

Braddock Land Use and Environment Committee
Summary of the Ox Road Subcommittee's Work on Reviewing (RZ/FDP 2012-BR-020)
Submitted by Cheryl McDonald,
Braddock Land Use Committee Chair and Ox Road Subcommittee Member

The Braddock Land Use and Environment Committee (BLUE Committee) is a newly formed group of dedicated and interested citizens with various backgrounds and expertise regarding land use and the environment. The subcommittee that was formed to review the Ox Road Estates application, (RZ/FDP 2012-BR-020) included the Braddock District Tree Commissioner, an attorney who is also retired from the Navy and has worked on storm water issues, two Master Gardeners, a Virginia Certified Horticulturalist with an A.S. degree in Horticulture, and an expert in Transportation and Economics. The goals of our subcommittee were to review the specific details of the application, to identify our concerns within the committee, to listen to the concerns of the neighboring residents, to study the staff report, and to evaluate the responses of the applicant to the concerns from neighbors, the Fairfax County staff, and to our subcommittee. Our BLUE subcommittee took on this responsibility to ensure that the views of the concerned neighbors, the developer, current owners, and the future residents of this development would be considered in a fair manner.

The following is an account of the effort that was invested by the Ox Road subcommittee in the review of this application:

October 16, 2012 – The BLUE Committee met and received a presentation from Richard Labbe of Eastwood Properties on its proposal to rezone three parcels of land [on Tax Map 77-1; Lots 35, 37, and 38] that totaled 5.2078 acres. The application requested that the land be rezoned to a PDH -3 District and would include 14 homes. Neighboring community residents Rick Jones (President of Middle Ridge Civic Association,) Jim Thompson (President of Fairfax Club Estates,) Mrs. Betty Hickey, Charlie Riemer, and Steve Bergstrom were present and asked questions and voiced concerns about cut through traffic, existing storm water problems, and whether this new community would join an existing community. BLUE Committee members asked questions about trees and how the county arborist would be involved in the process. The subcommittee was formed on this evening.

November 27, 2012 – The BLUE Committee met and among other items of business, discussed the Ox Road application and what the next steps would be for the subcommittee. Concerned neighbors of the proposed Ox Road development were present for our meeting.

December 6, 2012 – The BLUE Committee received an e-mail and link to the application RZ/FDP 2012-BR-020 that was accepted by the county staff on November 30th so that we could begin our review.

December 18, 2012 – The BLUE Committee met and received a detailed presentation from Kris Abrahamson on the extensive analysis of the criteria used by staff in reviewing applications for special exceptions and rezoning. We were told that staff would have its first review of the Ox Road application on January 7, 2013 and we would get an initial reaction from Brent Krasner, the Staff Coordinator. Concerned neighbors of the proposed Ox Road development were present for our meeting and asked questions.

January 15, 2013 – The BLUE Committee met and the subcommittee reported to the full committee that it had scheduled a meeting and a site visit with residents of Middleridge and Fairfax Club Estates for January 19, 2013. Concerned neighbors of the proposed Ox Road development were present for our meeting and asked questions.

January 19, 2013 – The Ox Road Subcommittee met on site with the applicant and with concerned neighbors. Here is what we saw and heard from neighbors that day:

Traffic Concerns – According to citizens who attended our site visit and later testimonies, the intersection at Ox Road and Adare Drive is very challenging. Residents complained about a lot of cut through traffic on Adare Drive and that adding more traffic from the thirteen homes would cause a problem. They told us that the pathway along Ox Road was heavily utilized by pedestrians and bicyclists and that it was dangerous for them.



Taken from Adare



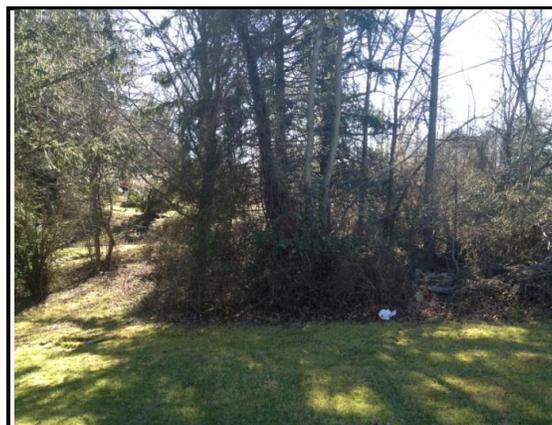
Taken from the service road toward Adare

Trees – Initially we thought that there were some very majestic trees in the cleared areas that should be saved:



However, these pictures were taken in the dead of winter. Our second site visit in late spring with the Urban Forester revealed that these trees were actually in very poor shape with as much as 50% or more dead branches in the trees. We were heartbroken, but these trees became more liabilities than assets at this point. It seemed that tree canopy requirements may be better met by new tree plantings which would be done with better species suited to the site and purpose that is needed here.

Tree concerns continued:





In fact, there were serious problems with invasive vines killing many of the trees and years of neglect have made most of the trees on the property less than ideal specimens. Even the trees that appeared healthier had other problems that would not make them good landscape trees.



With all that said, the collective trees were still soaking up and filtering the storm water that was flowing across the property, albeit in a limited capacity due to their compromised health. Many folks expressed concerns that increased impervious surfaces like roads and rooftops would exacerbate the already serious water problem. Drainage would become one of the major issues.

Water and Drainage Problems: This turned out to be a very challenging site. Clearly the Middleridge and Fairfax Club Estates developments were graded when built to drain toward this property. Ox Road also dumps a large volume of water on this property and there is a pipe from under the road which brings water from across Ox Road to this topographically challenged bowl-shaped site. Mrs. Hickey, lot #261, lives at the bottom of the ‘bowl’ and is justifiably concerned that her property may flood – although it was noted that her home has never flooded before – only her yard.



The lowest point on the site - Mrs. Hickey's home (LOT #261) is the house shown above left and the storm drain is located in an easement in her yard. [Yes that is invasive bamboo planted there.] A pipe from an underground spring is directed to the storm drain. The picture on the right is taken from the same spot as the one on the left (I just turned around about 90°) and you can see how the land slopes up from there in all directions. Initially, our committee was told by the applicant that most of the runoff is sheet flow, but the big ruts in the ground, the spring house, the white drainage pipe that empties into the storm drain, and the pipe that empties from under the road told us that were not just dealing with sheet flow. Although we did believe that water coming off Ox Road in the mowed areas would start out as sheet flow. We were told that regrading the land during construction would resolve many drainage problems, but we were skeptical about the below ground water issues as well. An infiltration trench was proposed that raised questions from residents about what that would look like. It was noted that all the trees would have to be removed in the area where the trench would be built.



The two pictures above show the slope and storm water-eroded ditch that goes up from the Hickey's home toward Ox Road. The existing old spring house in the picture on the left tells a lot about the historical hydrology of the site, even before the neighboring developments were built.



Above - ruts continue up the property but lessen in depth as you get closer to the existing homes and the road.



Near Ox road from the south, there are many puddles that never seem to dry up amongst the leaves and the picture below left appears to show a pipe that brings storm water from under the road. Below right shows the slope that starts at the road on the north side and continues the length of the site from east to west. You can imagine the water flow off of the street in a heavy rain.



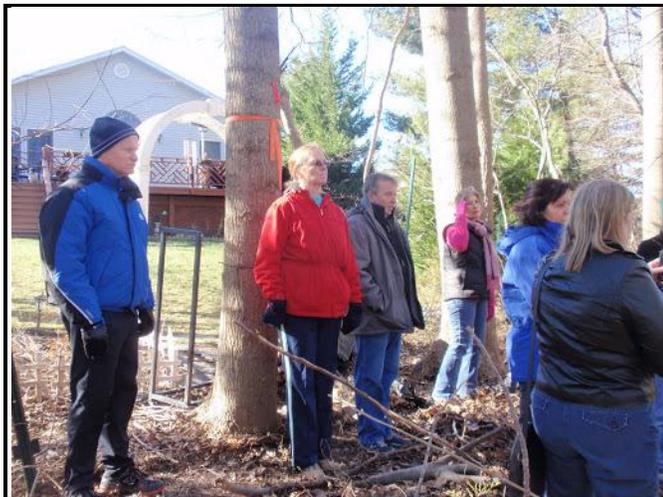
HOA Prospects: Since the applicant was proposing a PDH-3, it meant that a home owner association would have to be involved to make sure that the common land and proposed storm water structures would be maintained. The applicant thought that it would be nice for Fairfax Club Estates to annex the property into their home owner association. Testimony from Jim Thompson, President of Fairfax Club Estates, during our October 16th BLUE Committee meeting left doubts as to whether folks in Fairfax Club Estates would be amenable to annexing the proposed site. Middleridge is a civic association, so besides having some recreation use agreements, they could not annex the proposed development into their organization in order to maintain common area structures.

Ox Road View: Some residents commented that perhaps the developer should build a screening brick wall (similar to other developments down the street) along Ox Road to block the road view from the proposed homes. This may also buffer road noise.

Cluster Development: There was discussion as to whether the applicant should be requesting a cluster development as opposed to regular zoning. At this point, our committee was unsure of what type of development would work better for this site. We discussed the disadvantages of pipestems and wanted to make sure that the driveways were long enough for modern-sized cars.

Buffer areas: Below left, residents on Adare Drive were concerned since the proposed road would be ten feet from their back yard property line. Below left, one subcommittee member stood behind the O'Brien's home holding a notebook up at that point to demonstrate the closeness of the proposed road. The short white pickets denote the property line. This buffer was later increased by the applicant in subsequent revisions up to 25 feet in most areas. We also noted that all the homes on Adare are draining toward the proposed site and reducing the buffer here would add to the runoff problem. Although trees in this area were not in great shape overall, they were currently filtering storm water runoff from the homes in Fairfax Club Estates.

Sidewalk Requirement Waiver: Commissioner Hurley mentioned that the requirement for a sidewalk on the south side of the street could be perhaps waived so that the residents on Adare Drive could get another 5 feet or more of buffer.



Light Pollution: The homeowners from Adare Drive were also very concerned about street lights shining in their back yards from the street if it were built so close behind their home. Our committee noted that perhaps proffers could be added that required dark sky compliant fixtures.

January 21, 2013 – The subcommittee received a letter from Sarah Mayhew from Middleridge. She was misinformed and thought that 15 homes would be going on the site and that it was only a 4.718 acre property. Her issues were stream degradation, overcrowding of public schools, changing neighbor views from woods to homes, traffic at Adare Drive and Ox Road, and wildlife habitat. She suspected that a pair of Cooper’s hawks nested on the property. [The subcommittee later learned that Cooper’s Hawks are protected, but that doesn’t necessarily mean their environment cannot be altered.] Ms. Mayhew also assumed that Fairfax Club Estates were getting some sort of financial payment from the developer, but not sure why Middleridge would not when they would be more affected.

January 23, 2013 – The Ox Road subcommittee met that evening at Caribou Coffee to compare notes from the previous Saturday’s site visit and see what the next steps would be and what information would be needed.

January 28, 2013– The subcommittee received a letter from Bruce Geddes. He owns lot #258 and had a concern for drainage affecting Middleridge lots #254 - #260. He felt that the proposed infiltration trench will not do anything to protect 254 - 260.

February 19, 2013 – A regularly scheduled BLUE Committee meeting was held and the subcommittee updated the full committee on the progress of the OX Road Estates applications. Concerned neighbors of the proposed Ox Road development were present for our meeting and asked questions and offered comments. There was an interest in getting Asad Rouhi from the Dept. of Soil and Water Conservation to look at the site. Mrs. Hickey reported a violent storm in either 1995 or 1996 where water rose to the back door of their residence. Mrs. Hickey believes that the existing pipes are inadequate to handle the widening of Rt. 123.

February 20, 2013 - Rosemary Ryan from Supervisor Cook’s office organized a Community Information Meeting for the Ox Road application (RZ/FDP 2012-BR-020) that was held on Wednesday, February 20, 2013, in the Bonnie Brae Elementary School cafeteria, 5420 Sideburn Rd. During December and January, the applicant had continued to respond to comments made by staff from the Department of Planning and Zoning (DPZ) on its layout; attempting to assure that it will be compatible with surrounding communities. It was mentioned that the developer had already reduced the number of lots from 14 to 13 to allow for more buffer areas and common space. This reduced the proposed density to 2.5 per acre which was compatible with the surrounding areas.

During the meeting, the zoning process was explained in detail. Supervisor Cook encouraged participation as he stated that neighbor input would make the final proposal better for everyone. He explained that a tree survey was underway by the Urban Forester and the health of the trees would be evaluated and taken into consideration. He also mentioned that Fairfax Club Estates may want to annex this area into their HOA, but if not, it would have its own HOA. He stated that VDOT would be reviewing the intersection of Adare Drive and Ox Road and would weigh in on the proposed development.

Eastwood Properties anticipated that there would be storm water questions and produced a water flow map with directional arrows that showed the current flow of the water across the property. Their representative explained that the water is not controlled at all right now and that their plan to have an infiltration trench and a stone bottom rain garden will reduce water runoff by 83%. Other storm water features will reduce the runoff by lesser percentages on other areas of the properties. He said that more extensive and more detailed water flow studies would be done at the site plan stage.

Questions were raised from lots owners of #260, #261, and #264 about storm water and responses were given. The lot owners were very skeptical about whether such a rain garden might work. They were assured by Supervisor Cook that Eastwood Properties will need to provide the calculations to prove that it will work in the site plan stage or it will not be approved in that process. Lot #260 owner, Betty Mills, was not aware that a

sewer easement was on her property and was upset about them digging up her yard to put in sewer pipes so close to her home.

Existing traffic concerns were again raised and it was noted that VDOT would not allow direct access to these homes from Ox Road; therefore the service road was the only alternative. Lori Greenlief, attorney for Eastwood Properties, offered to have VDOT look into the issue further to see if they could do something to alleviate the current situation. The builder noted that adding 13 new homes did not meet the threshold to have a traffic study done. Questions were raised about a turn-around for school buses and delivery trucks and it was explained that there would be a designated turn-around.

Questions were raised about wildlife relocation, natural spring redirection, and whether a PDH zoning would allow gas stations or convenience stores. The spring will be piped into the storm drain and no wildlife relocation will be necessary. Only the residential homes proposed will be permitted on this site.

The big question was asked – why do they need to change it from an ‘R’ zoning to a PDH? The answer was given that a PDH would allow more open space and would provide an opportunity to correct storm water problems and have more trees.

March 19, 2013 – A regular full meeting of the BLUE Committee was held. Tom Williamson from Land Development Services provided the committee with a summary of the need for a Storm Water Ordinance and stated that the new Ordinance must be in place by July 2013 for all 142 Virginia counties except for those, including Fairfax, which requested an extension.

The subcommittee provided an update and shared that the developer provided a map with the drainage zones for the area as well as a topographical map. A rain garden proposed but the committee had concerns about hydrology and whether the rain garden was in the correct location. Asad Rouhi, an engineer with the Northern Virginia Soil and Water Conservation District is going to meet with the neighbors to offer independent guidance. A major issue is how to account for the amount of water that is not adequately controlled from Rt. 123. This view was reinforced by Mrs. Betty Hickey who has had severe yard flooding and who referenced videos that she had sent of the impact of a small storm earlier in March. The Committee was waiting on the results of a possible third layout for the subdivision.

April 16, 2013 – A regular full meeting of the BLUE Committee was held. A brief discussion of the status of this application ensued. The subcommittee chair reported that the members had looked at the issue of tree save on the property and had a concern about pine trees that may have lived beyond their useful life. She expressed a concern that “good” trees have not been saved. There was a discussion about both tree save and tree planting along the strip that backs to Adare Drive, and she indicated that the committee wanted to encourage more hardwood planting. Another member reported that she had been in touch with Urban Forestry on the application. There was a discussion about whether this met the criteria for a P District and could be considered to be “something special.” Betty Hickey discussed her continuing concerns with stormwater runoff from Rt. 123. She reported that Asad Rouhi from the Northern Virginia Soil and Water Conservation District had visited the site and was going to react to the current recommendation. Mrs. Hickey also expressed concerns about future grading of the property and her belief that the storm sewer will not be able to accommodate the runoff. There was also a discussion of the future homeowner association and what the costs would be for this small number of homes to maintain both roads and stormwater structures. Finally there was a discussion about the relative merits of traditional stormwater ponds which have demonstrated the ability to retain water versus newer low impact development methods like infiltration trenches.

April 17, 2013 - Asad Rouhi, Urban Conservation Engineer for the Northern Virginia Soil and Water Conservation District submitted a report after reviewing the site. He said that he would need more information

to assess whether a rain garden that was also a detention facility and an infiltration trench would work on this site. *Without that information*, his assessment was “In summary, although infiltration facilities such as rain gardens and infiltration trenches are popular practices, they are usually designed to control small storms for locations where the area captured by these facilities is small and the risk to flooding of adjacent properties is low. The topography and the proximity of the proposed SWM facilities to existing homes might require a more conservative approach to managing stormwater runoff for this development. NVSWCD recommends replacing the proposed rain garden with an enhanced extended dry detention pond. This upgraded version of traditional dry detention ponds is a reliable SWM practice that is efficient and aesthetically acceptable to homeowners inside and outside the new development.”

April 18, 2013 – An e-mail from Lori Greenleaf, attorney for Eastwood Properties stated the driveways along the pipestem would be 20 feet in length. There is a regulation that requires that homes be set back at least 25 feet from the edge of the pipestem still applies to a P District. So there is no need to reduce the width of the pavement driveway in order to lengthen the driveways. Lori offered to put dimensions on each driveway, if we would like that done.

Secondly, she clarified that the rain garden is an “uber” rain garden in that it is a detention facility also. Basically, a detention pond but with gravel in it covered by the rain garden. She offered to get into detail on the operation of the rain garden at the meeting with the subcommittee. She reported that they were still working on the tree survey and transportation assessment of the intersection and would get back to Rosemary on those as soon as they were available so they could schedule something with the subcommittee.

April 25, 2013- Excerpt of email to Rosemary Ryan from Asad Rouhi: “Yesterday, I received the latest copy of the revised rezoning plan. There are some positive improvements including the removal of an infiltration trench that was included in the previous plan. In the latest plan the post-development stormwater runoff will be managed by a single rain garden. The rain garden will be designed to handle runoff water quality and act as a detention facility. It seems that the drainage area captured by the rain garden has increased compared with the last version where the plan also included an infiltration trench. Fairfax County Public Facility Manual (PFM) allows rain gardens to be used for both water quality improvement and detention. However, in Fairfax County, rain gardens have been rarely used as a detention facility on new developments. We have little information on their long term performance when used for detention. This is a factor that needs to be considered carefully when planning for managing post-development stormwater runoff on a sensitive site like this site. I have other concerns regarding the use of rain garden on this site as I have described in my report.”

Another note from Rosemary: From the Developer’s Attorney: “We can’t resubmit until the traffic study is done, as well as the tree survey and the phase 1 archaeological. Brent says we would have to submit by May 2 to keep our date, it looks like. We’re working on it.” The significance of that was the fact that staff has not even seen the revised layout that our committee had received.

The Ox Road Subcommittee was interested in trying to meet with County staff at this point. They were willing to do a call with us but we decided that we were early since they did not have the new plan yet. The developer had not filed again pending completion of several studies. At this point, it seemed that the tree study was not complete.

April 29, 2013- Our subcommittee member and Braddock District Tree Commissioner received an e-mail from Samanth Wansgard, the new Urban Forester, that stated “Jessica Strother visited this site in early December 2012 and made subsequent comments which were sent to the Staffing Coordinator, Brent Kranser in the Department of Planning and Zoning on February 6, 2013. Her comments and recommendations identify a large number of specimen trees that should be considered for preservation. Since these comments were submitted, my office has not received any additional information identifying how the applicant proposes to address

Jessica's comments. I would like to hold off on any additional site visits until I can see if and how they addressed Jessica's comments as it appears that she was aware of the specimen trees and the need to try to preserve them."

Our subcommittee was not aware of any previous comments from the recently retired Urban Forester at that time.

April 30, 2013- Rosemary notified the subcommittee that "Samantha will be our speaker at the May 21 meeting of the Committee and you will have multiple opportunities to query her at that point. Remember that there have been three layouts that have been examined to date. This project was originally accepted on November 14, 2012 and the first "P" district layout was circulated to staff for review in December. It would always include the Urban Forester. You may recall that staff rejected the first layout which had 15 homes and is now down to 13. I am not privy to staff comments, but the applicant sees them and is probably considering those comments in the current revisions. Most of the tree save will be on the south and east of the parcel. A lot will depend on whether the project can be approved with a rain garden or must provide detention with a dry pond. You can see a tree save area immediately to the north of the rain garden on the current layout. However, tree clearing for a pond is generally more extensive and I think that stormwater will be the overarching concern for this project."

May 1, 2013 – Rosemary updated the subcommittee that Samantha Wansgard is available to walk the site with the subcommittee after she sees the new submittal which is still not into the county.

One subcommittee member also sent this update "Hi All—I had a phone conversation with Samantha Wangsgard, Urban Forester, this afternoon in an effort to understand the process and to discuss our desire to be able to walk the property with her when they do the next tree and vegetation assessment. An assessment was completed by the previous Urban Forester in December and the developers, and maybe Rosemary, has a copy of that report. Samantha has not seen this yet. At this stage the developer is resubmitting a revised plan with some changes to the plan to attend to 'tree preservation.' I did express my thoughts, and our committee's, that we hope that tree preservation is not simply keeping more 'not valuable' trees and removing other trees that hold more value. Samantha said that at some point, the developer's plan will be submitted to her and when it is she will let us and Rosemary know. At that point she will do a formal site visit and that's when we will be included. I was clear that we are very interested in being included and she has heard that and is very receptive. What is not clear is when that might occur—it could be in the next 10-12 days or a month or two—so we'll just have to wait until she notifies us. It is also possible that because of any changes, there may be a request for another community meeting—we'll see."

May 20, 2013- Rosemary Ryan and the available subcommittee members walked the site with the new Urban Forester, Samantha Wansgard. It was noted time and again that there were many disease and structure problems with the existing trees on site, so many trees will need to be removed, but it would be important to plant new trees.

May 21, 2013- In an e-mail discussion with Samantha Wansgard, one subcommittee member asked if she could or would make a recommendation to Planning regarding the species of the new trees to be planted to ensure that they plant species that will be better at storm water management, erosion control, screening, etc. Her reply was "no we do not make specific recommendations in most cases. The applicant in general selects the trees they are proposing to plant from the Public Facilities Manual table 12.17, Tree Selection and Canopy Cover Guide. In instances where the trees they propose are not on the list, we (Urban Forest management) will evaluate the trees and if necessary recommend alternatives. The trees in Table 12.17 are also rated based on their benefits for things such as stormwater management, erosion screening, etc and we evaluate if the applicant is putting appropriate trees in the appropriate locations."

Regular meeting of the BLUE Committee was held. A brief discussion of the status of this application ensued. One subcommittee member reported that she and other members of the BLUE Committee had walked the site with the Urban Forest Management staffer Samantha Wangsgard. She noted that many trees that the committee originally felt were specimen trees in the winter have now shown themselves to be diseased or in poor condition. She also noted that the rain garden appeared to have been relocated to a better location on the property in the revised application. There was a discussion that included community residents about the rain garden exceeding the maximum allowable drainage area of 2 acres. There was additional discussion about overland relief and the fact that it appears to go uphill to an existing outfall. Betty Hickey discussed her continuing concerns with the request for a waiver of the tree canopy and asked again for a more definitive outfall study.

May 23, 2013- E-mail discussion between Mrs. Mills and Rosemary and then Mr. Krasner, Staff Coordinator, highlighted Mrs. Mills concern that the applicant was seeking to get a waiver of the PFM because he was going to have to place the sewer drain closer than 15 feet to her home. It turns out that the easement was recorded properly but for some reason the original developer of her home placed the easement closer to the home than normal. Since the sewer lines are gravity fed, there would be no other place to put the sewer line no matter what kind of development was built on that property. As of this date, Mr. Krasner reported that staff did not currently support the application.

May 28, 2013- Rosemary received a petition that she shared with the subcommittee from neighbors requesting that the county not allow a deviation of the tree canopy requirement. It was signed by over 30 individuals.

May 30, 2013 - The BLUE Committee drafted a response to Mr. and Mrs. Hickey and their neighbors and acknowledged receipt of their petition.

June 6, 2013 - Rosemary notified our subcommittee and interested residents that DPZ staff has asked the applicant to re-look at a number of aspects of the current proposal, including stormwater, the 24 foot pipe stem and tree preservation. Staff also expressed a concern regarding noise from Rt. 123 affecting the lots that abut that road. She said that she should know by early the next week whether the current public hearing schedule will hold or whether the applicant will look at a more substantive redesign that may involve another full staff review.

She also stated the Urban Forester did not support the current tree preservation waiver request: "A deviation from the tree preservation target has been proposed, however as there still appear to be opportunities for additional tree preservation, this deviation is not supported at this time." However, the applicant did meet both their open space and tree cover requirements. Tree preservation is an issue that will be examined thoroughly by both the land use committee and the county as the application continues through its public and county review.

June 17, 2013- Rosemary suggested that the subcommittee meet with the developer as they were back in redesign again. Issues had to do with the layout of the homes along Rt. 123 and noise issues for those homes. Staff had apparently suggested that they look at putting more detention up near the road. The tree waiver wasn't granted. Concerns about stormwater were still high up on the list.

There was a letter forwarded from Mr. and Mrs. Stolorz. Their concerns were storm water and deforestation (causing potential problems from winds and rainfalls.) They also brought up a new issue – increased noise levels for existing residents and also for residents of the new homes as trees are removed and road noise increases. The Stolorz also stated that “With the upward sloping terrain, some of the homes will literally look like skyscrapers in someone's backyard.” They urged the county to consider more tree preservation and also to not grant a deviation from the PFM to install the sewer line. However on this last point, the subcommittee did not feel that the county could deny the sewer access on a legally filed easement.

June 18, 2013- Regular meeting of the BLUE Committee was held. A brief discussion of the status of this application ensued. The subcommittee chair reported that a new submittal was being developed and that the subcommittee would meet with the applicant before the next meeting to review it. Rosemary reported that the public hearing had been deferred, probably until October and that Supervisor Cook expected that there would be a follow-up community meeting in early September. Staff's ongoing concerns with the last submittal included noise, tree preservation and stormwater. Concerned neighbors of the proposed Ox Road development were present for our meeting and asked questions and offered comments

June 26, 2013- Rosemary sent us an update and attached a draft of a proposed revised layout for Ox Road Estates that was presented to staff. Here were the main changes:

- Pipestems have largely been eliminated and houses shifted back from Rt. 123 outside of noise issues. I am still seeing a 12 foot pipestem serving three houses although technically that have access to Rt. 123. No noise wall along Rt. 123 would apparently be necessary. A 6 foot wall/fence is proposed just in the corner of Lot 4 if it proves necessary.
- The quality of the open space area has been enhanced with the tot lot, seating area and a trail. Also have a trail connection between Lots 6 and 7 (as requested by staff) for access to the open space area.
- Applicant is no longer asking for a waiver of the tree preservation target.
- Applicant has increased the buffer area behind Lots 7-9.
- Applicant has shifted the outfall from the rain garden from the inlet directly in back of Mr. and Mrs. Hickey's yard to the side. The size of the pipe there is more than adequate.
- The applicant is still exploring the option of additional infiltration areas along Rt. 123 and along the south.
- The applicant is retaining the southern buffer area and the parking along the private road.

Rosemary told us that the applicant has formally requested a meeting with the subcommittee. Staff was still reviewing this draft in detail

July 1, 2013- The subcommittee met with the applicant to see the new plan and determine if the changes addressed the issues that have been discussed thus far. The subcommittee noted that improvements had been made regarding storm water, tree preservation, noise study and traffic studies.

July 2, 2013- The subcommittee received a detailed study with diagrams regarding the feasibility of the traffic movement from the service drive to northbound Ox Road form Eastwood Properties. They also sent a traffic Impact Study and an addendum to the Noise Study that was already sent based on the new plan. All these additional documents directly addressed community and subcommittee concerns.

July 5, 2013- Subcommittee received an updated version of the latest layout, which had some minor tweaks, such as adding a stop sign, the warning strips on the trail, the maintenance note, etc.

July 16, 2013- Regular meeting of the BLUE Committee was held. Rosemary initially reported that a second Community Information Meeting had been scheduled for September 4. It was pointed out that this was the night before the start of Rosh Hashanah and Rosemary agreed to reschedule. An update on the project was given by the subcommittee. Several residents who adjoin the parcel were present and offered thoughts on the status of revisions to the stormwater plans. A public hearing is currently scheduled for October 16. The applicant had requested a September hearing, but Rosemary stated that the Supervisor felt strongly that since the application had changed so significantly, this would not give the community adequate time to react.

July 19, 2013- Rosemary received a comment from the owners of lot #258. Although both husband and wife home owners signed the petition to save trees, they stated that the new plans " make no apparent provisions to

control water flow from the area of his houses #7 - 12 onto Middleridge lots #261- 256. I note several new drainage controls in other parts of the plan, but nothing in our area. I, in particular, am impacted by water flowing through lots #257 and 259 onto my property (#258). Since he is apparently saving many of the trees in this general area, it does not appear that any significant regrading will be done. There was a drainage control system in this area in the first plan, but it disappeared very early on in the process. I request your assistance in getting the developer to address the water flow issues in this area of the plan.”

Also, Rosemary notified us that the applicant had agreed to meeting with the neighbors but no date set yet. The Subcommittee was not involved.

July 25, 2013 – Rosemary confirmed that another public meeting was set up at Fairview Elementary School on September 9th at 7:00pm.

July 28, 2013 – Subcommittee was notified that there will be another public meeting on September 9th at Fairview Elementary School.

July 30, 2013 - Rosemary received another new application for the Ox Road development.

August 8, 2013- Rosemary received an e-mail from Dave Hardin from Fairfax Club Estates about traffic concerns at the intersection of Adare Drive and Ox Road. Rosemary responded to Mr. Hardin by telling him that VDOT has already indicated to the applicant that it does not wish another vehicular entrance onto Rt. 123 to serve this community. She explained that a detailed transportation analysis was under review by county staff. She passed on his concerns to the Department of Planning and Zoning staff coordinator for this project, Brent Krasner, as well as the county transportation staffer, Ariel Yang. She asked that the applicant be prepared to speak to these points on September 9.

Also on August 8th, the subcommittee received the July 25, 2013 revised application/plans. Some of our committee’s questions and comments about the proposed HOA budget:

1. The community may decide to self-manage vice third-party manage HOA.
2. \$250 for annual legal budget is inadequate; buys less than one hour worth of time from a partner.
3. Should include IT costs . . . unless the management company provides.
4. Two upfront question for developer: Will HOA be responsible for garbage/recycling collection? Will this community be a designated county sanitary district (i.e., county provides garbage/recycling services)?
5. HOA documents should be written to allow self-audits of HOA finances by community. Otherwise, a CPA audit will cost \$3K - \$4K in 2012 dollars; and will be overkill for a 13 house community with an annual budget of about \$15K.

August 12, 2013- Subcommittee members stopped by Supervisor Cook’s office to review the new application and plans in large paper format.

August 29, 2013 – Rosemary received and shared with the subcommittee a detailed letter from the Stolorz family regarding their concerns as they would be unable to make the public meeting on September 9th. Mainly, the issues were the same as most: traffic at the intersection, storm water management, tree conservation, and ironically, the resulting smaller lot sizes due to the tree save and storm water retention/detention.

Rosemary hosted a meeting between concerned neighbors and the applicant. No subcommittee members were available to attend. The Stolorz could not make this meeting either – which may be why they sent the letter.

September 3, 2013 – Rosemary briefed the subcommittee via e-mail about the 8/29 meeting with concerned neighbors, county staff and the applicant. She summarized it as ‘contentious’. There was some discussion about the trail going around the rain gardens and the meeting went 2 ½ hours. Beth Forbes from the county was

there and tried to explain what was required at the Zoning stage as opposed to the site plan phase and the applicant is still going to try to get more information to Mrs. Hickey who has expressed disbelief in anything the applicant puts to paper.

Rosemary reminded us that detailed engineering plans of the rain gardens are required at site plan. The county will not approve the site plan or allow the developer to build unless and until, it is clear to the reviewing engineers in the county that the plan “works.” In addition, there are multiple site inspections of the actual build out of the project that must exactly meet these final drawings or the developer will not be allowed off bond. In effect, she was saying that these requirements serve as a default “proffer,” that is monitored and approved by the county. Concerns lingered that the developer adequately fund the future HOA for maintenance of the entire storm water infrastructure. This is a lot for 13 homes in the long term.

On this date, Rosemary facilitated a two hour meeting with Mrs. Mills, her engineer son in law, county wastewater staff and the applicant and his engineers on the sewer easement through the Mills property. They met one hour on the sewer and another hour on stormwater. The sewer easement is an existing easement that the county required when Middleridge Section Six was constructed. The county always seeks a sewer connection that allows a gravity fed flow. Staff stated that the only issue really is why the residual easement is only 10 feet instead of the normal 15 which the county always requires. Speculation in the meeting was that there was a field adjustment. However, because the pipe will only be laid at a depth of 6 feet, it does not appear to threaten Mrs. Mills foundation. The abutting foundational wall of her home is at an identical depth. Initially the developer proposed to hand dig the cut up to this point but county staff (from Wastewater) and Mrs. Mills’ engineer son in law agreed that using a small trench digging piece of equipment would be safer. Pruning and feeding of any tree roots that have encroached into the easement will take place but no tree can remain in the easement because it could impact the pipes. Ductile pipe will be used and Mrs. Mills was told that the pipe should not need maintenance for 50 years. Any future maintenance will be by trenchless “relining” of the pipe which is a technology that the county is already using to avoid digging up any existing pipes. The only time we “dig” is if there has been a full collapse. Rosemary told us that Mrs. Mills is still not very happy, but absent any danger to her foundation which she has been assured will not occur OR if it does occur, the developer is fully insured to make repairs, she cannot object to the use of this easement. Mrs. Hickey also attended and they ended up with another LONG discussion on stormwater.

E-mail discussion amongst the committee members about whether the developer was putting in enough seed money for the HOA’s long term maintenance of the storm water facilities and whether the new storm water ordinance would be finalized to make sure that the county would maintain this or not. Our understanding was that this application would have to be included in whatever the new ordinance determined.

September 4, 2013 – Rosemary sent out a reminder e-mail about the public meeting to review the fourth revision to the plans for this residential community (RZ/FDP 2012-BR-020) that was formally submitted to the Department of Planning and Zoning on July 25 for review and analysis. She stated that the new plans attempt to address staff and community concerns in four areas: noise, open space, stormwater and tree preservation. She announced that the applicant has also had interaction with VDOT on pedestrian access and vehicular egress from the property and will present the results of those discussions. The Supervisor had reserved the cafeteria at **Fairview Elementary School, 5815 Ox Rd, at 7:30 PM on September 9, 2013** for this presentation.

September 5, 2013 - Rosemary received an e-mail from Carol Stiller and she shared with the subcommittee. Her concerns were noise, traffic, safety issues with multiple entrances and unusual intersection shapes at Ox Road and Adare (cars, school buses, pedestrians, bikers), open space, stormwater problems that have been increasing in the past years, tree preservation, capping the spring which is a source of fresh water for Wildlife, wildlife transfers and preservation, and Public school(s) impact - ES, MS, HS.

September 9, 2013- Supervisor Cook hosted a public meeting at Fairview Elementary School and subcommittee members attended. The latest plans were unveiled and there were detailed current water flow diagrams and diagrams that showed how the water runoff would be reduced as much as 83% on the proposed plans. A traffic expert was available to offer insights into the existing traffic problems that the community currently has. The turnout was good but issues that were expressed seemed to be consistent with what the subcommittee had heard before. No new items of concern were identified here.

September 17, 2013 - Regular meeting of the BLUE Committee was held. Lori Greenlief, representing McGuire Woods, LLC., the attorney for the applicant, presented the key changes from the initial submittal included:

- Project has 40% open space, up from 20%;
- Project now meets the county's tree preservation targets
- The density is at 2.5 homes per acre and the project has reduced from 14-13 homes. Houses will be approximately 3,400 square feet.
- The project has smaller lot sizes than conventional R-3 lots to provide a buffer on three sides. Buffering is not required but expected in P Districts;
- The project has provided adequate guest parking
- Mike McCann of McShay Homes discussed the formula for establishing an escrow fund for the future homeowner association. He stated that the road system that he builds is made up of what is called 21A macadam, which provides greater durability. However, they are increasing their initial deposit which will be transferred to the HOA.

Comments from committee members included the need to maintain the rain garden, tot lot, sidewalks and provide for snow removal. It was also noted that in the financial schedule that had been provided, there was no capital drawdown before 10 years for things like sealing the roads. Rosemary also circulated updated information that had been provided at the September 9, 2013 Community Information Meeting.

Members of the subcommittee provided the BLUE Committee with their thoughts and comments on this project and how it had adapted to both staff and community concerns. Subcommittee chair stated that the issues on which the subcommittee was focused were: trees, stormwater, buffers, future HOA Management/Maintenance of infrastructure, and traffic. There was subcommittee consensus that 1) there needed to be a better proffer for future maintenance, 2) the trail near the trees needed to be relocated; 3) there needed to be covenants that precluded the HOA from dissolving and not adhering to its responsibilities; any streetlights needed to be dark sky compliant; 5) traffic exiting onto Adare Drive from the service road needed to be adequately managed. It was noted that Fairfax Club Estates with 350 homes only had one entrance. The subcommittee identified 4 areas on which it wanted further answers.

Mr. and Mrs. Hickey, abutting neighbors, raised continuing concerns about the stormwater impacts of the project on their home on Oak Park Court. The responsibility of the applicant to ensure that there would be no flooding in a 100 year storm was discussed.

October 1, 2013 - Eastwood Properties responded to the subcommittee's four areas of concern:

- 1) Concerns were raised about the details of the cash flow and the size of the reserve fund.

Response. Mike McGhan of McShay Communities developed a budget with a 10 year horizon for the project, similar to the other infill subdivisions he has completed in the County. At the meeting on the 17th, he explained the rationale behind his line items, one of the most important being the exceptionally high quality of the road base that will be used for the private road construction. Based on the committees concerns, he has doubled the amount of money to be initially deposited in the HOA's account as seed money for their reserve fund and has increased the expense line items for legal/consulting and for grounds/common element maintenance, the latter increasing by \$1,000. The reserve fund is only slightly lower at the end of 10 years but the amount is more than adequate now since key item amounts have been increased.

- 2) Is it possible to make the trail near the trees permeable and as a follow-up question, preserve the blue spruce shown to be removed?

Response. That portion of the trail system in the open space is a concrete sidewalk to allow ADA access to the tot lot as well as stroller access so the Applicant would prefer to keep it concrete. The remainder of the trail, however, is wood chip. We have re-examined the tree save in that area and the two trees to either side of the trail are silver maples which have surface root systems which are more sensitive to grading activities. It may be possible to shift the trail and not impact those trees. Proffer 23, Limits of Clearing and Grading, has been revised to note that the area will be re-examined at subdivision plan review in, consultation with the Urban Forester, to determine if the trail can meander so that all three trees might be saved.

- 3) Could there be some assurance that the HOA will not dissolve and thus, not maintain the subdivision common elements?

Response. Section 2-700 of the Zoning Ordinance, attached, establishes the requirement for the creation and operation of an HOA. Section 2-702 specifically deals with the maintenance obligation and the County's ability to enforce the same. Note that the County has strict requirements for the creation of an HOA to include their review of organizational documents, covenants and by-laws.

4) Can the streetlights be dark sky compliant?

Response. We have added a proffer, number 19, which requires that streetlights be shielded and directed downward. This type of design approach to lighting is typical wording for such a proffer as there are no specific dark sky provisions in the Ordinance which to use as reference in a proffer.

In addition to the answers to our questions, we were reassured that the proposed on-site stormwater management system on the subject property will reduce the rate and volume of sheet flow currently experienced on these and other properties offsite. The area of existing sheet flow to lot #261, (Mrs. Hickey's lot) will be reduced from 8.61 acres to 0.86 acres. They stated that significantly large areas of drainage currently flowing from Rt. 123 will be collected in the on-site system, detained underground in the proposed storage area and then released at a rate equal to and possibly even less than the county allows into the existing adequately sized storm sewer system.

They recognized that the adjacent properties may have been improperly designed, graded and built with structures sited too low relative to the surrounding grades and storm sewer systems, so they show on their plans some re-grading (they will provide at no cost to these home owners) between lots 261 and 262 as a form of overland relief for the 100 year storm. The easement for this already is established on lot 261, but if lot #262 wishes to accept the offer that they are proposing to reduce their possibility of flooding, then they would need a letter of permission.

October 2, 2013 – Rosemary sent an e-mail out to the community and the subcommittee that contained the latest proffers that were changed or added to address community concerns. She also summarized changes to the application that were a direct result of the 9/9 community meeting. She provided answers that were not available at the community meeting as follows:

- **VDOT's reaction to putting a dedicated left turn arrow southbound on Rt. 123 into Adare Drive.** VDOT has reported that it typically allows left turn arrows are only at intersections where the roadway is 6 lanes unless crash data suggest that the lack of a left turn arrow is an issue. We have pursued crash data; looking closely at accidents where there were "angle crashes" that would suggest a left turn onto Adare. There were insufficient crashes to meet the required threshold.
- **VDOT's reaction to installing a light on the service road.** VDOT would not approve such a request as that form of traffic management is not utilized in Virginia.
- **Where the school bus stop for the children in this subdivision would be located.** The applicant has checked with the FCPS Facilities and Transportation Division and has been told that this decision is only made after the subdivision is complete and the number of students assessed.
- **Can a handicapped school bus make the turn-around in the cul-de-sac?** The applicant has confirmed, based on the size of the bus that transports children requiring assistance that the bus can navigate the cul-de-sac.
- **General questions regarding the operation of the Adare Drive/service road/Rt. 123 intersection:** The applicant has proffered to install a "stop here on red" sign/bar on Adare Drive subject to final VDOT approval. The applicant's traffic study also suggested a modification to the signal timing at the intersection to allow more cross street green. This is a method of mitigation that VDOT has accepted.

- **Recreation Contribution.** At the time of subdivision approval, the Applicant shall contribute the sum of \$30,362 for use at off-site recreational facilities intended to serve the future residents, as determined by FCPA. The Applicant shall coordinate with the District Supervisor as to specific beneficiary of the contribution.

October 9, 2013 - The subcommittee talked via conference call to finalize its recommendation of the Ox Road Estates application.

October 11, 2013 - One subcommittee member passed on the following information that she came across and thought it might be helpful in the event that the storm water facilities fail:

Development Under Bond - If a subdivision is "under bond," the stormwater infrastructure and other utilities are still under the responsibility of the developer - including their maintenance. The infrastructure is secured through a development agreement and security (the bond) held by Fairfax County. Once the bond is returned to the developer, they are no longer responsible for maintenance. Typically the bond is held for two years after the subdivision is built. In a new development under bond, the builder may be responsible for fixing problems, including drainage and erosion issues.

October 13, 2013 - In an e-mail sent to Rosemary, Mr. and Mrs. Hickey requested a deferral of the hearing that was scheduled for the 16th. They claimed that grading changes that were shown on their property (not required by County staff) that were offered a courtesy to the concerned citizens needed to be negotiated and resolved prior to zoning approval.

Brent Krasner's comments about this indicate that this agreement would be worked out at site plan and that the developer would need to buy the easement from lot 262 owner and it would be impractical for him to do this prior to zoning approval. He also stated that if they are able to completely detain the 100 year storm on site, and can provide those calculations at site plan, then they are not required to provide overland relief or do any offsite re-grading. In that case, the off-site grading shown on the plan is purely to ameliorate the situation on Ms. Hickey's property, but is not required by the PFM.

October 15, 2013 - This was a regularly scheduled meeting of the BLUE Committee. The Chair of the Ox Road Subcommittee, presented and summarized the process the committee had gone through the past number of months as well as the subcommittee's most recent conference call meeting to finalize recommendations. Issues that were discussed in detail over the course of the application process were stormwater, (pedestrian bicycle and motor vehicle) traffic, lot and house size, school overcrowding and bus stops, stream degradation, tree buffers, existing condition of vegetation, driveway size, sewer easements, wildlife impacts, noise, views, and many others. Although adjacent residents continue to have concerns about the proposed storm water management facilities and their long term maintenance, the Ox Road Subcommittee felt that county staff, developers and their subcommittee members have heard and examined the neighborhood concerns, particularly of the immediate neighboring homes, and that those concerns have been responded to adequately by the applicant. If the rezoning application and the development plan is approved by the Planning Commission and the Board of Supervisors, the applicant will go through site plan review with the county. At that time, the storm water solutions that the applicant is proposing will need to be confirmed by county engineers to make sure that they will address the residents' concerns.

The BLUE Committee voted on the Resolution (Resolution No. 2013-2). Resolution carried by voice vote with one abstention.

October 16, 2013 - Cheryl McDonald, as BLUE Committee chair sent Commissioner Nell Hurley a letter with the approved resolution.