you've substantively changed development in a plan from last April to now, or two years ago to now, it might be a better move to reach out to all the various neighborhoods because you end up having to do it anyways. So, I'm not... I will include in my second, when we get to the next vote, all the reasons why I was the lone vote against this the last time and I'm still going to be probably one of the minority in this this time.

Mr. Apicella: Other comments? Okay. I just want to add to what's been said primarily with respect to Mrs. Bailey and Mr. Rhodes. I agree with the comments that you all made. I also want to add my thanks and appreciation for strengthening the language about the open space piece, especially in light of the comments that we just got from the Parks Director. Alright, there's a motion on the floor recommending approval of RC16151333; cast your vote. Okay, the motion carries 4 with 2 nays and 1 abstention. (*Mr. Coen and Mrs. Vanuch opposed; Mr. English abstained.*) Okay, is there a motion on the Conditional Use Permit?

Mr. Rhodes: Yes, Mr. Chairman, I make a motion to approve the Conditional Use Permit, 16151334.

*Planning Commission Minutes*  
*October 26, 2016*

Mrs. Bailey: I'll second.

Mr. Apicella: Okay, there's been a motion and it's been seconded. Any further comment Mr. Rhodes?

Mr. Rhodes: I'm going to stop talking.

Mrs. Bailey: No further comment.

Mr. Apicella: Anyone else? Mr. Coen?

Mr. Coen: Okay, this is where I go on. And I respect... I understand...

Mr. Apicella: We're going to take a pause.

Mr. Coen: Yeah, really... for station identification. Several things about this that I didn't agree with when it first came to us and I still don't agree with now. First, I totally understand the concept of infill development. I have supported it in different areas; however, to me there's a world of difference between infill and then humongous fill. You could have done the 20 by-right units as infill. You could have made it 30 or 40 or 50. I think jumping up to 97 is problematic. I understand where individuals say that there's not that many accidents, but as Mr. Rhodes pointed out, it is unnerving on that road period. And you're adding, the last census said 2.3 cars per household, so roughly between 200 and 300 cars onto that road. And that is going to be problematic. And yes, I understand that that road's not on our list to be fixed for a while, but I still... to me, logic tells me you're adding 2 to 300 cars on a road. That is still, even if you do that widening, it's still a precarious road. On the issue of the schools, I think the Halls -- do I have their last name right? -- the Halls had very good information on that and I think it really bears mentioning that the state has altered how it calculates capacity for schools. It used to, and the County is just following the state guidelines, but it used to be seat capacity. Now it is they include the entire building. So, they include the auditorium, the library, the gymnasium, even though logic says you're not using all that space. So for a school to be at 98% capacity, when you're figuring in the entirety of an auditorium, that means the school is overcrowded and it just is problematic to sit there and just look at this in a bubble and say, well this is only x number of students when, because we're jumping up to 97, you're adding more to an already overcrowded three schools that are definitely overcrowded. And I don't think anybody said that we are ordering the school system to redistrict, we're just saying the facts on the ground are this is the number of houses, this is the number of students, it's overcrowded; there's nothing going to be built, this is a fact. And that to me is just sort of a real logical argument to say, if we're going to approve jumping from 20 to 97, the proffers should be commensurate. Part of the proffers, if I remember correctly, includes the value of that land which the County doesn't want for that park space. And part of that is certainly the amount of money that's going, and if I remember staff's report from last meeting, the proffer is once again below what we have calculated we need. Granted this may be one of the last ones under the old proffer system and, you know, I've been on this since I've been on the Board, that we continue we say what we need and then we come in lower, and I know I will go out with that. I really have, and it may be my questioning nature, but I looked back at our minutes, I thought back; the entirety of the time we discussed the Fireberry connection, never was it discussed that it's solely because there was 1.2 acres. And logic would have said to me when we were going back and forth and back and forth and whether we're going to have a cul-de-sac or not have a cul-de-sac and can we do this, to me logic would have said, hey, there's 1.2 acres here. If we just took it out of this, we wouldn't have to have a connection with the Fireberry Road so there's not a problem. And so I'm just leery that now that somehow that we now say the 1.2 acres isn't included, that somewhere down the road -- no pun intended -- at a TRC or somebody, you know, Fire, VDOT, somebody's not going to sit there and say we want another connection because that was what we were crabbed at. The reason for

Fireberry was there had to be a separate entrance for Fire and Rescue. And when we kept going on, I remember, you know, the whole great discussion of we'll look into a cul-de-sac discussion. And again, it was -- it was a roundabout I think -- the roundabout discussion was because we had to have that connection. And I'm just leery of all of a sudden... I just don't... to me it doesn't connect. No pun intended. But why didn't that just... that would have been a solution when this came to us two years ago. We would just say hey, we'll just pull out the 1.2, we don't need a connection and it would have gone through. So, I just... I'm leery of that. And again, the cumulative impact to this are by making it... by going up from 20 to 97 will have an impact. And I too go on that road and it's leery, and more cars it's just going to be leery. And, you know, I just don't think that the impact with the proffers below what we have said we believe there are and the public safety of the roads, I just don't feel comfortable with it. So that's why I'm going to vote no once again.

Mr. Apicella: Thank you Mr. Coen. Anyone else? Okay, seeing no one else, all those in favor of the motion cast your vote. Okay, the motion carries with 4 yeases, two no's (*Mr. Coen and Mrs. Vanuch*), and one abstention (*Mr. English*). Thank you very much. Next item on the agenda.

5. Amendment to the Zoning Ordinance - The Planning Commission is to consider authorizing a public hearing to amend County Code Sec. 28-33, "Districts Generally," Sec. 28-34, "Purpose of Districts," Sec. 28-35, "Table of Uses and Standards," Sec. 28-39, "Special Regulations," and Sec. 28-102, "Off Street Parking" to create an Integrated Corporate and Technology Park Overlay Zoning District pursuant to proposed Ordinance O16-40. (**Time Limit: December 27, 2016**)

*(Authorize for Public Hearing: October 26, 2016)*

*(Potential Public Hearing Date: December 14, 2016)*

Mr. Harvey: Mr. Chairman, the next item on the agenda is consideration of a new zoning overlay district called the Integrated Corporate and Technology Park Overlay. May I have the computer please? And for short purposes, we'll call it the ICTP. The purpose of the ICTP is to promote integration of uses in large scale office and technology parks. These types of parks are typically identified with multi-story buildings and class A office space. The proposed ordinance would try to integrate such uses as hotels, retail activities, childcare centers, data centers, and multi-family housing in a larger context instead of just a single use office complex. This would be an overlay zone, so different than most other zoning categories in that the underlying zoning category would remain, whether the property is zoned industrial or commercial. There would be some added uses that would be allowed in this area should it be imposed on properties. The ordinance would also add some flexibility for floor area ratio and parking requirements. It would have some more restrictions with regard to site development; specifically, requiring sidewalks that'd be integrated throughout the project linking various buildings together. There'd also be a requirement for architectural design to ensure compatibility between the various different buildings within the complex, and also following our Neighborhood Design Standards in the Comprehensive Plan. And then further restrictions on building height to ensure that the buildings that are built within this complex are compatible. An overlay concept requires a rezoning after adoption of the regulations. So right now we're currently considering the regulatory framework to establish this overlay zone. Ultimately, it's going to require a rezoning in order to impose it on properties. And typically there's two options: one option for an overlay zone is it could be initiated by the Board of Supervisors. Another option, it could be initiated by property owners. We've seen both in the County; it depends on the specific situation. In the case of a Highway Corridor Overlay Zone, those were imposed by the Board. In the case of a Historic District, the Board has allowed property owners to opt into it, rather than impose it on all eligible properties. With regard to this proposed amendment, it would allow an increase for floor area ration up to 1.0. The current floor area ratio is .7 for B-2, Urban Commercial, and .5 for M-1, Light Industrial. Floor area ration is a measurement of the total area of

your land compared to the total area of your building. So, the higher your floor area ratio means that you're having more multi-story buildings, your building footprint is probably taking up more space on the ground than compared to a lower ratio. Also, it would adjust the open space ratio to .2, which means that 20% of the site would have to be in lawn or landscaped area. The current regulations in B-2 are .25 and M-1 is .2. The reason why I'm referring to the M-1 and B-2 zoning categories for these comparisons is that we have a couple of projects, and I'll get to them in a minute, that might be potentially eligible for this zone... overlay zone, and they currently have predominantly light industrial zoning on them but also have some commercial zoning. The proposed amendment would have a building height requirement between 40 and 80 feet, so more than likely you're going to have 3 to 5-story buildings, 6-story buildings possibly, maybe even 7, depending on the type of construction; but probably between 3 and 6 stories. Currently, the maximum height in the B-2 and M-1 zones is 65 feet. So, the purpose of this district is again to have, for Stafford purposes, high rise nice looking buildings. The amendment also allows for residential development for multi-family homes up to 24 units per acre, of which a maximum of 10% could be 3-bedroom units. As I mentioned earlier, there's a requirement to have sidewalks connecting between the various different buildings and open space areas. Architectural design would be in accordance with the Neighborhood Design Standards and would have to be compatible within the project. And there'd be a 20% parking credit if they use a parking deck. We're trying to encourage parking decks because that allows buildings to have a higher floor area ratio. The qualifying areas for this overlay zone would be for existing high-scale office projects that have over 400,000 square feet of office space. We have two potentially eligible projects in the County currently; one is Quantico Corporate Center. They specifically qualify because they have close to half a million square feet already built and there's additional zoned land that could accommodate more buildings as well. Riverside Business Park is another project in the County that potentially is eligible. They have close to 300,000 square feet and they have additionally land that's zoned that could accommodate enough square footage to meet the threshold. Looking at... I looked at Quantico Corporate Center sort of as a measure and for the five buildings that are currently existing today, they encompassed about 22 acres. So, looking at 20 acres sort of as a threshold if someone wanted to establish a similar type of project in the County, they might be eligible for this overlay. There were 40 properties in the County that were zoned Light Industrial that maybe could qualify for this. The reason why I looked at Light Industrial was because that's initially how Riverside Business Park started, as well as Quantico Corporate Center. They started with an industrial zone rather than a commercial zone for their office buildings. I'm not sure exactly why; I could speculate maybe because commercial is more retail oriented so the land values may have been higher initially and that's maybe why the developers went with industrial zoning to start their projects. This is a map that you saw a few meetings ago that shows the industrial properties in the County. The light blue is Light Industrial and the dark blue is Heavy Industrial. And they're scattered throughout the County, but there are three primary areas; one is in the north part of the County up near Quantico Corporate Center. There's also a significant concentration around and also including the Regional Airport in the center part of the County. And then we have a number of industrial properties on the Route 17 corridor and some remote properties out on Route 3, outside the Urban Services Area. Sort of zooming in on the zoning map, what we've done is try to overlay it on the aerial photos because there were some questions people may have had about well, where are these areas and what's nearby and what would be potential impacts. This is an area near Quantico Corporate Center and also Hildrup Moving and Storage there in the northern part of the County. Sort of the light blue is the existing Light Industrial zoned properties. Quantico Corporate Center has a combination of Light Industrial and Urban Commercial B-2 zoned properties, so portions of their project that are vacant are here, Light Industrial, and here, Light Industrial, but also commercial in this area. A site plan has previously been approved for another office building here. That's currently approved and just pending further development. So this area is one that would qualify today. Looking at other industrial properties, and it's harder to see on these images, but there's Light Industrial zoned property for the airport in its entirety. Several tracts of land adjacent to the airport are currently zoned

*Planning Commission Minutes*  
*October 26, 2016*

Light Industrial, as well as a number of tracts of land on the north side of Ramoth Church Road associated with the George Washington Village project. And there are all sizeable land holdings that could support this type of development. Also, some additional industrial properties are out in the Route 17 area. Most of the undeveloped land is associated with the Westlake project and is owned by the University of Mary Washington Foundation. There are a couple of other pieces of that original zoning that are light industrially zoned but not part of that... not owned by the Foundation. There's also the property known as the Crucible out here as well too that is large enough to be able to support this type of overall development scheme. And then I mentioned Riverside Business Park; it's located in this area here off of I-95 and Route 17. There are three existing buildings and this is the general vicinity right here. And then also there's light industrial property right adjacent to it owned by the same company, as well as a number of other parcels heading down to the river. So, that project readily could be expanded to meet and qualify for this overlay. In fact, the owners of Riverside Business Park had applied to potentially rezone the second building you see as you go down Interstate 95 in this location here to commercial because they had some users that were a proposed clinic that wanted to locate in there, but in the M-1 zoning it's not necessarily permitted. And this was the area out in the eastern part of the County. We have Springfield Farm in this location here and then the darker blue are Heavy Industrial properties, the Renaissance Business Park and then also a leftover piece of property that was formerly owned by RF&P Railroad. So the next steps for the Commission to consider is making any desired changes that you may have for the overlay district, and also considering authorizing a public hearing. And I'll be happy to answer any questions you all might have.

Mr. Apicella: Questions for staff? Mr. Coen?

Mr. Coen: Yes, Mr. Harvey, just a couple quick items. So, would the... just so everybody understands... the process would be if we have the public hearing, we create the concept of it and then these areas would have to apply to be in it? Or is it that they automatically, if you're M-1 and M-2, you're in it automatically?

Mr. Harvey: Mr. Coen, this proposal would basically set the ground rules for how the zoning district would work. The next step would be either the Board of Supervisors on a zone initiative rezone properties to this overlay. Right now there's only one that's eligible; that's Quantico Corporate Center. Or, a land owner, if they built enough office space to qualify or had approved... site plan approval for office space to qualify, they could apply on their own behalf.

Mr. Coen: Okay. And then, for when and if we do a public hearing, would it be possible... I know there was some question as to we voted on something and then the Supervisors voted last week to change certain things that can be done in M-1 and M-2 already. And there's sort of a question of is this repetitive or is it needed? Is there some sort of chart that sort of says under the new thing that was made by the Supervisors I think it was last week...or, yeah, I think it was last week... this is what's automatic -- if we do this, this is what could be farther added to these type of things. Does that make sense to you sir?

Mr. Harvey: Yes.

Mr. Coen: Okay. And then this is something that I think maybe we started this with the cemetery one, but it seems as though with some of these types of zones and changes, there's a query or a question as to in what our zones are what's allowed and what's not allowed, and do we need to change that based as to, you know, what's on the ground. And so, I'm not certain that we theoretically can do this on this item, but we've started this and it might be something to look into. If M-1, as it is, is not allowing certain things that the market is driving, up in the Quantico Center say for example, well then maybe should we

*Planning Commission Minutes*  
*October 26, 2016*

look into modifying what M-1 is and put things in that they don't have to keep trying to come up with new zones. Does that make sense?

Mr. Harvey: Yes. Certainly the Commission can look at that and make recommendations to the Board.

Mr. Coen: Okay, thank you sir.

Mr. Harvey: And just to clarify, Mr. Chairman, based on the timing schedule, I believe we need to authorize a public hearing at the meeting tonight for a potential December 14<sup>th</sup> hearing.

Mr. Apicella: Thanks Mr. Harvey. Any other questions for staff? Can you...

Mr. Harvey: Mr. Chairman, I was corrected. This can be carried over to your next meeting and then it would have to be authorized at the next meeting.

Mr. Apicella: Do you have a question Mr. English? I just need to get a little granular on the difference between a County pursued rezoning versus an applicant pursued rezoning, especially in terms of proffers.

Mr. Harvey: Mr. Chairman, with a County initiated zoning, one that's put forward by the Board of Supervisors, that would be the County imposing the zoning on the property. And it doesn't necessarily require owners' consent; it just requires notice to the owners. And there are no proffers. In the case of a property owner initiated zoning change, there can be proffers. The proffers are voluntary and they're negotiated on a case by case basis.

Mr. Apicella: So, hypothetically speaking, if the County decided that it wanted to create an Integrated Corporate and Technology Park at the Quantico Corporate Center and apartments are by-right, how big is Quantico Corporate Center? What number of apartments could be accommodated there based on the size of that site?

Mr. Harvey: Mr. Apicella, I'd have to research the acreage of the remaining parcels. I know that the County owns one of them; there's two other relatively sizeable parcels but I don't recall the acreage.

Mr. Apicella: Right, and to some extent, it's a little moot because we're operating under an environment where you can't or it's very difficult to accept monetary proffers. By the same token, for an application initiated overlay district, we've sort of got the same quandary if we're speaking specifically to apartments, residential units that have some impact to the County where we would have to... we just talked about a 97 unit subdivision that's going to have an impact on our school system. So, even though it's in an industrial zone doesn't necessarily mean there won't be children there; we can't know that for sure. So, I'm kind of... that's the piece of this that worries me a little bit, whether it's a County applied rezoning or an applicant pursued rezoning about mitigation and the impacts associated with residential units. And I'm just kind of curious from your vantage point do you see any risks or unintended consequences with that piece of this proposed measure in front of us?

Mr. Harvey: Mr. Chairman, I'm not sure that I could identify specific risks.

Mr. Apicella: Well, again, we've got a proffer package, we've got proffer rules that don't allow us to accept, for the most part or make it difficult to accept proffers, monetary proffers that mitigate the impacts. So, you don't... someone is able to build an apartment complex, 24 units... is it 24 units per acre?

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Harvey: Yes.

Mr. Apicella: Okay, and you've got 5, 10 acres that you can build apartments on, that's a significant number of residential units.

Mr. Harvey: Yes.

Mr. Apicella: You don't think that could be a risk to the County that we don't have a way to mitigate the impact?

Mr. Harvey: Well, the only method we would have to mitigate impacts currently are transportation impact fees, which are required for all residential dwelling units. In this case, it would be \$2,999 per apartment. And then also whatever other improvements would be required if they have public streets. If it's private streets, it's fairly limited on what we can... what kind of improvements they're required to make. As far as other infrastructure, they'd be required to connect to public water and sewer like any other non-residential building or residential building in the County.

Mr. Apicella: Again, as far as I can tell, all of the other uses have some kind of business or commercial use associated with it. This has a residential component to it.

Mr. Harvey: Correct.

Mr. Apicella: Is there... if we took that piece out, would there be another way that someone who wants to put apartment buildings in an M-1 or M-2 zoning district could do that outside of this particular measure?

Mr. Harvey: Not in an industrial zone, unless you modify the code to allow it in some other form or fashion like a conditional use permit or something like that with this overlay. Currently, housing is not allowed in industrial zones.

Mr. Apicella: So, again, there's three options here. We either... again, from my vantage point, we keep apartments in and potentially have some risk that we aren't able to mitigate it; we create a CUP and I need to better understand how that would work; or we propose taking it out. Tell me again how the CUP would work in terms of helping mitigate the cost related impacts of those residential units.

Mr. Harvey: Well, Mr. Chairman, it couldn't deal with costs directly because through a conditional use permit, the County imposes conditions. So we could not impose a condition requiring to make any monetary payments. The conditional use permit would be more focused on the site specific conditions of that property and it can get into more detail on architecture, if you have a specific architectural design. It could also deal with requirements for a specific height of the building rather than giving a range. It can deal with access and internal circulation within that overall complex and relative to the housing to ensure there's decent traffic flow and there's safety issues that have been addressed. Those types of things can be handled with conditions. But offsite impacts cannot be addressed through a conditional use permit, such as schools, such as transportation on offsite intersections, things of that nature.

Mr. Apicella: Okay, any other questions for staff?

Mr. English: I recommendation would be to take the apartments out of this, if there's any way possible. That we just take that component out.

***Planning Commission Minutes***  
***October 26, 2016***

Mr. Apicella: So, we are allowed to make changes or recommend changes to the language?

Mr. Harvey: Yes sir.

Mr. English: That would be my recommendation or motion.

Mr. Apicella: Okay, is there... so, you've made a motion to take the apartments out?

Mr. English: Yes, that would be my motion, to take any residential apartments out of that.

Mr. Apicella: Is there a second?

Mr. Coen: Second.

Mr. Apicella: Okay. Any further comments Mr. English?

Mr. English: No. Just I don't think that for us taking that out is going to give... why would you want to put an apartment complex in an industrial area? So, yeah, that would be my reasoning behind it. Unless we had like a situation we had up the Celebrate when they wanted the apartments across the street for school reasons, that would be the only reason I would say for an apartment to be in an industrial park. So that was my reason; I'd just say take that out, take that component out.

Mr. Apicella: Mr. Coen?

Mr. Coen: I just have a question, and I'm trying to remember and it's late. Was there something in there about employee housing or something in this one, or am I getting things confused?

Mr. Harvey: Mr. Coen, in the purpose it references that the housing would be designed to serve the businesses within the complex, as well as the surrounding area.

Mr. Coen: Okay, so it's not... because I remember there's a separate category for some type of employee housing and then there's apartments in general. We've had that come before us before. And this just says apartments, there's nothing else residential in this whole...

Mr. Harvey: There's no restriction on who lives there, no.

Mr. Coen: No. But I mean, in this, if we get rid of the apartments there's no other residential in this overlay?

Mr. Harvey: Correct.

Mr. Coen: Hot diggity. Thank you.

Mr. Apicella: And just to be clear, the real term of what we're talking about is multi-family dwellings.

Mr. Harvey: Correct.

Mr. Apicella: Okay. Any further comments? Okay, there's a motion to take out the multi-family dwellings. Cast your vote. Okay, the motion carries 5 to 2 (*Mr. Boswell and Mrs. Vanuch voted no*). Is there an overall motion to recommend this for public hearing with the amended language?

***Planning Commission Minutes***  
***October 26, 2016***

Mr. Coen: I'll make the motion.

Mr. Apicella: Okay, is there a second? No second?

Mr. English: What is it? I'm sorry.

Mr. Apicella: A motion to put this language to a public hearing as modified.

Mr. English: I'll second it.

Mr. Apicella: Okay. Mr. Coen? It is late.

Mr. Coen: Yes. And it's late enough that I have nothing to say..

Mr. Apicella: Mr. English? Anyone else? Okay, cast your vote. Okay, the motion carries 5 to 2 (*Mr. Boswell and Mrs. Vanuch voted no*). Thank you Mr. Harvey. I am trying to find my agenda.

Mr. Rhodes: New Business, none.

Mr. Apicella: Thank you. No New Business. Planning Director's Report.

**NEW BUSINESS**

NONE

**PLANNING DIRECTOR'S REPORT**

6. Drainfield Ordinance

Mr. Harvey: Mr. Chairman, the first item on my report is discussion of a drainfield ordinance amendment. That was referred to the Planning Commission from the Board of Supervisors. This would amend our water and sewer standards within the subdivision ordinance. Back in 2008, the County set out standards, both in the subdivision ordinance and the utilities code, dealing with standards for drainfields above and beyond what the State Health Department requires. The concern at the time was that there are a number of alternative systems that were being allowed by the state and there were concerns about them not working properly and possibly having more people having failing septic systems and the County having to put more houses on the pump and haul program. The County has a pump and haul program to assist people who have lived in an area that does not have public sewer but has a drainfield and they have a drainfield failure. This would allow people to stay in their houses rather than having to abandon their homes because of the inadequate sanitation. There was concern on the Board about the number of people that could be placed on pump and haul at that time in 2008. Since that time, alternative systems have been more regularly used. They've had a good successful track record. The Board wanted staff to revisit this ordinance amendment and also in conjunction with the State Health Department and designers of these drainfield systems. This proposed amendment would go a little bit different than the current ordinance. The current ordinance is a size-based requirement. For instance, if you had a conventional drainfield, you would have a minimum size of 4,000 square feet for that drainfield in area, and then also for the reserve drainfield you'd have a 4,000 square-foot area as well. The current ordinance requires that the reserve drainfield be at 100% of the same capacity as the primary drainfield. Similarly, for an alternative system where the minimum size is 2,500 square feet for both the primary and alternative reserve system. This proposed amendment would be more of a

*Planning Commission Minutes*  
*October 26, 2016*

capacity-based requirement. In other words, that there would be a requirement for a certain amount of gallons per day of treatment within the overall requirement. And I'm scrolling through because I can't remember. It would be 400 gallons per day per dwelling unit. And that would be the capacity requirement. There would be still a minimum size for a drainfield of 2,500 square feet, but the drainfields in general would be more geared towards overall capacity. And also, when this was referred to the Commission, the Commission does not have the liberty to make changes to the ordinance. Part of the concern at the time when the Board was considering this is because we have very similar regulations being sent to the Utilities Commission for the utilities chapter of the County Code, and their concern was from the Board that they did not want to have two conflicting provisions between the Planning Commission version and the Utilities Commission version. That's why it was sent forward without the ability to make changes. But in discussion at the Board meeting, it was reiterated to me that I should convey to you that the Board is very interested in hearing the Planning Commission's recommendations, if you have any, on the overall aspects of this amendment.

Mr. Apicella: Questions for staff? Mr. Coen?

Mr. Coen: Yeah, just a real quick question, because we keep getting items that we can't technically change but they just want advice. So, can we do this and I'll just call it the Mr. Rhodes' way where we form a subcommittee, we look at it, we don't authorize a public hearing, but we just send them recommendations rather than going through the cost of a public hearing? I mean, can we just say no to the public hearing?

Ms. McClendon: Commissioner Coen, first of all there's a Board directive for a public hearing, number one. But also, number two, if you don't hold the public hearing, technically your advice... or excuse me, your recommendation would be deemed approval based on State Code language.

Mr. Coen: That's what I was afraid of but, I mean, they just keep sending us stuff we can't edit.

Mr. Apicella: Other questions? Okay. Can you tell me, Jeff, Mr. Harvey, what were the sources of the specific capacity absorption rates?

Mr. Harvey: Mr. Chairman, it's my understanding that was a number that was discussed between the State Health Department representatives and designers of septic systems. It is a compromised number. I'm not sure if there are details of science behind it other than a good rule of thumb. I was not party to those discussions so I apologize for not having a specific answer.

Mr. Apicella: So, based on what you just said, this does not appear to be the standard that's used across the Commonwealth or neighboring jurisdictions?

Mr. Harvey: No sir. This would be more restrictive than the state standard.

Mr. Apicella: And what is the state standard?

Mr. Harvey: As our current ordinance is. The state standard discusses capacity based on specific soil types, and that was one of the initial concerns back in the day that in some cases you could have a drainfield area as small as 32 square feet which could very easily be impacted unknowingly by a property owner and wipe out a drainfield. So, this was part of the reason why they had a size requirement. But also a lot of it depends on the specific design of the system and the soil's ability to absorb the nutrients.

*Planning Commission Minutes  
October 26, 2016*

Mr. Apicella: Well, couldn't the same also be true -- so, in some cases it might be too restrictive and in some cases, based on the soil types, might it be too permissive? I mean, you just said that some soils are better and some soils are worse in terms of their ability to absorb capacity. How would we know?

Mr. Harvey: Well, the state regulations relied all on civil engineers and soil scientists to determine the best type of system and the capacity based on the information that they provided to the Health Department. The Health Department's oversight is more so looking to make sure the paperwork is correct and verifying some of their field observations. They typically go out to about 10% of the drainfield applications that come in and just field verify the findings.

Mr. Apicella: Let me ask in a different way, I apologize. So, are you saying then that the minimum treatment capacity of 150 gallons per day per bedroom or 400 gallons per day total, whichever is less, is always going to be a greater standard in every circumstance across Stafford County?

Mr. Harvey: I don't know that specific answer. I'd have to ask that question of the Health Department representatives.

Mr. Apicella: And so we have not yet checked with any other jurisdictions, at least locally or across the state, that have some kind of capacity approach versus the current approach that we have. I'm just trying to compare... all I see is this language in front of us. I know it was, and you use the term compromise... as somebody who does not know enough about this, I can't say whether it's spot on or, you know, the porridge is too hot, too cold, or right in the middle. And I'm a little woe or leery to advertise this for a public hearing without having some more information to know that this is where we should be. That's just one Commissioner's perspective, because it's going to have a big impact; it's a big change from where we are today. It might be the right and perfect solution, I just don't know.

Mrs. Vanuch: Quick question...

Mr. Harvey: Mr. Chairman, right...

Mrs. Vanuch: No, no, no, answer... go ahead.

Mr. Harvey: And right before the Board of Supervisors... the same day as the Board of Supervisors was taking this up to refer it to the Commission, I received an email from the Fredericksburg Area Builders Association and they had some comments on the proposed amendment and then were suggesting some changes based on some of the soils consultants that work within their organization.

Mr. Apicella: Mrs. Vanuch?

Mrs. Vanuch: Is there a state requirement for square footage for a septic field?

Mr. Harvey: Yes there is. I don't know all the details. I know it's certain square footage and absorption capacity based on the number of bedrooms and soil types and things of that nature.

Mr. Apicella: So this was referred to us on the 18<sup>th</sup>. Did the clock start on the 18<sup>th</sup> or is the clock starting today?

Mr. Harvey: Well, Mr. Chairman, I can get to more specifics on the other part of my Planning Director's Report but the clock starts as soon as the Board referred it.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Apicella: So, given that, what's our latest date for putting this to a public hearing?

Mr. Harvey: Well, Mr. Chairman, we'll move forward to the chart that you'll find at your desk. There's been a lot of discussion about the statutory deadlines for land use actions between the Planning Commission and the Board, so today I put together a chart that kind of highlights this. In this case we're talking about a subdivision ordinance amendment and there's a state code provision, as well as a County code provision, that neither one stipulate a time limit for the Planning Commission to take action. But it does say, in the state code, that the Board of Supervisors can take action within 60 days of it being referred to the Planning Commission. So, if for whatever reason the Commission takes longer than 60 days, if the Board wants they can take the ordinance up, hold its hearing, and take a vote. But it kind of implies that the Planning Commission has 60 days but it doesn't say that.

Mr. Apicella: So, again, I'm trying to get to on this specific item, given where we are, today is what, the 23<sup>rd</sup>? 24<sup>th</sup>? What is today? Today is the 26<sup>th</sup>.

Mrs. Vanuch: I thought the Board of Supervisors discussed giving us 100 days on this?

Mr. Apicella: So, we have a public notice requirement that's got to be fulfilled. I'm just trying to back my way into what's the outside date in order to fulfill that requirement would we have to be able to look at this and decide whether this is the right language or not?

Mr. Harvey: Well, Mr. Chairman, I'm scrolling through to find the referring resolution.

Mr. Apicella: So, it was, again, the referring resolution is the 18<sup>th</sup> of October.

Mrs. Vanuch: When I was... I don't want to interrupt you...

Mr. Rhodes: So, 17 December is 60 days.

Mr. Apicella: Seventeen December. And so how many days prior to the... so, our meeting in December... so we've got to look at reality. Our meeting in December I think is the 14<sup>th</sup>, right?

Mr. Harvey: Yes.

Mr. Apicella: So, you work your way back. How many days do we need for public notice?

Mr. Harvey: You can do the November 9<sup>th</sup> meeting if you want.

Mr. Apicella: So that's it. That's really our only opportunity because...

Mr. Rhodes: And do it in December.

Mr. Harvey: Looking at the resolution, it does not specify a deadline for the Planning Commission to hold its hearing.

Mrs. Vanuch: Just really quick clarification, and this could be my bad. But when I was reading the Board of Supervisors notes from the meeting, I could have sworn that Supervisor Maurer had asked how long the Commission had to act on this and it was a hundred days is I believe what her response was, or the response that was given to her, excuse me.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Harvey: And that may be what I told her.

Mrs. Vanuch: Okay.

Mr. Harvey: Because that's what I was operating under until I started putting this chart together and looked and realized there was no specified timeline for the Commission on a subdivision amendment.

Mrs. Vanuch: Okay, got it.

Mr. Rhodes: But our practice had been the 60 days, is that what we're...? Or other date certain that they certify? Or put in their resolution?

Mr. English: Mr. Chairman, it's ten o'clock.

Mrs. Vanuch: You were waiting on that, weren't you?

Mr. Apicella: Is there a motion to extend?

Mr. Rhodes: I make a motion to extend.

Mrs. Vanuch: Second.

Mr. Apicella: Okay. All those in favor.

Mr. Rhodes: I want to beat English one time. He's first again -- nobody can beat Darrell English.

Mrs. Vanuch: It's rigged.

Mr. Apicella: (Inaudible - microphone not on) motion to move beyond ten o'clock. I'm sorry, you were saying Mr. Rhodes?

Mr. Rhodes: Well, I thought we typically deferred to the 60 days unless there was a date certain in their resolution; is that how it works?

Mr. Harvey: There's no specified deferral, but that's a good operating practice.

Mrs. Vanuch: What if the Board's not expecting it? Because I mean obviously Ms. Maurer's comment in, you know, what they're operating on is the hundred days. So, do we really think they're going to take it up within 60 days when they in their minds are thinking we have a hundred?

Mr. Apicella: Can I ask a different question? When is the next Board meeting?

Mr. Harvey: The next Board meeting is November 1<sup>st</sup>, next week.

Mr. Apicella: Can we request two things, just throw it out there? More time and the ability to make changes.

Mrs. Vanuch: Yeah, we definitely need to be able to make changes. Tell them please stop sending us stuff that we cannot change.

*Planning Commission Minutes*  
*October 26, 2016*

Ms. McClendon: Mr. Chairman...

Mr. Rhodes: It's the dual Commissions.

Ms. McClendon: ... yes, actually the reason why the restriction from changes was added to... or taken away from this ordinance was specifically for that reason. If the Board gets back information from the Planning Commission that's inconsistent with what comes back from the Utilities Commission and it goes outside the scope of advertisement, the Board cannot make the changes to the ordinance to make it such that they marry up.

Mr. Apicella: Right. But the Board also has a discretion to decide to stop action with the Utilities Commission and allow us to proceed with our business and help the Utilities Commission by informing their work with the work that we do. Is that not possible?

Ms. McClendon: I'm not sure I understand your question.

Mr. Apicella: I understand that this is on a dual track. It's not required that it be on a dual track, they just decided that that was the way this should go.

Ms. McClendon: That's correct.

Mr. Apicella: They gave us a specific set of parameters and they said, hey, make recommendations if you think it should be different. We've got one meeting to make recommendations, so we've got two weeks between, you know, now and our next meeting on a topic that I don't know that a lot of us have a lot of background on. I'd like to hear from some experts on both sides of the issue. Some folks might think it's, you know, it's too restrictive; some folks might think it's too permissive. What I also heard is it may not necessarily be based on science. Again, drainfields are pretty important in Stafford County. We're making big change. I'd like just to know that we're going down the right path. I agree that capacity probably makes more sense. I just don't know that 150 gallons per bedroom or 400 gallons overall, whichever is less, is the right standard. I just don't know and I'm not sure we can get there in one meeting.

Mr. Rhodes: I just want to make sure I didn't get... if we try to do it within 60 days, that actually gives us six weeks to develop a feedback and comments on it because it'd be next session that we would vote it to public hearing and then it'd be the session in December when we would conduct the public hearing and act on it.

Mr. Apicella: Right, but we always have the...

Mr. Rhodes: I just want to make sure... I thought I heard you say we'd only have two weeks to work this. But we'd have six.

Mr. Apicella: But I'm trying to remember, and maybe this is different, but you can make certain kind of changes without having to re-advertise for a public hearing or not make certain kind of changes. And I don't want to be in that situation because I don't know what the outcome is going to be. We may need to be more restrictive; we may need to be less restrictive. I don't know what the right answer is at this point in time. Right? So, and we wouldn't know that until we get to the public hearing and maybe get more evidence at that point in time to know we're, again, barking down the wrong... right tree or wrong tree. I don't know if I'm making sense but what... I don't know what I don't know here and it's kind of

*Planning Commission Minutes*  
*October 26, 2016*

a fairly important topic. And I think there are a lot of people who are going to be very interested in this on all sides.

Mr. Rhodes: So certainly even if we do... if they don't give us the ability to change and they'd like us to stay on this track or whatever comes from it, we still have until the next meeting to vote it for public hearing.

Mr. Apicella: Right.

Mr. Rhodes: And in that interim I know that certainly one thing I think I heard from the commentary here would be to get feedback from other neighboring jurisdictions or a sense of the polling of what the other neighboring jurisdictions are doing just to see if there's something in there that sets up a pattern, as one thing I think would be helpful from the staff perspective even if we have to keep driving forward.

Mrs. Vanuch: So, this is probably just... I just want to repeat this; I think we've already covered it. But we cannot make changes to this language, even if we moved it to public hearing or not, we cannot make changes to it, correct?

Mr. Apicella: At this point in time we can't.

Mrs. Vanuch: We can't.

Mr. Apicella: We can ask...

Mrs. Vanuch: The Board to...

Mr. Apicella: ... to allow us to make changes...

Mrs. Vanuch: ... allow us to make changes if...

Mr. Apicella: ... and to give us more time.

Mrs. Vanuch: ... if they stop this dual track because, as Rysheda was saying, we can't make changes if it's on this dual track and both Boards are making changes at the same time, correct?

Mr. Apicella: Right, and I think part of the discussion that staff would have with the Board is hey, you've got... this is also going down or this is also going through the Utilities Commission. In order to give the Planning Commission more time and the ability to make changes, you'd have to withhold the Utilities Commission effort until the Planning Commission finishes up its business.

Mrs. Vanuch: Got it.

Mr. Apicella: So that would be sort of the trade-off. So what's the will of the Commission?

Mrs. Vanuch: I'll make a motion to defer. Can I do that?

Mr. Apicella: Well, right now we've just been given the information as part of the Planning Director's Report.

Mrs. Vanuch: Okay, got it.

*Planning Commission Minutes*  
*October 26, 2016*

Mr. Apicella: We could choose to put this language to a public hearing tonight. We could choose to allow it to go to a public hearing by vote tonight. We could choose to ask the Board for more time and/or the ability to make the changes. So...

Mr. Coen: If I may, I'd like to suggest that we ask the Board for more time and for the approval to make changes. At the same time, we ask staff to gather information from neighboring communities and any other scientific information that we can have so that at our next meeting, should the Supervisors not acquiesce to our request on those other two items, then we can sort of move forward calling for a public hearing in December.

Mr. Apicella: Thank you Mr. Coen. Is there a second?

Mrs. Vanuch: I'll second.

Mr. Apicella: Okay. Any further comments Mr. Coen? Anyone else? Okay, cast your vote. That motion carries. Anything else? Mr. Harvey?

Mr. Harvey: So, Mr. Chairman, continuing on with regard to the chart and the deadlines, I highlighted some things regarding the Comprehensive Plan, as well as the Zoning Ordinance. With regard to the Comprehensive Plan, if an amendment is proposed, i.e., we're changing the plan itself, it's 60 days from the Board referral or such longer timeframe specified in writing by the Board. In other words, the resolution that the Board sends to the Planning Commission with regard to the Comp Plan amendment dictates the timeline. And then once the Planning Commission holds its hearing and takes a vote, the Board has to act within 90 days or the public hearing process is not valid and it has to come back to the Commission and start over again. With regard to Comp Plan Compliance Reviews, which are typically requests from property owners to propose something that is not specifically called out in the Comprehensive Plan, that would be a 60-day timeline from submission; which we look at it from the time you hold your public hearing for the Planning Commission to act. That also could be extended by the Board if they so choose. And then the Board's not normally involved unless there's an appeal, and then they have to take action within 60 days of any appeal being filed on the Comp Plan matter. An appeal would be by the applicant because they are aggrieved by the decision the Commission made. Regarding zoning map amendments which are considered to be rezonings or conditional use permits, both state code and our local ordinance give the Commission a hundred days after referral by the Board or shorter time period required by the Board. So, in essence, the Board can stipulate how much time the Planning Commission has for consideration of a rezoning. Most cases, that doesn't happen because a rezoning application floats up from an applicant, so we start the hundred days typically from the time of a public hearing that the Commission initiates... or has, so that's when we start the hundred day clock. The Board has no time limit on rezonings that it initiates; however, if a property owner initiates a rezoning, they have to act within one year or 12 months of the application being filed, unless the applicant grants an extension. With regard to zoning text amendments, the hundred day rule applies and that applies from the first day... excuse me, the first meeting of the Planning Commission after the Board refers it. So, often times we see, like tonight in the Planning Director's Report, this is the first meeting since the Board referred the utilities ordinance... excuse me, the drainfield standards to the Planning Commission. So this starts the hundred day clock if this was a zoning amendment, or any shorter time period that the Board wants. So, the Board could say... if they don't say anything, it's a hundred days; if they want it sooner, they'll stipulate that in a resolution. Again, the Board has no time limit on ordinance amendments it initiates for them to be passed. However, if an applicant or property owner requests an ordinance change, the Board has to take action within 12 months. And we talked earlier about the subdivision amendments.

*Planning Commission Minutes  
October 26, 2016*

Mr. Apicella: Mr. Coen?

Mr. Coen: Mr. Chairman, Mr. Harvey, would it be possible to start a practice that on any of the items that the clock starts ticking when the Board refers it, that we receive an email with the information so that we can start mulling it over, thinking about it, should we choose to? That would give us sort of a couple more days, you know, before we get it to think about it beforehand. Does that make sense?

Mr. Harvey: Yes, Mr. Coen, it makes sense. Currently, the way the schedule works, typically the Board acts on a Tuesday and Friday we're sending out your staff reports, including the information of what was acted on by the Board. So you're getting it three days after it occurs. I don't know if you need it that night, but...

Mr. Apicella: I have to beg to differ, Mr. Harvey. Many times we don't actually get the language. We get it right here at our first meeting. So, it's not even... even the subject matter isn't necessarily identified in the Planning Director's Report so, I think in practice, as a stop-gap measure, if the approach could always be as soon as the Board refers it, the next day if we could get the actual referral and the language that's proposed, that would certainly help give us... because on this one, this very one we have in front of us tonight, we lost a couple days because we're just now seeing the language.

Mr. Harvey: Certainly, Mr. Chairman, staff can do that. We can send you any action that the Board has directed to the Commission. We won't have the actual signed resolution; usually we get that two days after the Board takes action.

Mr. Apicella: And I guess the other thing I would add is, and I don't know if the Board is receptive to this, certainly on the first two items, the Comp Plan amendments and the Comp Plan Compliance it seems like the Board has some flexibility even though it says the date from the referral, the Board could provide more time. And on the last item, subdivision ordinance text amendment, sort of the same thing; it says the Board could provide some flexibility. So I'd be curious to know what some other localities, maybe (inaudible) localities do in terms of starting the clock. My objective is not to give us more time, but to give us the full amount of time that we're authorized, whatever that might be, and I just feel like we're losing days and sometimes a week or more just because of the date between the time the Board meets and the time that we actually see the item. And sometimes that one week causes us to miss an extra meeting that we would have had to been able to deliberate something on the backend because of the way the calendar falls. So, I know I've harped on this; I'm just trying to look out for the Commission and, quite frankly, for the public so they also have the same amount of full time available that we should have. So, just my thoughts; I don't know about other Planning Commissioners' perspectives.

Mr. Coen: I just want to say very quickly, thank you very much for compiling this in such a short period of time, because it really is helpful and it makes it very crystal clear to see it. It's very much appreciated.

Mr. Harvey: Mr. Chairman, that concludes my report.

Mr. Apicella: Thank you. There are no committees; the Cemetery Committee doesn't exist anymore as far as I understand. I'm sorry Rysheda, I jumped over you. I'm sure you have a very lengthy report that you'd like to give.

COUNTY ATTORNEY'S REPORT

***Planning Commission Minutes***  
***October 26, 2016***

Ms. McClendon: I have no report at this time, Mr. Chairman, thank you.

Mr. Apicella: I apologize. I have nothing under Chairman's Report. TRC, it looks like that's me and I've got my material. Approval of minutes, August 24, 2016.

COMMITTEE REPORTS

CHAIRMAN'S REPORT

OTHER BUSINESS

7. TRC Information - November 9, 2016
  - \* Stafford Crossing Community Church - Falmouth Election District

APPROVAL OF MINUTES

*August 24, 2016*

Mr. Rhodes: I make a motion.

Mr. Apicella: Motion to approve; is there a second?

Mrs. Bailey: Second.

Mr. Apicella: Okay, all those in favor cast your vote. The motion carries. With no other business being before the Planning Commission, I adjourn this meeting.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 10:15 p.m.