

**7. OLD BUSINESS
CONDITIONAL USE PERMIT – ANTHONY SCODES**

As you recall, following a public hearing on July 28, the Board voted 4-3 to conditionally rezone 55 acres of Mr. Scodes' property exclusively for ATV riding and racing. However, at that time, the Board deferred action on the required conditional use permit, referring it back to the Planning Commission for additional review, discussion and a list of recommended conditions.

At its August 14 meeting, the Planning Commission voted 5-4 to forward a recommendation back to the Board to deny the conditional use permit, citing inconsistency with the County's *Comprehensive Plan*.

At your meeting on August 25, on a 6-1 vote, the Board tabled the matter for 2 months and directed staff to research conditions or regulations imposed by other Virginia localities on comparable facilities. Subsequent to that meeting, a complaint was filed in the Circuit Court of Southampton County on behalf of Diane Wynne Kropewnicki, et als, alleging that the action of the Board in granting the change of zoning was unlawful, and further seeking to enjoin the Board from issuing a conditional use permit to Mr. Scodes for the aforementioned purpose.

At your meeting on September 22, on a vote of 4-2, the Board directed its legal counsel to refrain from filing an immediate answer to the complaint and seek to reach amicable settlement with the plaintiffs. In accordance with that direction, Mr. Railey discussed the matter with the plaintiff's counsel, who agreed to defer prosecution of the suit pending an approved motion by the Board to deny the conditional use permit and initiation of an application to rezone the 55 acres in question back to A-1, Agricultural. A copy of Mr. Railey's letter to the plaintiff's counsel is included with this agenda.

In accordance with your motion of August 25, the application for a conditional use permit has been placed back on your agenda for disposition.

Also attached for your reference, please find a copy of correspondence to Mr. Scodes (dated October 9), advising him that the matter is on today's agenda and informing him of related developments since August 25.

MOTION REQUIRED: If the Board is so inclined, a motion is required to deny the conditional use permit and initiate an application to rezone the 55 acres described above, from Conditional Limited Industrial (C-M1) to Agricultural A-1.