AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON WEDNESDAY, JANUARY 3, 2007.

Board Members Present: ***John F. Coates, Chairman***
Steven E. Nixon, Vice-Chairman
Larry W. Aylor
William C. Chase, Jr.
Sue D. Hansohn
Brad C. Rosenberger
Steven L. Walker

Staff Present: Frank T. Bossio, County Administrator
J. David Maddox, County Attorney
John C. Egertson, Planning Director
Sam McLearen, Zoning Administrator
Peggy S. Crane, Deputy Clerk

CALL TO ORDER

Mr. Coates, Chairman, called the meeting to order at 7:00 pm.

CITIZEN FORUM

Mr. Coates opened the Citizen Forum and called for comments on any item that was not on the agenda.

Mr. D. R. Griffith, Stevensburg District, expressed his concern regarding a recent case approved by the Board in which an applicant who was seeking approval for a rezoning proffered 50 percent toward the cost of a traffic light. He stated that the applicant would use the existing sewer system if public water and sewer could not be provided. He pointed out that to bring the present sewer system in the Town of Culpeper into compliance, it would cost a minimum of $50 million in a ten-year building program. He felt the Board should give serious consideration to similar requests before making a decision.

With no further comments, Mr. Coates closed the public hearing.

Mr. Coates acknowledged the presence of Boy Scout Troop 225 and their Scoutmasters, and welcomed them to the meeting.

AGENDA ADDITIONS AND/OR DELETIONS

Mr. Nixon moved, seconded by Mr. Aylor, to approve the agenda as presented.

Mr. Chase stated he would like to add a discussion regarding the request from the City of Fredericksburg for financial support. Mr. Coates advised him that the request had been referred back to the Rules Committee.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

PUBLIC HEARINGS - NONE

UNFINISHED PLANNING COMMISSION BUSINESS

CASE NO. Z-414-06-1. Request by Khurram Rashid to rezone 8.387 acres from R-1 (Residential) and C-2 (Commercial) to CS (Commercial Services). The Comprehensive Plan designates this area for Commercial use, but does not specify proposed density. The property is located on Route 3, Route 522 and Route 658 in the Stevensburg Magisterial District. Tax Map/Parcel Nos. 51/87, 87B1.

Mr. John C. Egertson, Planning Director, stated that this case had been postponed last month upon the applicant's request. He read a letter he received from Mr. John J. Davies III, requesting that the case be postponed once again until the February 6, 2007 meeting to allow continued discussions between the applicant and the Packard Humanities Institute.

Mr. Chase stated that if there were citizens present who wished to speak, they should be given the opportunity to do so.

Mr. Davies, representing the applicant, stated the letter was forwarded this date based on discussions during the holidays. He said that Mr. John Foote, representing Packard Humanities, has been on vacation and negotiations regarding the proffers had taken a different turn and it would take 30 days to work out the remaining details.

With no objection from Board members, Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Walker, to postpone the case for 30 days as requested.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

NEW PLANNING COMMISSION BUSINESS

ADDITION TO THE STEVENSBURG AGRICULTURAL AND FORESTAL DISTRICT. Request by Inverary, LLC, to add 31.26 acres to the Stevensburg Agricultural and Forestal District. The property is located off Route 15/29 in the Stevensburg Magisterial District. Tax Map/ Parcel No. 51/84M1.

Mr. Sam McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission concurred with the Agricultural and Forestal Districts Advisory Committee that this additional to the Stevensburg Agricultural and Forestal District was appropriate. He said the Planning Commission was recommending to the Board of Supervisors that the 31.26 acre addition to the Stevensburg Agricultural and Forestal District be approved.

Mr. Egertson displayed a copy of the tax map that indicated the existing Stevensburg Agricultural and Forestal District, with the proposed addition highlighted. He noted that the Stevensburg Agricultural and Forestal District was the largest in the County, and the application indicated the addition would be used as pastureland. He said that with the concurrence of the Agricultural and Forestal Districts Advisory Committee and the Planning Commission, it was ready for the Board's consideration.

Mr. Sean Gregg, attorney representing Louisa Campbell as Inverary, pointed out that the property was contiguous to other properties currently in the District and was part of the original Campbell family land grant and was within the Mount Pony Historic District. He said that Inverary was requesting that this property be included in the Stevensburg Agricultural and Forestal District in order to retain the agricultural character of the County.

Mr. Coates opened the public hearing and called for public comments.

Mr. Jere Willis, attorney, stated he was representing Culpeper Crossroads, LLC, an adjoining landowner, who had deeded the 31 acres to Inverary. He said that Culpeper Crossroads opposed the inclusion of the property into the Stevensburg Agricultural and Forestal District and asked the Board to postpone the case for 90 days.

Mr. Willis stated that Culpeper Crossroads was the contract owner of 115 acres at the intersection of Routes 3 and 29. He said the property was owned by the Olinger family, and there had been litigation between the Olingers and the Campbells in the Circuit Court of Culpeper County pending at the time of the contract. He stated that the Campbells were concerned with view scape from their property that lay east of the 31 acres and about the buffering of the commercial development that would ultimately take place at this intersection as set forth in the Comprehensive Plan. He said there were protracted negotiations with the parties represented by attorneys: The Campbells were represented by Dan O'Connor of Warrenton, the Olingers by Mr. John J. Davies III, and Culpeper Crossroads by him. An agreement was reached which resolved the litigation, as well as the preservation of the view scape and the buffering. He distributed copies of the agreement and deed to the Board and

highlighted the last paragraph on page 1 of the agreement that was designed to address the issues of preserving the view scape and buffering the Campbell property from his client's property. He said the agreement called for Crossroads to sell the Campbells the 31 acres being considered for inclusion in the Stevensburg Agricultural and Forestal District.

Mr. Willis spoke at length and in detail regarding the buffers and the agreement.

Mr. Willis stated his clients did not appear at the Agricultural and Forestal Districts Advisory Committee or the Planning Commission meetings because they felt the issue had been resolved because the parties had an agreement, but when they began the process for the rezoning, a representative for the Campbells requested the maximum buffers of 250 feet on his clients' property not withstanding the contractual obligations. He asked that the Board approve postponing the case for 90 days to provide an opportunity for his clients to consider its options and, if the Board did not wish to postpone the case, to vote against including the Campbell property in the Stevensburg Agricultural and Forestal District. He said the purpose of an Agricultural and Forestal District was to protect and preserve agricultural and forest lands, and the 31 acres were already protected by the agreement between the parties.

Mr. Willis cited Article 8E-7-6 of the County's Zoning Ordinance and pointed out that buffering was not mandated. He also cited Article 8E-10, that contained the criteria to be considered when creating an Agricultural and Forestal District and discussed each in detail.

Mr. Gregg stated that he considered the request to be appropriate since the 31 acres were surrounded on two sides by properties already in the District, the property would continue to be farmed, it was not bound by the restrictions affecting a surrounding property, and it would add more view space on the Route 15/29 corridor. He pointed out that Culpeper County was not mentioned as an entity in any covenant or contract between the two parties and did not have the right to enforce any of the private restrictions contained therein. He indicated that if there were zoning issues, they would be submitted as a separate matter and addressed at that time. He said the request was appropriate and asked that it be approved.

Mrs. Hansohn inquired whether the intent of purchasing the 31.26 acres was to have it serve as a buffer between the Campbell's property and the new property.

Ms. Margaret Campbell stated that she owned one-third of the farm, but she was not a party to the purchase of the 31 acres. She said her sister, Desy Campbell, bought it from Inverary, LLC, and her sister had an agreement with Margaret Campbell's son to farm it or use it for other purposes. She felt that it was very expensive to buy 31 acres for a view shed. She said she did not see any reason to postpone the request for 90 days and asked that the

maximum buffering should be enforced.

Mr. Gregg agreed that buffering was an issue that would more appropriately be considered when any adjoining properties were rezoned.

Mr. Nixon asked Mr. Willis whether his objection was to the buffering requirement of the Agricultural and Forestal District. Mr. Willis informed him that the buffering would be on his client's property. Mr. Nixon stated he understood that 25 to 50 acres required a 300-foot buffer. Mr. Willis pointed out that was the maximum buffer that could be imposed, but there was no mandate in the statute that required any buffering. He said his objection was that the Campbells had agreed to the buffers on his clients' property, but then appeared before the Agricultural and Forestal Advisory Districts Committee and requested 250 feet of buffering on his client's property contrary to the contractual agreement for 75 to 250 buffering.

Mr. Steve Vento, Angler Development, stated that when the parties negotiated the 31-acre purchase, buffering was to be on his property. He said that if he thought the maximum buffering would be imposed, he would have sold less acreage because the 300-foot buffers would encroach on his property. He asked the Board to approve the request with the buffers stipulated in the agreement.

Mr. Nixon asked Mr. Egertson if he planned to enforce the maximum buffer on the parcel requested to be included in the Agricultural and Forestal District. Mr. Egertson replied that there were two different matters involved: The request to add 31 acres to the District; and a rezoning application by Culpeper Crossroad to rezone 81 acres. He said the Agricultural and Forestal Districts Advisory Committee recommended the maximum buffer of 200 feet for the rezoning case, which still had to be considered by the Planning Commission, with final approval by the Board of Supervisors. He explained that Culpeper Crossroads had a concern about adding this property to the Agricultural and Forestal District because they had worked to have an agreement on buffering. He said the County was not bound by that agreement in any way, but they made a valid argument that should be considered. He stated that issue was really part of the rezoning application, and the Board could approve the addition and deal with the buffer issue as part of the rezoning application, postpone the request and allow the parties to try to reach agreement through negotiation, or deny the request which he would not recommend.

Mrs. Laura Campbell informed the Board that they had a covenant that ran with the land that specified "no commercial".

With no further comments, Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Rosenberger, to approve the addition to the

Stevensburg Agricultural and Forestal District.

Mr. Rosenberger stated that Mr. Willis was at the first Agricultural and Forestal Districts Advisory Committee and asked the Committee to consider the contractual arrangement between the two parties, and he was informed that issue should be reviewed at the time of the rezoning request. He said the Committee unanimously recommended that the 31 acres be included in the District. He pointed out that the reference made to lawsuits and contractual agreements were civil matters, and the Board did not enter into civil matters.

Mr. Chase agreed with Mr. Rosenberger and stated he had never voted against a request from a landowner to include land in an Agricultural and Forestal District, especially when both the Agricultural and Forestal District Committee and Planning Commission recommended approval.

Mr. Nixon stated that if the request were approved by the Board, the buffering was not included and would be defined with the rezoning application. Mr. Egertson agreed.

Mr. Aylor stated he attended the Agricultural and Forestal Districts Advisory Committee when the request was recommended for approval, and he supported that recommendation.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CASE NO. U-2114-06-1. Request by Michael D. Lowery and Diane L. DiCapua-Lowery for approval of a use permit to allow agricultural use (keeping of goats) in an R-1 (Residential) Zoning District. The property is located on Route 613 in the Jefferson Magisterial District and contains 3.12 acres. Tax Map/Parcel No. 2C(1)/1A.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this application to be consistent with Article 17 of the Zoning Ordinance with the following conditions:

1. No more than three (3) adult goats may be kept on the site.
2. Goats shall be kept in an enclosed area, inside of an enclosed building, or shall be monitored at all times.
3. Outdoor pens shall be a minimum of fifty (50) feet from any property line unless agreed to in writing by the adjoining property owner.
4. This permit shall be reviewed by the Zoning Administration within three (3) years and may be administratively extended, or may be made subject to renewal by the Board of Supervisors at that time at the discretion of the Zoning Administration.

Mr. McLearen said that the Planning Commission was recommending to the Board of Supervisors that the request be approved with the referenced conditions.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the property. He indicated the parcel was located in the northern portion of the County on Route 613 and was zoned R-1 (Residential) which necessitated a use permit for the keeping of any type of livestock, including the goats which were requested in this application. The request was governed by Article 17, Use Permits, and required the Board to make several findings, primarily as to whether or not there would be an adverse impact on adjoining property owners and whether or not the request was consistent with the Comprehensive Plan. He said in this case, with the conditions imposed, staff felt that the keeping of goats on the property would not have an adverse impact on neighboring properties and the Comprehensive Plan designated this area as Rural, as opposed to Residential.

Mr. Egertson recalled there had been some similar requests in fairly close proximity to this property, but this one was different from those because of the Comprehensive Plan designation. He stated that in the prior cases, the Comprehensive Plan called for Residential use and in this case it called for Rural use. He said that the applicant was in agreement with the conditions imposed, and it was being recommended for the Board's approval.

Mr. Michael Lowery, applicant, introduced his daughter, Jillian, who would be caring for the goats. He said they were in a rural area and his neighbors had no objections to the goats.

Mr. Coates asked whether the request was to fulfill a 4-H or FFA project.

Ms. Jillian Lowery replied that she had consulted 4-H but it was a project that she wanted to to do to help with her dairy allergy.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Coates asked Mr. Egertson whether the use permit could be for five years. Mr. Egertson replied that the length of time was at the Board's discretion. Mr. Coates asked what was involved in the renewal of a use permit. Mr. Egertson replied that the applicant could apply for renewal and go through the process again. He said the applicant had expressed concern because the use permit fee was $750, and it was for that reason the fourth condition was reworded to indicate that the use permit would be reviewed administratively by the Zoning Administration, and if there were no problems, it would be extended administratively.

Mr. Aylor stated that the Board had recently denied an application for a use permit for keeping goats in his District and asked how the zoning was different. Mr. Egertson replied that

the zoning was the same, but the difference between the two cases was that the Comprehensive Plan had designated this area for rural use that required a use permit because of the residential zoning, but the other area was in a residential zone that the Comprehensive Plan had designated for residential use.

Mr. Aylor noted there were no neighbors complaining about the proposed use. He said he strongly supported the fourth condition and the use could be closely monitored.

Mr. Coates asked for additional information regarding the location. Mr. Egertson explained that the applicant lived in the northern part of the Jefferson District on Route 613 which was parallel to Route 211 in a rural area.

Mr. Rosenberger said he appreciated Mr. Aylor's concerns, but under a use permit if the Zoning Administrator became aware of any problems, it could be addressed by the Board at any point regardless of the number of years remaining on the permit.

Mr. Rosenberger moved, seconded by Mr. Chase, to accept the Planning Commission's recommendation, with the exception that the time period be changed to five years.

Mr. Coates stated that he also appreciated Mr. Aylor's concerns, but felt that this case was different from the prior one because of the location and rural nature of the northern end of the County.

Mr. Nixon asked whether the applicant had to pay the $750 fee to renew the use permit if it were extended administratively. Mr. Egertson replied that the fee would not have to be paid when a permit was renewed administratively.

Mr. Nixon expressed concern that there could be a complete turnover in neighbors during a five-year period, and the new neighbors might object to having goats in a residential area. He said he could support the three-year permit, but was concerned about five years. Mr. Egertson stated that the permit could be for a three-year period if the Board wished.

Mr. Rosenberger pointed out that the second and third conditions should alleviate some of the concerns since the goats would be kept in an enclosed area, and the pen had to be 50 feet from the property line. He said he did not anticipate any problems.

Mr. Walker asked what was the process if problems occurred before the use permit expired. Mr. Egertson explained that if there were a breach of the permit conditions, the County could take legal action or bring it back before the Board to potentially revoke the permit.

Mr. Aylor stated that based on his experience, he would not support the motion. He felt that having only 50 feet between the goats and houses was not sufficient, and he would be consistent in his vote on the previous case.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Nay - Aylor

Motion carried 6 to 1.

CASE NO. U-2115-06-1. Request by Martha H. Ferguson for approval of a use permit to allow a contractor's equipment storage yard. The property is located off Route 15/29 and Route 762 in the Stevensburg Magisterial District and contains 30.355 acres. Tax Map/Parcel Nos. 42/68A, A2.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this application to be consistent with Article 17 and Article 30 of the Zoning Ordinance with the following condition: The site shall remain in compliance with the Use Permit Plat/Exhibit at all times. He said the Planning Commission was recommending to the Board of Supervisors that the request be approved with the reference condition.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the property. He pointed out that the parcel was at Inlet and near the State Police Headquarters. He said the property had been zoned M -1 (Light Industrial) for many years, and it was once the home of Sisk Trucking but was now owned by Mrs. Ferguson. He said the property was being used by MICA to store and repair their equipment, as well as providing mowing, snow removal and similar activities all over the State. He noted that the issue with this property was there had been storage of equipment in various states of repair and disrepair along the fence line visible from the ramp to Route 29, and it was the staff position that the storage of equipment outdoors on the property was subject to Article 30, the Entrance Corridor Overlay District, and a use permit was required for outdoor storage of any kind. He said the applicant was notified and County staff had been working with the applicant's attorney and engineer to bring this forward to the Board. He displayed an exhibit that indicated the existing metal building would be surrounded by a gravel parking area, and all of the equipment stored on the site would be maintained on the existing gravel area to the north and the east of the existing building, a customer/employee parking area in front of the building, and the entire gravel area would be landscaped with a screen of evergreen trees. He said that a site plan would be required as a follow up to the use permit if granted.

Mr. Chase asked whether the property was beside the parcel that looked like an automobile junkyard. Mr. Egertson agreed that the two parcels were side-by-side. Mr. Chase said the proposed changes would be an improvement in that area.

Mr. Scott Bruggemann, attorney for the applicant, stated he had been working with Mrs. Ferguson to clean up the site before beginning the use permit process. He said that they had removed some junk vehicles and moved others behind the building, and they planned to plant trees to provide a double screen. He said they were trying to come into compliance as soon as possible and asked for the Board's approval.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mrs. Hansohn, to accept the recommendation of the Planning Commission and approve the use permit.

Mr. Walker asked what steps could be taken to bring the adjoining property into compliance. Mr. Egertson stated they would investigate the current situation because they had previously been subjected to a site plan process and were in compliance with the operation proposed at the time. He said in the current case, the applicant had never been subject to a site plan or approved for the use, but with the Entrance Corridor in effect, he would be able to require a use permit and site plan.

Mr. Walker asked how the process worked if the applicant did not remain in compliance. Mr. Egertson explained that the use permit required that the applicant comply with the exhibit presented, and there would be a zoning enforcement tool for the use permit if legal action were required to enforce it.

Mr. Walker noted that there was a creek running through the property and asked how that would be affected by stormwater management. Mr. Egertson explained that the creek would be reviewed as an issue on the formal site plan, but would probably be left undisturbed with a buffer around it.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

AMENDMENT TO CHAPTER 14 OF THE CULPEPER COUNTY CODE. The Board of Supervisors will consider an amendment to Chapter 14, Section 14-32(a) of the Culpeper County Code. The amendment would require a maintenance and monitoring plan, a maintenance contract and semi-annual inspections and testing for engineered septic systems.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found the proposed amendment to Chapter 14 of the County Code to be appropriate. He said the Planning Commission was recommending to the Board of Supervisors that the amendment to Chapter 14, Section 14-32(a) of the Culpeper County Code, be adopted.

Mr. Egertson stated that the proposed amendment was to Chapter 14, the County's Sanitary Code, which had been revised within the last few years to allow the use of any system which was considered conventional and which was generally approved by the Virginia Department of Health and allowed by the County based on Health Department regulation. He said that with the many new subdivisions relying upon pre-engineered systems that required more on-going maintenance than a traditional septic system, the local Health Department recommended that the County add additional maintenance requirements. He said the proposed amendment would not change any of the County's processes, but would allow the Health Department to make their permits conditional upon providing for long-term maintenance. He said that the Health Department would implement the change, which was supported by County staff, and he recommended it be adopted.

Mr. Charles Shepherd, Sanitarian Supervisor, stated that the Health Department would like to institute as many safeguards as possible to ease the problems encountered with pre-engineering septic systems because they required maintenance and monitoring and were subject to premature failure. He said the client should be aware of the cost to operate and maintain these systems. He noted that the last major subdivision he reviewed, 58 percent of the primary sewage systems were alternatives, and 100 percent of all the repair areas were alternatives. He said he certainly did not want the County to get into a situation where it would be asked to prematurely run sewer lines to areas that were not contemplated for sewer service. He said that the amendment would be a safeguard attached as a condition to the use permit to be recorded, and it provided another tool to enforce the proper maintenance on an alternative system.

Mrs. Hansohn asked for clarification on how the process would work. Mr. Shepherd explained that as part of the engineering design of the system, the engineer would proscribe the parameters of the effluent and what the maintenance schedule should be and, based on that design, the services of a private firm would be secured to perform the maintenance prescribed and report the results to the client and Health Department. He noted there were three major providers of this service available in the area.

Mrs. Hansohn asked whether the Health Department would only review the results, and not do any testing. Mr. Shepherd agreed they would review the results, and there may be some enforcement issues to work out with the County.

Mr. Nixon noted there were already State regulations to cover alternative systems. Mr. Shepherd stated that when the State modified the onsite regulations in 2000, these systems were allowed but did not provide for any maintenance and monitoring. He said there were maintenance and monitoring requirements for discharging systems, but not the ones relied on for on-site disposal. He added that the Health Department regulations were currently being revised and would be more performance-based than the current ones, and staff was recommending that statewide requirements on maintenance and monitoring be included.

Mr. Nixon asked whether it might be prudent to wait until the State developed its criteria before the County moved forward. Mr. Shepherd replied that he did not know when the new regulations would take effect, and most of the jurisdictions were going through the same process as Culpeper County. He said he discussed the situation with Delegate Scott and he reported that the issue would be discussed at the General Assembly, but he did not anticipate any legislation this year.

Mr. Nixon asked who would be responsible for repair when the Health Department inspected and found a system to be failing. Mr. Shepherd replied that after giving notice to the clients there was a problem with the system or the system was deteriorating since the last inspection, the client would be given 30 days to have the problem corrected. If the problem was not corrected, the client would be issued a notice of violation and the next step would be some type of legal action. He said he preferred any enforcement action to be taken under County code rather than State regulations since it would be easier and more successful.

Mr. Walker stated that the amendment was overdue and he was glad to be moving forward. He asked if the change would apply to systems already in place. Mr. Shepherd said it was his understanding that the rule would apply as of the day it was adopted, but if systems installed prior to the adoption of the ordinance were found to have fallen out of compliance, then all sections of the code would apply.

Mr. Walker asked if the proposed amendment would allow individuals to do their own maintenance. Mr. Shepherd replied that it had been allowed in the past by individuals who were Class A plumbers, Class 3 sewerage plant operator's license, or had been certified by the Proprietary System Manufacturers.

Mr. Walker stated that the Code required biannual inspections and testing and asked whether there were any qualifications for these inspectors. Mr. Shepherd replied there were people who were currently certified to perform inspections and testing, and the Health Department would recognize anyone who held a National Sanitation Foundation certification.

Mr. Walker felt that the ordinance should be explicit in stating who could perform inspections. Mr. Shepherd stated that only someone qualified to do inspections would be allowed, and he was not sure how to put that in the local ordinance.

Mr. Nixon stated that the citizens should be made aware that inspections cost upwards of $100 a month for maintenance and ongoing systems. Mr. Shepherd agreed that the majority of these systems were very expensive systems and cost approximately $20,000 to $50,000, but if were a propriety system, it would come with a one to two year guarantee and a service guarantee by the company who sold the system. He agreed they were more expensive to operate, with the filters and electricity costs, but having the requirements recorded with the conditional use permit would at least make the prospective buyer aware.

Mr. Coates opened the public hearing and called for public comments.

Mr. D. R. Griffith, Stevensburg District, stated he was a contractor and dealt with these alternative systems for many years. He noted they were originally designed to replace a failed system and had little or no place in new construction because they were designed to fail. He explained in detail the pitfalls of these systems and stated that if the approving authority was made responsible for the maintenance and replacement costs, there would not be many installed. He said that State laws allowed for actual monitoring, but no one wanted to enforce compliance. He stated that the existing systems should be monitored and brought into compliance because clean water was mandated by both the State and Federal Governments.

With no further comments, Mr. Coates closed the public hearing.

Mrs. Hansohn asked who was responsible for sharing information with a new homeowner regarding the type of septic system he would be dealing with. Mr. Shepherd replied that conditional use permits would be recorded, and it was his opinion that it should be the closing attorney's responsibility, but some attorneys felt it was the realtor's responsibility. He said that he would speak to the local Board of Realtors and local Bar Association to ensure that this information was relayed to potential homeowners.

Mr. Coates questioned who authorized companies to sell these types of systems. Mr. Shepherd replied that the Proprietary System Company had put a tremendous amount of pressure in Richmond to approve these systems, and the EPA had promoted these alternative

onsite systems for the last five years because it was their opinion if you pre-treat effluent, rather than just send it through a septic tank to flow back into environment, these systems were cleaner. He stated that the major problem was with maintaining these systems.

Mr. Coates asked whether it was correct that when an individual bought a piece of property, the drainfield had to be shown on the plat that went to record. Mr. Egertson replied that the drainfield was shown on the preliminary plans, but the recorded plat generally was a clean plat without showing the drainfield.

Mr. Walker asked whether it could be shown on the plat where there was an alternative system requiring maintenance. Mr. Egertson felt that could be addressed, but it would require a Subdivision Ordinance amendment.

Mr. Egertson stated that Mr. Griffith was correct that these systems were not ideal because they required so much maintenance, but the State regulations allowed them and defined them as conventional. He said that the proposed amendment would at least add to the maintenance requirement.

Mr. Chase moved, seconded by Mrs. Hansohn, to approve the proposed amendment to Chapter 14 as recommended.

Mr. Coates noted that the majority of the alternative systems were in the Stevensburg District because the land would not perk, and he felt there would be a real monitoring problem.

Mr. Aylor stated he would support the motion because the amendment would provide a tool needed to stay even with technology. He said he personally did not approve of alternative systems, but he thought it was a means to protect the public.

Mr. Walker stated he would support the motion, but he would like to see more work done in having the systems recorded on the plat in order to ensure that potential homeowners were aware that the systems would need maintenance. He said he would also like to have language added that identified who could do the inspections and maintenance work.

Mr. Egertson stated that he had considered whether the final plat should show these systems, and he would look into that further. He explained that the preliminary plat identified drainfields and whether they were traditional systems or alternative systems for both the primary and reserve, so it should not be difficult to carry that information to the final plat if the Code were amended. He stated that with reference to identifying who could perform inspections and maintenance, a maintenance and monitoring plan and a contract for the maintenance and monitoring had to be submitted and approved by the Health Department. He said that placed the burden on them to ensure that a professional who was qualified did the work, and would

provide the flexibility to allow a homeowner who was a plumber to do the work himself.

Mr. Coates stated that the County had a checklist in place and the staff was in a position to know where these systems were being proposed. Mr. Egertson stated that was correct if they were a part of a new subdivision.

Mr. Rosenberger suggested it might be a good idea to have a notice sent to the individuals who had these systems already in place and inform them of this Board's action if the amendment were approved. He noted that it was unfortunate that the State mandated localities to accept these as normal systems, and the County had to adopt an ordinance in order to enforce their monitoring and maintenance.

Mr. Nixon expressed his concern that the homeowner eventually was the one who would bear the cost of maintenance and an ongoing contract that would be very expensive. He stated he would like to see the State establish specific criteria regarding who could perform inspections and set guidelines for maintenance because he feared homeowners would be taken advantage of by contractors charging exorbitant fees. He agreed that the systems enabled people to build on land that would not perk, but mechanisms should be in place by ordinance and by notification at closing to ensure homeowners were made aware of the type of system and the potential maintenance costs of the system.

Mr. Chase called for question.

Mr. Coates stated the question had been called and called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

ADJOURNMENT

Mrs. Hansohn moved to adjourn at 8:45 p.m.

_____
Peggy S. Crane, CMC
Deputy Clerk

_____
John F. Coates, Chairman

ATTEST:

_____
Frank T. Bossio,

Clerk to the Board

APPROVED: February 5, 2007