

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
July 2, 2008

The work session of the Stafford County Planning Commission of Wednesday, July 2, 2008, was called to order at 5:41 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

Members Present: Fields, Di Peppe, Carlone, Rhodes, Mitchell, Howard and Kirkman

Members Absent:

Staff Present: Harvey, Judy, Knighting, Schultis and Stepowany

Declarations of Disqualification

None

UNFINISHED BUSINESS:

1. SUB2700557; Ruby Meadows, Preliminary Subdivision Plan - A preliminary subdivision plan for 13 single family lots, zoned A-1, Agricultural, consisting of 41.31 acres located on the south side of Garrisonville Road approximately 300 feet east of Green Acre Drive on Assessor's Parcels 9-10 and 9-11 within the Rock Hill Election District. **(Time Limit: July 2, 2008) (Deferred at May 7, 2008 Regular Meeting; May 21, 2008 Regular Meeting; June 4, 2008 Work Session) (Deferred to July 2, 2008 Work Session)**

Mr. Fields asked if there were some unresolved questions or issues they needed to look at from the last meeting before they act on this.

Mr. Mitchell arrived at 5:45 p.m.

Mr. Howard stated he was not at that meeting and had sent an email. There were two or three questions that were asked of staff and something asked of Mr. Judy about the lot lines, whether or not they were being calculated correctly. He thought all questions were answered as far as he understood.

Jon Schultis stated it was his understanding that the outstanding issues from the last meeting on the density requirements in the agricultural districts and whether or not a PE seals drainfields. It was his understanding that there was no density requirement in the agricultural districts so that would not apply in this case and according to conversations with the Health Department the PE does seal the drainfields but not until the permitting phase.

Mr. Judy stated just to confirm what Mr. Schultis said, there was a question raised about allocated density and whether the Zoning Ordinance required, at the preliminary plan stage, for a person whose property was A-1 or A-2 to provide those allocated density calculations. He stated as the Commission would recall, at the last meeting there was no stated allocated density number in the Zoning Ordinance for A-1 or A-2 districts, only a minimum lot size. He stated because of that reason, the formula in the Zoning Ordinance used to calculate that density or net density, there was no way it could apply when you did not have a number in front of you. All the other residential districts had a specific allocated density number but A-1 and A-2 did not and in talking with Mr. Harvey, at one time a prior Zoning Ordinance had attempted allocated density but the prior Board determined for whatever reason to remove it from the Zoning Ordinance. He stated there was not within the Zoning Ordinance or

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Subdivision Ordinance, a requirement for providing calculated net density on a preliminary plat for A-1 or A-2 property.

Ms. Kirkman arrived at 5:50 p.m.

Mr. Fields stated he understood that this County Attorney's office had always held that position and that was the official position of the Stafford County Attorney. The intent of that ordinance was to apply to all zoning districts including agricultural. He stated for whatever reason they were led down the path that would have allowed them to make that change and then the practice, since that time, had been to make that the case so he understood the official legal position that the County Attorney's office came from.

Mr. Howard made a motion to move Ruby Meadows Preliminary Subdivision Plan, SUB2700557, to this evening's meeting. Mr. Di Peppe seconded. The motion passed 5-0 (Mr. Rhodes and Ms. Kirkman were absent).

ORDINANCE COMMITTEE

2. Discuss Using Trucks as Signs

Jamie Stepowany stated this item was the continuation of an ordinance to restrict vehicles from being used as business signs. After discussions with the Rachel Hudson, the Zoning Administrator, they did modify the wording of the proposed text of the ordinance that was in the memo that was sent out. He stated he broke it into two parts and the second portion of this was instead of just vehicles, as Mr. Harvey recommended at the last Planning Commission meeting, they referred to it as commercial vehicles. The first part which would be prohibited would be any sign attached to, painted or displayed on a commercial vehicle, which there was a definition below it, that was an arrow or other such directional symbol or language such as "turn left here" that would provide direction to a use on a lot on which the commercial vehicle was parked or to an adjacent lot. The second method of being prohibited would be any sign attached to, painted or displayed on a commercial vehicle that was parked 25' or less from any public street line and was located on the same lot or an adjacent lot as the establishment to which the sign identified. He stated there were a couple issues brought up at the last meeting concerning personal vehicles for pizza delivery, IT Tech type of employees who would use personal passenger vehicles and small pick-up trucks for auto parts stores that was not the intent of this ordinance and by calling it commercial vehicle those types of vehicles would not apply. The second issue was they had some discussions about the primary purpose of the vehicle. If it was a sign it should be prohibited. After discussion, the first part, number 8, was clarifying that it was a sign, that if the truck said "turn left here" to provide direction to a business it was the primary intent of the vehicle. He stated he and Mr. Di Peppe toured the county and he would provide a summary of their findings.

Mr. Di Peppe stated they went on a little field trip and tried to cover as much ground as possibly. They went from Route 1 in Falmouth to Quantico and Routes 610, 17 and 3 east. He stated they were trying to see the actual problems. They found that one sign, which Mrs. Carlone was concerned about, on the truck bed was not actually a truck and they could take care of that one with the present ordinance. They showed slides of some signs they observed. He stated the whole idea was to try to pinpoint exactly what the problem was. They were not talking about somebody's pick-up truck for an auto

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parts store but trying to pinpoint people who were actually getting around the sign ordinance by putting a sign on a vehicle.

Mrs. Carlone stated there was another one on Kellogg Mill Road where the mud bogs were held.

Mr. Di Peppe stated they also road into Spotsylvania County to look at a shopping center because of the way the different buildings were tied in from a design viewpoint. While they were there they saw examples of people blatantly using trucks as signs.

Mr. Stepowany stated he handed out a revised text per Mr. Di Peppe's recommendation. As part of their tour of the property, pretty much every property that had a truck next to the building or in close proximity was in the parking lot and if it was not they had a parking lot they could move the truck to.

Mr. Di Peppe stated they did not want to be burdensome and pass an ordinance for a regular business that had a truck but had no place to put it on their property and they were not talking about people making deliveries or loading or unloading trucks. They were talking about people specifically using a truck as a sign out front that stayed parked there all the time.

Mr. Stepowany stated Mr. Di Peppe's request was that if it was parked more than 25' from any public street but not parked within or in the same direction of a loading space. He stated to make sure it was in a parking space and the reason he stated in the same direction was because what they saw on the other out of the jurisdiction view were shopping centers where they would take a truck and put it parallel to the street crossing multiple parking spaces.

Mr. Di Peppe stated the idea was if they moved back 25' and turned it parallel and still used it as a sign, they would have to be actually in a space. They saw only one or two places in the entire county that were like that.

Mr. Stepowany stated they looked at some of the truck rental dealerships. One in particular had trucks right up against the road but then next to the building they had a parking lot and additional trucks and being a Friday morning they thought maybe the trucks were also out to be picked up by customers.

Mr. Di Peppe stated they were not trying to interfere with normal business activity. That was not the point of the ordinance.

Mr. Howard asked if the two examples they showed today were in violation of the existing code, why those conditions were existing and why were they allowed to have those signs.

Mr. Di Peppe stated under the sign ordinance right now that it was complaint driven.

Mr. Stepowany stated Ms. Hudson did say the county had cited a couple businesses with trucks that were not trucks and were cited as signs. There had been cases where the county had cited a couple properties with similar situations and dealt with them as being signs.

Mrs. Carlone stated usually the weekends the trucks would come out in the parking lots.

Mr. Judy stated the new language was a bit of a surprise to him.

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Mr. Di Peppe asked if he had a problem with it.

Mr. Judy stated yes, he thought he did. When they talked originally about this ordinance the enabling authority for localities to adopt similar ordinances was based on policed powers to protect the health and safety of the citizens and most of the jurisdictions that have adopted the 25' setback or similar had done so with the premise that they were preventing people from being distracted while driving down the street. When driving your attention should be straight ahead of you and not looking at the pretty signs on the trucks parked on the side of the road. He stated when they add a line to an ordinance that would suggest that even if you were more than 25' your truck would have to be parked in the parking space on private property. When the Zoning Ordinance would get into the business of deciding how people behave on private property, it would be the property owner who would decide if somebody was improperly parked on their property and whether to have them towed away. He stated if someone brought their vehicle on and parked sideways and everyone else was within a designated parking spot, it would be up to the owner to decide what to do about it, it was not up to the County.

Mr. Di Peppe asked what if the owner owned the truck and was using it as a sign.

Mr. Judy stated he understood the idea and he thought the example of the GEICO truck with the trailer on the back of it was a perfect example of why, he was just leery of the language they put in there.

Mr. Di Peppe stated this was not aimed specifically at GEICO, they just happened to have a truck and trailer out there. The problem was putting them out there and leaving them out there as signs. He stated he would not have a problem if somebody was doing a promotion and had a radio station there for the day and promoting the business, he certainly was not looking at trying to regulate that either as long as they were far enough back. They saw this and thought if they were more than 25', they wondered how they could handle this and would tell people if they were more than 25' they would still have to be in a parking lot.

Mr. Judy stated the question then would be what if the parking lot had no designated parking spots. He asked what if it was just a gravel lot or a paved lot that had no markings.

Mr. Di Peppe stated they looked at almost everything they could imagine and almost everybody had regular parking lots. The problem was there were people that were doing it and leaving it there day after day after day. He stated they did not want to write something in an ordinance that would not hold up and they respected Mr. Judy's opinion.

Mr. Judy stated he looked at the language and where it said 'any sign attached to, painted or displayed on a commercial vehicle that is an arrow' he thought maybe the word 'is' should have been 'contains'. Their design or logo could possibly contain an arrow and that a directional arrow was something pointing to the location of the business.

Mr. Di Peppe stated part 9 covered both, whether there was an arrow or not and any sign.

Mr. Judy stated he understood, he was just saying that instead of saying a sign painted on a vehicle that 'is' an arrow.

Mr. Di Peppe asked if part 9 would take care of that. They were using specific because some people did have arrows.

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Mr. Stepowany stated the intent of this was (a) it did not matter where it was parked, if it gave direction to your business it was prohibited, (b) if it had any language on the truck it would have to be 25' back. If it gave direction, no matter where it was on the property, it was prohibited.

Mr. Judy stated he did not disagree with that, he was just saying that one word 'is' as arrow.

Mr. Di Peppe stated that was a good point and asked about the wording in bold print, he stated he thought that was what would be the problem.

Mr. Judy stated that was what he said at first, suggesting the word 'contained' instead of the word 'is'. He stated grammatically where it states 'that provides direction to a use on the lot' he would add right after lot 'or adjacent lot on which the commercial vehicle was parked' and strike the rest. He stated that was a the grammatical style, there was nothing wrong with it.

Mr. Di Peppe asked if Mr. Judy was still having difficulty with the bold print.

Mr. Judy stated only having read it five minutes ago it just jumped out at him that there may be a concern whether they really could put any teeth in it.

Mr. Stepowany stated staff could request they hold onto this as there was not an urgency for this.

Mr. Di Peppe stated there were only a couple places in the whole County and they could deal with those under the existing sign laws. What they were trying to do was be a little proactive.

Mrs. Carlone stated the one by what used to be M&P Market, Truckin' something and they had a trailer out there.

Mr. Di Peppe stated he had not seen that and asked if it was within 25' of the road.

Mrs. Carlone stated yes.

Mr. Stepowany stated they went from Route 1, Quantico to Falmouth Bridge, 610 from Route 1 to Furnace Road and back, Route 17 from Route 1 all the way out to Poplar and back, and they went into Spotsylvania and Kings Highway Route 3 a mile past Wal-Mart and then to Chatham and up Chatham Heights Boulevard and then down White Oak. They were looking for trucks that may have had a problem being within 25' of the site. He stated if there was a truck within 25' there was a lot next to the building that they could move the truck to.

Mr. Di Peppe stated there were two things, were they having violations and if their fix to the violations was going to be so burdensome that a person could not maintain a truck on their property. They could not find incidents anywhere where they could not move and be in compliance with this and be no problem at all for them.

Mrs. Carlone stated she remembered the name of the business as Trucking America.

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Mr. Di Peppe stated if it was okay with the Commission he would like to hold this and maybe sit with Jamie and also get with Mr. Judy and maybe find some more appropriate language. He stated it was not quite ready but it was getting closer.

3. Open Space Requirements for Shopping Centers

Mr. Stepowany stated this was a continuation from the last meeting, the proposed common open space ratio for shopping centers. He asked an engineer to send him a PDF of their site plan and showed the Town & Country Shopping Center on White Oak Road. When this site plan was approved, it was approved with 60% open space and the front area, except for the 7-Eleven, was calculated as part of the open space. He stated the proposed ordinance would allow them to develop a pad site of the shopping center. The pad site may reduce its open space requirement by 50% provided they demonstrate on a plan that this whole center, including the pad site, would still meet the required 25%. One of the reasons why he brought this site to them was they met the open space requirements for the pad sites. One of the things that the ordinance would do was make sure the Giant met the 25% open space. That had not been calculated into the equation with the pad sites as they had come in with individual major site plans and they had demonstrated that each pad site met the minimum requirement of the zoning district. On the original site plan, the area was part of the original open space for the Giant. He stated what the ordinance would do was it would allow them to reduce their open space by 50% for the pad site provided they demonstrate that the whole shopping center would still meet the minimum requirement because the pad site was part of their minimum requirement before. This started in 1998 and Doc Stone, Stafford Market Place and England Run had used this policy and staff would request to make this an ordinance.

Mr. Di Peppe stated they obviously had more than they needed to begin with even though they were counting this and Mr. Stepowany was saying that still, with developing those pad sites, their overall shopping center still met the requirement.

Mr. Stepowany stated he could not answer that. The way the ordinance would work was they would have to tie the two together. It would make them verify that the original overall site plan of the shopping center or office center would still meet the minimum requirement. This shopping center came in with the pad sites as individual site plans. He stated staff had been saying on the individual 2 acre pad site for them to provide the minimum required open space, never taking into consideration how that would affect the open space for the overall center. What was presented to him in discussions was the applicant should be able to reduce the open space requirement for that 2 acre pad site provided they would still meet the overall center because that was how the County had done it in the past.

Mr. Di Peppe stated the one thing that concerned him was originally the design was fine and everybody was meeting the open space requirements and then they decided they could do another pad site if they bought the lot on the back of the building and said that was their open space. He would not have any problem if they had the original design when the shopping center was built and then they had to meet that, they could not add a lot on the back because he thought they would get into some design problems where they were not really getting the intent.

Mr. Stepowany stated that came to his attention through a discussion with another center because they came in and defined the limits of their center and included two vacant lots, they were zoned the same zoning district, and he did not have a problem if they took an extra parcel and said that was open space.

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His concern was what kept them from coming in with just a major site plan with that extra parcel by itself and that was where the problem of this was happening where this ordinance would actually enforce this shopping center to be reviewed as one when they come in for a pad site.

Mr. Di Peppe stated it scared him because they were the gatekeepers so that the way the County looks and functions. To him the idea about open space had a lot to do with how the County looked and functioned, especially how it looked. His problem was they would proffer their design and it looked nice because there was plenty of open space and as time would go on they would sell more and then they would end up with two lots on the back that was not integral to the design or to the open space and they had gotten around what they were attempting to do.

Mr. Howard asked his concern was from the aesthetics from the road to the center, not necessarily just the open space.

Mr. Di Peppe stated that was a philosophical viewpoint that the reason they require open space was to try to get the best possible looking and function of the design. He was just concerned that if somebody would come in and proffer their GDP and 3 to 5 years later when they would be totally built out they would make some changes so they could maximize the amount of commercial space they could sell and then the overall design would suffer. That was his concern.

Mr. Howard asked if they were going off the letter from 1998. In his experience, he asked Mr. Stepowany if that had occurred where somebody had said they would take a piece of property on the back that was not really visible and that would be part of the open space.

Mr. Stepowany stated that happened all the time in any kind of development. What he was trying to reassure to Mr. Di Peppe was if they came in and reincorporated another parcel and said that was open space, what this ordinance would do was say that open space parcel would always have to be part of this plan and every development phase of the plan would have to include that as open space. Whereas, what happened on the example he provided with the Town & Country Center was they came in with site plans for just pad sites because that was how it was but they were not including the overall shopping center so they were not keeping count of what the overall open space was for the overall shopping center. He stated that was why staff would like this because it would basically give them more management of the overall shopping center. They could come in, expand their use and buy another parcel as long as they would still have the open space requirements.

Mr. Howard stated his recollection from the discussion at the last meeting was that he would be sitting with the developers and going through some of the site plans that this was something more tangible and this was what they were going to follow versus everybody bringing that letter up.

Mr. Stepowany stated correct. The other concern that came up which they tried to address was if the applicant wanted to increase their site, it would have to be done through a new plan. He stated that was the another issue, the applicant wanted to develop a site next to an existing site and say the open space for the existing center would count towards the additional center and that was where staff had concerns.

Mr. Di Peppe asked if he told them no.

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Mr. Stepowany stated yes. This required them to come in for a whole new major site plan for the overall center including the additional site, and have it all re-evaluated.

Mr. Di Peppe asked if in the past the pad sites themselves had to meet the open space requirement why that was so burdensome on them. It seemed to him to be common sense but he could be totally wrong.

Mr. Stepowany stated they had pad sites that were allowed to be developed under this policy that did not meet the minimum requirement because they were allowed to reduce it. He would not say it was burdensome but because it was tied into the overall center the overall center would still need to meet the minimum open space requirement and the pad site would still be part of the overall development even if it was subdivided out as a separate development. He stated it was just a policy and they were trying to make it a consistent policy in the Zoning Ordinance. He had not had anyone come to him and say this was what had to be done. They had three or four shopping centers that were developed this way, staff supported the concept to maximize the pad sites as long as the overall center met the minimum requirement and that was why this was presented.

Ms. Kirkman asked to return to the example with the Giant. She asked when the first site plan was submitted to them where the open space was for the Giant.

Mr. Stepowany showed her on the slide.

Ms. Kirkman asked how the Giant was going to meet their open space requirements.

Mr. Stepowany stated that was the question.

Ms. Kirkman stated this was really fundamentally a problem with how the first site plan was submitted, that an area that was submitted as open space now wanted to be used as something other than open space.

Mr. Stepowany stated correct and from a management standpoint this ordinance would make sure that the existing Giant maintained its required open space.

Ms. Kirkman stated from a management standpoint why not say to people when they submit these plans they need to account for whatever future pad sites they would want to ensure that as they do their build-out all their sites would meet the open space ratio.

Mr. Stepowany stated he understood that but they would come in with individual lots because they were subdivided out and that was what the site plan would get reviewed as.

Ms. Kirkman stated this was really a matter of how they were handling those initial site plans that were submitted to them and they needed to make sure in reviewing those initial site plans that the applicant would be aware that depending on how they wanted to do their future pad sites they would need to be sure and design the original site plan to accommodate the appropriate amount of open space for each pad site.

Mr. Stepowany stated there was no mechanism in the Zoning Ordinance to mandate that and that was what this ordinance would do.

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Ms. Kirkman stated they had a minimum open space ratio that did mandate just that.

Mr. Stepowany stated he understood but if the applicant subdivided the pad sites and sell it to a different person and that person came in with an application for just their pad site which was very common in the commercial industry, that pad site owner would not be responsible for Giant's open space.

Ms. Kirkman stated in any subdivision they were not allowed to create non-conforming lots and in this example, if the Giant subdivided off those pad sites, they would be creating a non-conforming lot with their lot and they were not allowed to do that.

Mr. Stepowany stated that was why they recommended this ordinance, to make sure that did not happen. If they established lease lines, they would have no control over the lease lines and they would have no control over the subdivision lines because there was nothing out there.

Ms. Kirkman stated they did have control over the subdivision lines because when they would get the subdivision plat they would have to make sure that all the parcels on the plat met the open space.

Mr. Stepowany stated he understood that and he had gone through this discussion with them but if they did not have anything proposed there was nothing to make sure it complied with.

Mr. Di Peppe stated they were saying originally they did not have their design, they did not know what was going on those pad sites. He did not understand why it was so burdensome that if they were going to sell pad sites that they sell them large enough so that whoever would put a building on that would still meet the open space.

Ms. Kirkman stated this was no different than any other subdivision of any other parcel in any other land use. They would have a minimum open space requirement and when they would go to subdivide the land they would need to meet the open space requirement. The other thing, moving on from this particular example, she was concerned to hear that the intent was to make the ordinance conform with the policy and she believed that was putting the cart before the horse and it really ought to be the ordinance that would drive the policy rather than the policy driving the ordinance. She stated she heard in another forum County representatives arguing very persuasively that administrative acts should not undue legislative acts and there was a legislative act, there was a minimum open space requirement that was passed, and if they needed to do some work to make sure everyone was aware that they were going to be enforcing this part of the ordinance, that way they could ensure it was done uniformly for all parcels, that would be her suggestion rather than changing the ordinance.

Mr. Rhodes arrived at 6:33 p.m.

Mr. Di Peppe stated he did not think they had an ordinance, they had a policy. He thought what part of what staff was asking for was when they had an ordinance they had more teeth rather than a policy and they would like to codify what they were trying to accomplish.

Ms. Kirkman stated what she was saying was the policy should never have been enacted because it was contradictory to the ordinance.

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Mr. Di Peppe stated he thought that the simple way was, if they buy a lot on the back, they would not have to worry about that if they make all the pad sites conform to the open space requirements. That was why he asked what the problem was with that. He stated they may not be able to sell as many pad sites because they were going to have to have the open space requirements.

Mr. Stepowany stated the discussion from the developer was the overall shopping center met the minimum open space requirement and their argument was by requiring the pad sites to meet the minimum open space requirements was actually requiring additional open space.

Mr. Di Peppe asked how that was.

Mr. Stepowany stated because the overall shopping center would still have to meet the minimum requirement and if they wanted to reduce the open space on the pad site and they could demonstrate that they could still meet the overall open space then what was the problem with them maximizing the commercial density on the pad site.

Mr. Di Peppe stated because they would buy a lot on the back of the property and would call it open space and it was not part of the original design and look and function of the property.

Mr. Stepowany stated they could anyways, whether they had this ordinance or not. Any type of development, whether commercial or residential, could do a boundary line adjustment or consolidation to provide additional land to count towards their open space requirement so they could expand their site.

Mr. Di Peppe asked if they wanted to really reduce the open space on the pad sites and they say they bought this other property and it would count, would staff look at that and say that was not the original design or what was originally intended and they were changing the look and feel and function of this property.

Mr. Stepowany stated the only time this would come to play was if they happened to subdivide their land which was something some developers do because of the way that they were financially structured. If there were just lease lines they would never see any boundary lines and then they would see the whole shopping center.

Mr. Di Peppe asked if the problem was whether they were leasing the pad site or buying the pad site. He stated if somebody bought the pad site then they would not have to meet those requirements.

Mr. Stepowany stated the problem was if they were still part of the shopping center which was the other part of this ordinance the shopping center would still have to meet the minimum open space. The question staff would have was why would they want additional open space on a pad site if the overall shopping center still met the overall open space requirement, other than they were getting more open space on a commercial property which, from what he understood, was the tax basis for the County. He stated they would have less commercial.

Mr. Howard stated they would limit the users to Mr. Stepowany's point because when they did land leases it would really depend on who the tenant would be and what the financial structure of the deal they were going after as well within that development. What he was hearing was if the open space

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requirement was met within the overall development, were they double-dipping on the pad site by requiring the same amount of open space for that single pad user when it was already met within the entire development. He stated he would use Stafford Market Place as an example.

Mr. Stepowany stated they were one of those that complied with the policies.

Mr. Howard stated that policy was in effect and he thought there were still two pad sites available in that center somewhere. They must have met their open space requirements and he understood there was a big sign out saying there were still two pad sites available.

Mr. Di Peppe asked if they filled those two pad sites would they still be within the requirement.

Mr. Stepowany stated under the policy all the pad sites for Stafford Market Place still only required 50% of the required open space but the overall shopping center, they had to demonstrate that first of all they were all still tied together through an association and that the overall center still met the minimum open space requirement.

Mrs. Carlone asked if this was the one in White Oak that had the gas station they approved. She stated she did not remember the discussion at that time about open space. They were mostly concerned with the canopy.

Mr. Stepowany stated he was trying to point out that from a management standpoint this would require staff to review the overall center even when they come in for review of the pad site.

Ms. Kirkman stated to clarify if it was a site plan subdividing the land they should be reviewing the overall site anyway since they would need to make sure that in the subdivision they would not create any non-conforming parcels. The only time when there would not be a review of all parcels was if it was a site plan that involved only leasing the pad rather than subdividing the pad and asked if that was correct.

Mr. Stepowany stated the parcels to be developed they would not know so that was correct.

Mr. Di Peppe asked Ms. Kirkman if she was still having a problem with the way this was worded.

Ms. Kirkman stated she did not support this ordinance. She believed it was a way to get around the open space requirements for commercial properties. There were times when adding a parcel and adjusting the boundary line was an appropriate way to meet the open space requirements but in this instance adding a parcel on the back of the Giant would not do anything to address the open space requirements for the pad sites up front. She stated she was opposed to this ordinance and she thought if there was a higher commercial density that was needed they had a rezoning process that could be used to achieve that. She was not going to support moving forward with this ordinance.

Mr. Di Peppe stated one of the things they still had not been able to deal with was that right now, under existing rules, a person could buy a lot next door whether it be residential or commercial, apply for a boundary change and incorporate that other lot and they could not stop them from doing that under the existing policy.

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Ms. Kirkman stated in the example that was given to them where the pad sites were in front of the Giant, if staff were to actually enforce the ordinance with the minimum open space requirements adding a parcel in the back of the Giant would not work. If Giant wanted to somehow enlarge their building, adding an open parcel and doing a boundary line adjustment in the back would work but that was not the case here.

Mr. Di Peppe stated they were using the Giant to maximize their leasable or sellable pad sites without meeting that open space requirement on those particular pad sites.

Ms. Kirkman stated part of the reason why she did not support moving forward with this was she believed that if staff were just to administer the ordinance as it was written would address the problem that was trying to be fixed. If more care were taken during the submission of original site plans for shopping centers that could also be a point where that problem could be addressed.

Mr. Di Peppe stated they were saying it was not an ordinance right now, it was a policy.

Ms. Kirkman stated they did have an ordinance right now that did have a minimum open space ratio for certain commercial properties. They should just enforce what they had. She stated they did not want to do that because there were applicants who did not want to do it and the applicants did not want to do it because they cannot maximize.

Mr. Di Peppe asked if the solution would be that the way to get around this was any pad site would have to meet the open space requirement.

Ms. Kirkman stated the ordinance said that.

Mr. Di Peppe stated what they were saying was it was unfair because it was actually doubling up on the open space because when they put the original design in there was more open space in the beginning because they had not developed the pad sites. As the pad sites would be developed they were saying even if they did not meet the individual design the overall design would meet it. He stated his problem with that was they would get into buying lots and adding them onto the back.

Mr. Stepowany stated he did not want to get into a debate, however, they came in with a site plan, showed the site plan maximized developed where they still left the minimum open space requirement that would actually have less open space than if they went with pad sites even at 50% of the pad site. That would be their way around it, to come in with a site plan showing all the pad sites fully developed before they would get subdivided.

Ms. Kirkman stated that would be really helpful because then when they would approve site plans they would know exactly what they were getting.

Mr. Stepowany stated they would not be able to subdivide it if that was the method of doing it. It was part of the open space of the overall center to begin with and the development community was saying when they would go to develop the individual pad sites up front it was still part of the overall center. They should not have to have additional open space for the pad site because it was still part of the overall center and as long as the overall center demonstrated that including the pad sites it was still meeting the open space requirement.

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Mr. Di Peppe stated when the Giant built the actual building for the Giant and they did that part of the development plan, it had more than the 25% but they certainly had 25% incorporated for that big building. He stated as they were developing the pad sites in front they still should require 25% on those pad sites.

Mr. Stepowany stated to clarify there was no problem and this was staff's recommendation to bring a policy that to staff made economic sense for commercial development. As long as it was still demonstrated that it was part of the center then the pad site should be able to reduce its open space. If it was subdivided out and there was no association between the pad site and the center then yes, the pad site would need to comply with its own ordinance.

Mr. Di Peppe stated he thought they required an association even if they leased or sold it.

Mr. Stepowany stated part of the document was required to be part of an association. Part of the ordinance stated they would have to demonstrate that they were still tied together. He stated that was why to staff it made sense to allow the pad site to reduce its open space. If it was separated out and not tied to the center then he agreed. If they could provide documentation that they were not part of that center and they would subdivide out, which had been his argument in some of the cases, then yes they would have to comply with 100% of the Zoning Ordinance. If they demonstrated that it was a lease line or a subdivided line but they were all still part of the same shopping center, which was how the ordinance was set up, then the whole shopping center would still need to meet the open space even if 50% was what they were providing.

Mr. Fields stated he could understand the problem. It had been his experience they continually run into this issue of the necessary flexibility in land use to allow things to unfold as they unfold while not circumventing the intentions of good planning practice. It would seem that no matter which way they go on this it was still part of a model of development and land use that time had passed because no matter how they did this, whether slightly more restrictive or slightly less restrictive, at the end of the day they would get generic cinderblock corporate architecture with foam and plastic faux architectural treatments plastered onto the front of it. From his standpoint they were way down in the level of detail when the really big picture was that this type of pad-specific corporate generic type of commercial development was just horrible and it made every place look like every other place. He stated his opinion on this was he was more concerned with the idea that once you permit this individual random accrual of pad sites with generic architecture, whether it had 25% or 30% open space, to him functionally it did not really get them any farther down the road than having a more sustainable beautiful community. If they wanted to go through with this he appreciated what staff was doing and he appreciated the reality of people who develop property do not always know in advance how it would evolve. They needed to have some flexibility and to him the way to achieve flexibility was not to flex these tightly prescriptive standards but to create a process by which the flexibility was there but the overall effect and overall intent would not get whittled away in the name of flexibility. He stated he was not criticizing Mr. Stepowany's work in that he was trying to solve what was a very real problem which was maintaining standards for development while still maintaining a flexibility that would still have to exist in the marketplace in the business world and he respected that. He suggested they start off on a different track and maybe go through the White Oak Plaza and look at a different way of thinking about the shopping center in general. He stated the heart of the problem was how to allow flexibility without whittling away at the original intent. He recommended they hold it and take a

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look at some things like the White Oak Plaza and start thinking a little more outside the box and how they could come up with a process that was better.

Mr. Rhodes stated he liked the proposals Mr. Fields suggested for an aggregate approach and he was fine with moving forward with this as well while they look at a more holistic large approach just to codify what had been going on since 1999 by the policy memo.

Mrs. Carlone stated she agreed with Mr. Fields. They had not done the best by some of the shopping centers and she would vote to hold it.

Mr. Fields made a motion to defer until the next work session and start gathering more information on taking a different approach to this. Seconded by Mrs. Carlone. The motion passed 5-2 (Mr. Rhodes and Mr. Mitchell opposed).

4. Minimum Height for Public Hearing Notice Signs

Mr. Stepowany stated the Planning Department was now required to post public hearing signs for all public hearings of the Planning Commission and Board of Supervisors. The current requirement had it to be posted 2 ½ feet above ground. He showed an example of a sign the Planning Department would like to use which was a reusable sign mounted on a metal bracket with a 15 inch clearing. This would also help the Planning staff from having to go out and get lumber and other tools and equipment in order to post the signs. He stated the purpose of this ordinance was to reduce the height so that the signs that the Planning Department posts would be in compliance with the ordinance.

Mr. Di Peppe asked if this was directly out of another ordinance that they passed where they were the ones posting the signs now.

Mr. Stepowany stated yes.

Mrs. Carlone stated this was good. They had quite a problem on Route 17 on Cedar Grove Lane about the signs not being visible because of being so close to the ground.

Mr. Fields asked if the previous way was with stakes.

Mr. Stepowany stated to go with the poster board they would have to come up with a mechanism to post it and would have to either staple it onto plywood or other structures. For financial reasons this was within the budget of the Planning Department to go with the yellow signs that could be reused and the metal support system.

Mr. Fields stated with the metal support system they would be guaranteeing a standardized height.

Mrs. Carlone stated she admired the recycling.

Mr. Mitchell stated sometimes he believed that too many ordinances were not good. He did plan to support this one only because of the simplicity of installation and it would help staff time. He stated but too many laws were not good laws.

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Ms. Kirkman stated she was concerned about the Windex idea as they have had enough mischief with applicants simply refusing to post the signs and she was somewhat concerned about, while she supported recycling in every aspect, just how easily these signs could be displaced and how easily Windex could remove the appropriate notification.

Mr. Di Peppe stated he understood the big problem with signs disappearing in political races in every single election cycle but he did not know if they were really going to have a lot of problems with people stealing public notice signs.

Ms. Kirkman stated just to remind the Planning Commission about why they were even having this discussion was because staff would now be posting the notification. The reason why they had to pass that ordinance was because they had applicants who were not posting the required signage as a way to not hold public hearings.

Mr. Howard stated the wording on the sign Mr. Stepowany held up would be the wording on the new sign. The only thing being penciled in would be the date, time and project number.

Mr. Stepowany stated yes.

Mr. Di Peppe stated if they were going to have a problem it would arise.

Mr. Fields stated he was willing to see how it would go.

Mr. Mitchell made a motion to move this to the regular meeting. Seconded by Mr. Rhodes. The motion passed 7-0.

Ms. Kirkman stated there was one more item.

Mr. Stepowany stated the item was added by Ms. Kirkman on allocated densities. Staff would recommend they move it to later tonight and they agreed.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 7:01 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES
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The regular meeting of the Stafford County Planning Commission of Wednesday, July 2, 2008, was called to order at 7:35 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the Stafford County Administration Center.

MEMBERS PRESENT: Fields, Di Peppe, Mitchell, Rhodes, Carlone, Kirkman and Howard

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Judy, Knighting, Baker, Zuraf, Schultis, Hornung and Hess

DECLARATIONS OF DISQUALIFICATIONS:

Mr. Di Peppe stated he would like to disqualify himself on the first two items. He and his mother own about \$75,000 of Dominion stock and he had the right of survivorship.

PUBLIC PRESENTATIONS:

None

PUBLIC HEARINGS:

1. COM2800242; Comprehensive Plan Compliance Review - Dominion Virginia Power Garrisonville Substation - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended for the construction of a public service corporation facility located on the east side of Mountain View Road approximately 1,800 feet north of Shelton Shop Road on Assessor's Parcel 28-8K and part of Assessor's Parcel 28-8H within the Rock Hill Election District. **(Time Limit: September 30, 2008)**
2. CUP2800241; Conditional Use Permit - Dominion Virginia Power Garrisonville Substation - A request for a Conditional Use Permit to allow a substation and an exemption to the maximum height requirements in an A-1, Agricultural Zoning District on Assessor's Parcel 28-8K and part of Assessor's Parcel 28-8H consisting of 25.87 acres, located on the east side of Mountain View Road approximately 1,800 feet north of Shelton Shop Road within the Rock Hill Election District. **(Time Limit: September 30, 2008)**

Jonathan Schultis presented the staff reports for items 1 and 2. The first item was a request for a Comprehensive Plan Compliance Review for the construction of an electrical substation facility. He showed maps of the existing zoning and current land use plan, and an aerial photograph of the subject property. He stated the State Corporation Commission (SCC) ruled, on April 8, 2008, that increased electrical demand in Northern Stafford, in particular, required additional electrical capacity. The proposed substation would be the termination point for the transmission lines approved to supply the additional capacity. The location of the substation was chosen because of its proximity to a power line easement obtained by Dominion in the late 1960's and which the location has adequate access to a public street. He stated the Comprehensive Plan does not provide specific location recommendations for electric substation facilities; however, the Land Use Plan addresses these facilities through goals and objectives. Goal 13 stated the expansion of public facilities shall not adversely affect property values and Goal 13, Objective 6, encouraged power companies to expand services to county residents and businesses. In addressing positive and negative features, the proposal allows for Dominion to expand services to county residents in keeping with Goal 13 Objective 6 of the Land Use Plan. He

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stated a conditional use permit was required to mitigate negative impacts. One negative aspect of this proposal was that a substation was not in harmony with the surrounding residential development. For the Comprehensive Plan Compliance recommendation, although the use would not be in harmony with residential development, buffers and sound attenuation equipment would limit visual and noise impacts. Staff recommends approval of the application Comprehensive Plan Compliance. He stated the second item was a request for a conditional use permit to allow an electrical substation facility and an exemption to the maximum height restriction in an A-1, Agricultural Zoning District. The proposal was construction of a substation facility to distribute transmission lines identified by the SCC. He showed a map of the development plan. Primary access to the site would be through a driveway to Mountain View Road and traffic generation would be approximately one trip per day or less. The site would include four static poles which measure 80 feet in height and 2 feet in diameter and this was the feature that would require a height exemption. Additionally, there was a 20 x 20 structure to house control paneling and would be a non-habitable structure. The site also includes a barbed-wire fence enclosure and landscaping buffers around the compound. He stated as a proposed condition access to the site shall be limited to Mountain View Road and the substation will not have access to Kasey Lane. A negative aspect of this was the use was not in harmony with the surrounding residential development, however, it meets criteria for a conditional use permit and conditions have been proposed to mitigate negative impacts to the surrounding development; the development was in keeping with Goal 13, Objective 6, of the Land Use Plan. Staff recommended approval of the application, with conditions as specified in Resolution R08-210, subject to the Planning Commission determining the proposal to be in compliance with the Comprehensive Plan.

Mr. Rhodes asked if the poles were tapered.

Mr. Schultis stated yes, they were 2 feet in diameter at the bottom and tapered to the top.

Mr. Rhodes asked what the diameter was at the top.

Mr. Schultis stated he would have to defer that question to the applicant.

Ms. Kirkman stated her question was in regards to the Planning Commission making a decision in terms of the 22-32 compliance review. That state statute says a public facility cannot be built if at least the general location was not shown on the Comprehensive Plan map unless there were certain findings that the facility was substantially in compliance with the Comprehensive Plan. She stated she was struggling a bit with finding an electric substation substantially in compliance with the Comprehensive Plan, particularly regarding the general location since they have not designated any locations anywhere in the Comprehensive Plan. She wanted some suggestions from the attorney or staff about how they could make that finding given that the Comprehensive Plan was silent on that issue.

Mr. Judy referred the issue to Mr. Schultis.

Mr. Schultis stated the Land Use Plan did have goals and objectives and Goal 13 did address public facilities, specifically electric companies. And though, as you said, it did not cite specific locations, it did mention that they shall not adverse property values and that electric company, among other public service utility companies shall expand the service to county residents and businesses. This substation would be a tool of being able to expand what had been deemed by the SCC as the necessary electrical capacity to residents and businesses.

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Ms. Kirkman stated her concern was the Planning Commission should have an amendment to the Comprehensive Plan rather than a request to find that it was substantially in compliance with the Comprehensive Plan.

Mr. Judy stated it could be done either way and that it did not necessarily require that the Comprehensive Plan have identified geographical locations for these devices. It did talk about general location or approximate location but those could be read as a list of things that you have to look at to determine whether it was in compliance, not necessarily a conclusive list meaning that all of them have to be met. He stated it was a decision to be made based on whether the Comprehensive Plan addresses these facilities and how well or how specific they want to determine those locations. If there were no locations listed for these facilities he thought it would be difficult to say in compliance because they left it out. That would make it very difficult on an applicant and would force them to ask for a Comprehensive Plan Amendment which would mean they have to go and do things with the Comprehensive Plan to determine where they think those things should go. It would be bold on their part to believe that they know where electric substations should be located as they were not experts on that subject. He stated it would be left up to the Planning Commissions' discretion but, because they were not shown on the Comprehensive Plan, there was no reason to determine that it was not in accord with the Plan.

Carla Piccard, Project Communications Manager with Dominion Virginia Power, stated she felt Mr. Schultis and staff did a very thorough job in researching and presenting the case. She introduced Gloria Frye, their Land Use attorney with McGuire Woods.

Ms. Frye thanked staff for doing a thorough job and paid a lot of time and attention to the details in working out the conditions, issues and impacts of this project. She wanted to add a few points to the report that staff made. On the Comprehensive Plan compliance, she wanted the Planning Commission to know Dominion selected the site after considering seven locations. They were conscientious and sensitive to an appropriate location that would be seen as being in accord with the Comprehensive Plan. She provided an aerial view of the property in question. It showed how wooded the area was and that the site was within the transmission lines, it was vacant agricultural land in a demand area, and the mature trees on and around the site would help screen the residences. She stated Dominion was able to buy 20 additional acres of land so that it would have an 87 percent open space ratio on this property and would make it consistent with the agricultural character of this area which had an 80 percent open space requirement. She stated a benefit of those 20 acres was that they would stay open space and not be developed as housing as the Land Use Plan recommended at that point. She stated on the Comprehensive Plan compliance question, they would ask that the Planning Commission find this to be in accord, this was a reasonable location for a substation for all the reasons previously mentioned, and would meet the intent of the Comprehensive Plan to find a location that would serve the citizens with little impact. She stated on the Conditional Use Permit there were two questions before the Planning Commission. The first was whether this site was a reasonable one for a substation if the proper conditions were placed on it, and second whether it was reasonable to permit the static poles to be up to 80 feet in height on this A-1 zoned land. She showed slides illustrating why they thought the location of this site and the limited height were reasonable. Dominion took photographs of 14 sites after performing a balloon test where four large red balloons were floated at the approximate locations of the four static poles. The balloons were floated at 85 feet to make sure they would be above the tree canopy and that if they were going to be seen, they were going to be able to see them. She stated most of the sites you could not see the balloons from but she wanted to show a few slides. The first was of the closest house and none of the balloons, static poles or facility would be seen from that property. The second was the next closest house which was a neighbor of the first and the red balloon was just

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visible through the trees but not visible above the trees. She stated it might be possible to see the poles but they were very slim poles, 24 inches at the base and tapers to about 12 at the top and gray galvanized steel to blend with the skyline. The third was from Shelton's Run, a large subdivision to the east of the property. No balloons were visible from anywhere in Shelton's Run; however, this view was of the transmission lines. When the transmission lines are put in the center line of the trees will have to come down. It may be possible, after the installation and the substation goes in, that the static poles could be visible from this view. She stated the photographs were not conclusive but they did give an idea of what the visibility might be. Dominion met with the Shelton's Run Homeowners Association Board and shared this information with them and it was their feeling that the installation would be a reasonable one and that the slim profile of the poles would not be objectionable. She stated she believed a letter of no opposition from the HOA was in the file. Going back to the map, she stated the balloons were not visible from any residences but they were visible from the schools. She showed a photograph looking towards the site from the high school and three poles were visible. She showed a photograph looking towards the site from the elementary school and two poles were visible. She stated they thought the poles would be far less noticeable than the stadium lights that were at the high school. The dense woods that were around the site and the area would provide terrific screening for mitigating the visual impacts, both the substation and the 80 foot static poles. Dominion had reviewed and accepted all recommended conditions which further mitigate any impacts from sound or light, access, construction hours and also to the extra landscaping for the extra visual screening. The last thing she wanted to talk about was the extra efforts Dominion went through to reach out to the community. There were actually only 5 true adjacent landowners to this property because of the large sites around it, however, Dominion sent informational letters to over 30 landowners, they had an informational meeting at the high school, they met with the Shelton's Run HOA Board and they made personal individual contacts with the closest neighbors. She stated Dominion had worked closely with the closest neighbor to move the facility farther from their property, to redesign the layout and move the equipment farther away and to make a commitment that when they do their landscape plan to do a design that will cluster and maximize the screening behind their property. She stated they were not aware of any opposition and asked the Planning Commission to approve the Comprehensive Plan compliance with the recommendation approval of the conditional use permit with all of the recommended conditions.

Ms. Kirkman asked the applicant how the Planning Commission could make a finding that this was substantially in accord with the Comprehensive Plan when the Comprehensive Plan was silent on everything but the need for electricity.

Ms. Frye stated she would view this public service facility with telecommunications facilities. They often have to go through substantial accord reviews as well in jurisdictions where the Comprehensive Plan does not predict where they need to be. This was a similar situation. She stated she would agree with Mr. Judy's assessment that there would be a couple ways you could address it by this method or doing an amendment. She thought with this method you would accomplish the same thing.

Ms. Kirkman asked if this was the only substation they were going to need for this project.

Ms. Piccard stated no, another switching station would be needed at the other end of the line in Aquia Harbor. She stated that was not a true substation in that that station would not connect to local distribution lines.

Ms. Kirkman stated projects should be presented as a whole rather than in piece-meal and she asked why they were getting it in pieces.

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Ms. Piccard stated they were two different sites with two different functions and on two different schedules as far as land acquisition and being ready to file the requisite paperwork for the permit process. She stated they were much further along with the Garrisonville site and wanted to get that in front of the Planning Commission as quickly as possible so they could keep all parts of the project moving along.

Ms. Kirkman asked as a condition of approval if Dominion was willing to stipulate in the conditions that the 87 percent would perpetually remain an open space and should they abandon the structure that the remainder of the parcel would also go into open space.

Ms. Frye stated it was her understanding that the entire property would be subject to the conditional use permit and that would be the entire 25 acres. With the GDP that has been filed they have to build the site substantially in compliance or in accord with that so with the terms of the conditional use permit it would require that the 87 percent open space remain.

Ms. Kirkman asked, for good measure, would they also be willing to have that added as a condition that it would perpetually remain open space.

Ms. Frye stated whether it was 87 or 86.8 or even 88, because they do not have engineered plans, she was concerned there may have to be an amendment later on if the engineered plans came in and it was not exactly 87 percent. The intent was that the additional land was acquired so that they would be able to meet that open space requirement and, fortunately, they were able to exceed it.

Mr. Fields opened the public hearing on both items 1 and 2.

Hugh Beckford, President of Shelton's Run HOA, stated Dominion had been very forthcoming with them and they had gone out of their way to ensure as little impact as possible to their community. He stated they do not oppose the substation and the CUP being granted for the substation.

Pat Miles, owner of the property adjacent to property in question, stated Dominion had been very gracious and thorough in helping his family understand the impact of the substation. He understood the need for additional power in Stafford County. He stated he felt Dominion went above and beyond what they needed to make him feel comfortable that this was the right thing to do for the county and he did not have any opposition.

With no one else coming forward, the public hearing was closed.

Mrs. Carlone stated there was the winter scape when the leaves were off the trees, and asked if there were some sparse areas would it be possible for Dominion to fill those in with evergreens.

Ms. Piccard stated certainly and stated they were doing a little extra that they were committed to already but they were more committed to the residents in this area and will do whatever they can to minimize the impact.

Mrs. Carlone stated she did question the evergreens around the property and the barbed-wire looking like a prison. She stated she wanted them to fill in any spaces with evergreens along the Mile's property line.

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Ms. Piccard stated the precise landscape plan would come as part of the site plan and, as mentioned, there was a 50 percent evergreen concentration. The fencing, including the barbed-wire, was part of what was required by the National Electrical Code for these types of facilities.

Ms. Frye stated they did make a commitment to the Miles' that Dominion would get with them to do the landscape plan and design it with the best clustering to maximize the screening at the back of their property.

Mr. Howard made a motion for item 1 on the Comprehensive Plan compliance that it was in compliance, PC 08-01. Seconded by Mr. Rhodes. The motion passed 6-0 (Mr. Di Peppe absent due to a recusal).

Mr. Howard made a motion for item 2 to approve the Conditional Use Permit permitting Dominion Virginia Power to build a Garrisonville substation. Seconded by Mr. Mitchell.

Ms. Kirkman stated she would vote in support of the motion but wanted to make it clear that her support of the motion regarding this project was not in any way an endorsement of the project as a whole given that they have not seen all of the components of it.

The motion passed 6-0 (Mr. Di Peppe abstained).

3. CUP2800385; Conditional Use Permit - Greenwood Gardens and Landscaping - A request for a Conditional Use Permit to allow mulch and stone sales in an A-1, Agricultural Zoning District, on Assessor's Parcel 28-128, consisting of 3.0 acres, located on the east side of Shelton Shop Road approximately 900 feet north of Courthouse Road within the Rock Hill Election District.
(Time Limit: September 30, 2008)

Andrea Hornung presented the staff report. She stated the Board of Supervisors was requesting a Conditional Use Permit (CUP) to allow mulch and stone sales in an A-1, Agricultural Zoning District, per Resolution R08-307. She provided an existing zoning map, a land use map and an aerial photograph. She stated this landscape business had been in business for 21 years, with 12 years at the present location. Per a letter from the Zoning Administrator dated May 26, 1987, the site was permitted for a retail/wholesale nursery and greenhouse with a landscape business but it was written for Parcel 19-23J which was the next application. There was no evidence of a certificate of occupancy for this site and, as a result of a building fire at a similar business in the vicinity, it was noted that the two operations, while similar, did not sell plants, which was a by-right use in the A-1 zoning district as a nursery but they were selling mulch and stone sales in bulk. She stated mulch and stone sales are not listed particularly in the uses permitted or by-right or the conditional use permit section. As a result Section 28-37 states any use that was not listed within a zoning designation was automatically considered to require the issuance of a CUP. There was a violation letter sent in October 2007 and the owners appealed that violation in November 2007. It was scheduled for the Board of Zoning Appeals (BZA) in January 2008, however, it was postponed due to the CUP application submittal. At the same time the Board of Supervisors authorized an amendment to the Zoning Ordinance to allow mulch and stone sales in the A-1, Agricultural Zoning District. The amendment was not adopted but the Board authorized CUP applications for two parcels on Shelton Shop Road by Resolution R08-137. She provided several photographs of the property and stated this particular operation does not produce any materials on site and because it was an existing business, some conditions were being noted. Also landscape features of existing vegetation and street buffers would be retained and if the lighting plan was to be altered, a lighting plan would be permitted to the Zoning Administrator. She stated staff

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believed the request, with the proposed conditions, met the standards for issuance of the CUP and recommends approval.

Mrs. Carlone asked how far the water and sewer lines were from the facility.

Ms. Hornung stated the lines run along Shelton Shop Road, so there would be no issue with connecting.

Ms. Kirkman asked what had happened to the original application for the CUP.

Ms. Hornung stated it was submitted in January and was deemed incomplete and was not pursued due to the Board action to allow stone and mulch sales.

Ms. Kirkman stated the applicant obtained a postponement from the BZA specifically upon the condition that they diligently pursue an application for a CUP and, in her opinion, there was not a diligent pursuit.

Ms. Hornung stated there were some things on the application that required additional information and because of the text amendment change it was held.

Ms. Kirkman asked if the condition of not tracking materials on the road was a legal requirement.

Ms. Hornung stated yes but it was also to ensure that no materials would be tracked onto the road.

Ms. Kirkman stated they were asking the applicant to do something as a condition that they were already required to do.

Ms. Hornung stated yes.

Ms. Kirkman asked what kind of traffic impacts this business generated.

Ms. Hornung stated there were minimal traffic impacts and when she was at the property no large trucks entered the property.

Ms. Kirkman asked how many trucks per day enter the property.

Ms. Hornung stated she did not know.

Ms. Kirkman stated she would like to see a condition regarding the hours of operation.

Ms. Hornung stated it was considered but because of the activity on the site, like seasonal sales, they would have to amend the hours on their CUP.

Ms. Kirkman asked Mrs. Hornung what hours of operation were recommended as a condition for delivery materials and heavy truck traffic.

Ms. Hornung stated if the Commission so chooses they could add a condition for hours of operation for delivery traffic only.

Ms. Kirkman stated she was asking staff for a recommendation.

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Ms. Hornung stated most likely early daytime hours, not evening hours.

Mr. Harvey asked that the Commission speak with the business owner concerning the hours of operation.

Ralph Carder stated he was one of three owners of the business. He stated the business was open daily 9:00 to 4:30 or 5:00 and most of the deliveries were in the morning hours between 8:00 and 12:00. He stated the business was open on Saturday 8:00 to 12:00 and in the spring they sometimes would stay open later because they provide a service to the people.

Mr. Fields asked if there was a condition for hours of delivery operations, what would be his choice.

Mr. Carder stated 8:00 to 2:00.

Ms. Kirkman asked as the area develops, would it be possible for the business to operate between the hours of 8:00 and 5:00 Monday through Saturday for loading and deliveries.

Mr. Carder stated those were the hours of operation, so that would be fine.

Mrs. Carlone asked if the drive was hard surface or gravel.

Mr. Carder stated gravel.

Mrs. Carlone asked if they were involved in stump grinding.

Mr. Carder stated no, they sell different types of mulch.

Mr. Fields opened the public hearing.

With no one coming forward, the public hearing was closed.

Mr. Howard made a motion to include Ms. Kirkman's comments concerning the hours of delivery.

Ms. Kirkman stated she suggested deliveries or loading of materials should be limited to the hours of 8:00 to 5:00 Monday through Saturday.

Mr. Howard made a motion to recommend approval of a Conditional Use Permit for mulch and stone sales on Assessor's parcel 28-128 which was the Greenwood Gardens to include an amendment to page two, which would be a sixth amendment for hours 8:00 to 5:00 Monday through Saturday to include delivery to the premise itself and also delivery to a consumer who may come in for a pick-up of stone or mulch into their vehicle. Seconded by Mr. Rhodes.

Ms. Kirkman stated she would like to ask the maker of the motion to consider an amendment which would be to strike condition number 2, mulch, stone and landscape materials from stock piles shall not be tracked onto Shelton Shop Road. She stated she was recommending that amendment because she did not think they should be writing as conditions or proffers either that the applicant will follow the law.

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Mr. Fields stated he understood and he would offer as the advantage to that this would allow an extra area of enforcement as it puts more at risk.

Mr. Judy asked, for clarification, if Ms. Kirkman was willing to withdraw her amendment.

Ms. Kirkman stated she did not make the amendment and the motion maker never accepted it.

Mr. Howard stated he would not accept that change.

The motion passed 7-0.

4. CUP2800386; Conditional Use Permit - Greystone, Inc. and Stone and Mulch Center, Inc. - A request for a Conditional Use Permit to allow mulch and stone sales in an A-1, Agricultural Zoning District, on Assessor's Parcel 19-23J, consisting of 3.0 acres, located at the intersection of Soaring Eagle Drive and Shelton Shop Road within the Rock Hill Election District. **(Time Limit: September 30, 2008)**

Andrea Hornung presented the staff report. The Board of Supervisors was requesting a Conditional Use Permit to allow mulch and stone sales in an A-1, Agricultural Zoning District, per Resolution R08-307. She provided an existing zoning map, a land use plan map and an aerial photograph. The property in question was a landscape business which has been in operation for 12 years at this site. Although the Zoning Administrator letter dated May 26, 1987 was written to Mr. Crohn of Greenwood Gardens, Item 3, it was in reference to Assessor's Parcel 19-23J which was the location of this site. Because of this letter, the owners of both businesses presumed that because of this letter stating the tax parcel site that they were in compliance with the business that they were holding at that site because it was at one time a nursery and greenhouse with landscape. She stated the office building was destroyed by fire last year. In the process for applying for building permits it was determined that the mulch and stone sales at this site also needed a CUP and they were in violation of the zoning ordinance. Mulch and stone sales was a non-listed use in the A-1, Agricultural Zoning District requiring a conditional use permit per Section 28-37. In this particular case notice of violation letters were sent in July 2007 and the zoning staff worked with the applicant to achieve compliance. In the meantime, the Board of Supervisors authorized an amendment to the zoning ordinance to allow mulch and stone sales as a by-right in A-1, Agricultural Zoning District. While waiting for the determination of that ordinance amendment nothing had continued on this particular violation on this site. As a result of the ordinance not being adopted, the Board of Supervisors as part of their initiating staff to follow through on the Conditional Use Permit process this parcel was also included in Resolution R08-307. She showed several pictures of the property and surrounding area. She stated in addition to stone and mulch sales, at this particular site, they do sell bagged material of mulch, seed and fertilizer and in this particular case the seed and fertilizer was only packaged specifically for Stafford County soil. She stated some proposed conditions include mulch, stone and landscape materials from stock piles shall not be tracked onto Shelton Shop Road, landscape features of existing vegetation and street buffers shall be retained, and if lighting was to be altered a lighting plan shall be submitted to the Zoning Administrator. Staff believed the request, with the proposed conditions, met the standards for issuance of the Conditional Use Permit. She stated staff recommends approval of the Conditional Use Permit application with the conditions as specified in Resolution R08-376 and by receiving a Conditional Use Permit the property would be in compliance with the zoning ordinance.

Mrs. Carlone asked which sign was the official sign.

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Ms. Hornung stated there were actually two businesses, Seasonal Maintenance which does the selling of the mulch, fertilizer and seed and Greystone Inc. was strictly for the stamped concrete and the stone to produce those items in their outdoor showroom.

Ms. Kirkman asked the applicant what would be the appropriate limitations in terms of hours of operation.

Ms. Hornung stated she would have to defer that question to the owner.

Ms. Kirkman stated they also needed to consider the impact it would have on the adjacent property owners.

Mr. Howard stated there were no complaints for the other applicant and asked if that would be the same with this applicant.

Ms. Hornung stated there have been no documented complaints.

Mr. Fields asked Mr. DeBord the hours of operation.

Mr. DeBord stated he had been operating from 7:00 a.m. to 6:00 p.m. weekdays, Saturdays from 8:00 a.m. to 4:00 p.m. and Sundays from 8:00 a.m. to 12:00 p.m.

Mr. Howard asked if he changed his hours seasonally for any reason.

Mr. DeBord stated no. He wanted to clarify a statement about Christmas trees. As the other company has done in the past, they have taken on and looked at pumpkins and different items. What they have done with Christmas trees was they have allowed schools and boy scouts to come in the evening hours, set up the display and sell trees and there were no funds obtained by his company in any capacity. He would let them use his facility and they would come in around 6:00 p.m. and were usually done around 8:30 p.m.

Mr. Howard asked if that was between Thanksgiving and Christmas.

Mr. DeBord stated yes.

Mr. Howard asked if the neighbor had ever complained to him directly or commented about the hours of operation or the business or noise.

Mr. DeBord stated he had never received a complaint.

Mr. Howard asked if there was only one residence that abutted the property.

Mr. DeBord stated yes and there was a school behind him.

Ms. Kirkman asked the hours again and if they were to do a condition for hours of operation that read 7 to 6 Monday through Friday and 8 to 4 Saturday and Sunday, with a seasonal exception of 6 to 9 for the purposes of selling Christmas trees, that would be perfectly adequate for what he was doing now.

Mr. DeBord stated yes.

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Mr. Fields opened the public hearing.

Luba Rybatsky stated she lived in the house across the street from the business. She stated the house was the closest to the business and she has lived there for 3 years. She stated there were several reasons why she thought this business was not in the right place as it was at the entrance to a residential neighborhood. She thought it was a very commercial business and, in her opinion, she felt it was like a mine with rocks and gravel and more wholesale than retail. She stated she could not stay in her house without music or television on because of the noise. She stated she cannot be outside of her house because of the noise and dust and it was not healthy. She could not sell her house due to house values being down. There were trucks in and out all the time. She talked with her neighbors and they were not happy with the business either. She stated there were more businesses in Stafford to buy mulch than there was to buy bread. She asked the Planning Commission to reconsider and help the residents.

With no one else coming forward, the public hearing was closed.

Ms. Kirkman asked the applicant what the assessment was with the traffic impacts and noise impacts.

Ms. Hornung stated when she visited the site there was one dump truck coming in to pick up some material and there was a bobcat that was taking material to stage it for someone to pick up. There were pallets of stone ready to be picked up by a customer.

Ms. Kirkman stated the previous application that they heard sounded like their primary emphasis was selling retail to individual homeowners. She asked how that differed from the application before them now.

Ms. Hornung stated they were both retail.

Ms. Kirkman asked what the primary customer base was and if there were more commercial operations or large scale operations, and was the volume more substantial than in the previous application.

Ms. Hornung stated she would have to defer that to the owner of the property. There were areas staged for the bags of topsoil, mulch, fertilizer and seed and there were also areas staged for bulk of that material.

Ms. Kirkman asked Mr. DeBord to please speak to the issues that were raised during the public hearing regarding heavy truck traffic, noise and dust.

Mr. DeBord stated there would be some dust because of the gravel being driven on. The only noise traffic they had were trucks that make deliveries that come from other places that bring them the product. Delivery trucks were small trucks that take out their products and they do have one large truck that brings in topsoil.

Ms. Kirkman asked how many large vehicles go in and out of the property on a daily basis.

Mr. DeBord stated for large trucks, they set their deliveries up from Richmond, North Carolina and Maryland and there may be a tractor-trailer coming in every 2 to 3 days.

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Mr. Howard asked Mr. DeBord if he would be able to limit the length of time for deliveries to arrive at the location. He asked if the hours to accept deliveries to the property would be somewhat modified or restricted how that would impact the business.

Mr. DeBord stated it would just be inbound deliveries and know when the deliveries would be made so they could schedule them.

Ms. Kirkman asked if something could be done about the loading of bulk materials by a backhoe.

Mr. DeBord stated the business uses the bobcat with forklift and interchange buckets. He stated they cannot just dump the materials into a customer vehicles, it would have to be lifted and place in it.

Mr. Di Peppe asked if he had any idea what the homeowner was complaining about the noise going on and asked if there was anything within his control that could help the situation.

Mr. DeBord stated he did not know there was a problem until she spoke up tonight. If he had known there was a potential problem and had been called and asked to meet, he would have done that.

Mr. Howard made a motion to defer this to the next meeting to help resolve the issues.

Ms. Kirkman seconded. The motion passed 7-0.

Mr. Harvey asked if this would be coming to the 7:30 meeting on July 16.

Mr. Fields stated yes.

Mr. Di Peppe asked if they could put this item first.

Mr. Harvey stated the By-Laws currently set what their schedule was on the Agenda.

Ms. Kirkman stated they could temporarily suspend the By-Laws with a two-thirds vote.

5. RC2800194; Reclassification - Shenandoah Young Chefs Academy - A proposed reclassification from B-3, Office, to B-2, Urban Commercial, Zoning District to allow a vocational school, specifically a cooking school for children on Assessor's Parcel 20G-1 consisting of 0.5 acres, located on the southwestern intersection of Garrisonville Road and Shenandoah Lane within the Garrisonville Election District. **(Time Limit: September 30, 2008)**

Joey Hess presented the staff report. He stated the property in question consists of 1 lot in the Shenandoah subdivision. It was originally rezoned in 1981 from R-1 to B-3 for a medical office only which existed until November 2005. The Young Chefs Academy was seeking to relocate from Aquia Towne Center and a \$4,000 grant was provided in 2007 to the applicant from the Economic Development and Tourism Departments to help with the relocation. He stated the existing structure would be utilized and classes would be scheduled Monday through Thursday from 6:00 to 7:30 p.m. While this case was being reviewed by staff, it was discovered that the structure was non-conforming based on the definition for nonresidential corner lot setbacks. The existing front setback was 37 feet from Garrisonville Road and the required front setback for B-2 Zoning District was 40 feet. Since the applicant was not wishing to expand the building, the non-conformity would remain the same. He showed photographs of existing Land Use and Zoning maps, aerial photograph and land survey, along

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with photographs of the property and surrounding area. He stated from a transportation prospective, the applicant filled out the Transportation Impact Analysis (TIA) Determination form and defined the use as “Arts and Crafts Store” and the TIA determined that the vehicle trips per day would be approximately 76 trips at its highest intensity. The adjacent property was rezoned B-2 in 2006 and a 4,000 square foot office building was proposed, which has not yet been constructed. Although B-2 Zoning District was not consistent with the office land use designation, the request met the intent by limiting the intensity of permitted uses on the subject property. He read the proposed proffers and stated staff recommends approval of the application.

Mr. Di Peppe asked how a cooking school was listed under Arts and Crafts.

Mr. Hess stated he received an email from the Office of Transportation stating in the ITE manual, the best definition found that would fit the use was an Arts and Crafts store as far as the traffic it would generate.

Mr. Fields stated the ITE was generic.

Ms. Kirkman asked how many classes per day were offered and how many participants in each class.

Mr. Hess stated he would refer that question to the applicant.

Ms. Kirkman stated that would give an idea of how much traffic it would generate. She asked why they would need to rezone from B-3 to B-2.

Mr. Hess stated it was defined as a vocational school which was a permitted use under the B-3 Zoning District. If they wanted it to remain B-3 they would have to go through a proffer amendment process. The fees for a proffer amendment process would cost the applicant \$10,000 and doing the basic rezoning would cost less.

Ms. Kirkman asked if they were proffering out all of the B-2 uses except for the ones they need.

Mr. Hess stated they were proffering out all but a total of 12 including the vocational school and read the list.

Ms. Kirkman asked why they were not requesting a right-of-way dedication as a proffer.

Mr. Hess explained if they asked for a right-of-way dedication, they would be increasing the non-conformity and the code prevents them from encouraging expansion and survival of non-conformities.

Ms. Kirkman asked Mr. Judy if there would be any legal issues by asking for a right-of-way dedication as a proffer.

Mr. Judy stated there was no legal issue with asking but there was no requirement that they have to give it. It was not an official requirement of the rezoning process that they provide right-of-way.

Mr. Hess stated when they had a meeting with the Office of Transportation he thought it would be an additional 5 to 7 feet of additional right-of-way.

Mr. Fields asked if this parcel was in the Special Service District.

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Mr. Harvey stated yes.

Barbara Jackson, applicant and franchise owner of the Young Chefs Academy, stated most of the classes were after school activities and there would be two classes per day with eight students per class.

Mr. Fields stated if everyone was driven separately in a car that would mean 16 to 20 trips per day.

Ms. Kirkman asked Ms. Jackson if she would be willing to proffer the additional right-of-way.

Ms. Jackson stated she would have to ask the property owner which was her Father and Mother, and asked Ms. Kirkman to explain.

Ms. Kirkman asked staff to explain.

Mr. Hess explained the meaning of proffering the additional right-of-way.

Mrs. Benito, the property owner, stated they already gave part of the property when they expanded Garrisonville Road and asked if they would have to give again.

Mr. Fields explained that the dedication of the right-of-way was not a guarantee and it was likely that road would be six lanes but if and when that happens would be up to many different conditions. There was somewhat of an unknown factor in there as well. He stated it was a fairly standard request they ask of most commercial developers on the major corridors but it was a request and not a condition.

Mr. Judy asked Mr. Hess if he knew how much of a right-of-way they were talking about.

Mr. Hess stated 5 to 7 feet.

Mr. Howard stated he was struggling to ask a small business owner to proffer something that they were not sure of the value or size. He asked if there was a way to get a definitive answer before they actually incorporate that into the resolution. He stated the owner should know what they would be forfeiting and exactly what impact it, would have.

Ms. Kirkman asked if there was a rush on this and thought they could move forward with the public hearing. She stated she was not uncomfortable asking to make the dedications as it was something they ask commercial property owners but she did not want them to make a decision without being fully informed.

Mr. Fields opened the public hearing.

With no one coming forward, the public hearing was closed.

Mr. Rhodes asked to clarify from staff the ability to put this on July 16, 2008 agenda.

Mr. Harvey stated presently there were three public hearings scheduled for the July 16, 2008 meeting, plus the item which was just deferred.

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Mr. Rhodes made a motion to defer this to the July 16, 2008 meeting to allow time to clarify the requirement and get the information back to the applicant as quickly as possible. Mrs. Carlone seconded. The motion to defer passed 7-0.

6. RC2700647; Reclassification - Celebrate Virginia/MLR Associates, LLC - A proposed reclassification from A-1, Agricultural, to B-2, Urban Commercial and M-1, Light Industrial, Zoning Districts to allow for the development of an office, retail shopping center, and communications facility on Assessor's Parcels 44-99, 44-100A, 44-101A, 44-101C and 44-101E consisting of 23.008 acres, located on the south side of Warrenton Road approximately 500 feet east of Celebrate Virginia Parkway within the Hartwood Election District. **(Time Limit: September 30, 2008)**

7. CUP2700648; Conditional Use Permit - Celebrate Virginia/MLR Associates, LLC - A request for a Conditional Use Permit to allow six (6) drive-through facilities and one (1) carwash facility within the Highway Corridor Overlay Zoning District on Assessor's Parcels 44-99, 44-101A, 44-101C and 44-101E consisting of 22.903 acres and to allow an existing communications facility in an M-1, Light Industrial, Zoning District located on Assessor's Parcel 44-100A consisting of 0.105 acres, located on the south side of Warrenton Road approximately 500 feet east of Celebrate Virginia Parkway within the Hartwood Election District. **(Time Limit: September 30, 2008)**

Mr. Schultis asked if item 6 & 7 could be presented together.

Mr. Fields stated yes.

Mr. Schultis presented the staff report for item number 6. He stated the site was open field with sporadic tree cover, a place of worship onsite (Cornerstone Baptist Church), an existing communications tower, which will be accommodated by the reclassification of Assessor's Parcel 44-100A and 14,287 square feet of 44-101A to M-1, Light Industrial. He stated the western portion of the site has already begun clearing and grading as approved with the Banks Ford extension infrastructure plan. He stated the site looking west was a clearing and grading has begun with the Banks Ford Extension Plan. He stated southwest the Lowe's was to the right and Banks Ford Parkway construction was visible to the left. He stated looking east, the church was to the left and the communications tower was located in the center. The tower marked the eastern edge of the reclassification. He stated looking northwest, Route 17 was visible to the right and the church was visible to the left. He stated the proposed development would include four multi-tenant retail buildings ranging between 5,720 and 30,000 feet in size, three banks with drive-throughs, four restaurants, three of which would include drive-throughs, one carwash, the proposed drive-throughs and carwash require the issuance of a Conditional Use Permit, Existing tower to remain on site. He showed the development planned which provided the locations of the retail, banks, restaurants, carwash and communication tower. He stated the proposed internal road network which can be accessed via: Banks Ford Parkway extension, one "right-in-right-out" on Warrenton Road and three access points to McWhirt Loop. He stated the proposal would increase potential traffic generated from 11,245 Vehicles per Day (VPD) to 26,635 VPD. Banks Ford Parkway Extension He stated the plan was approved on December 26, 2007 and the plan proposed improvements to Route 17 in preparation to this reclassification including: two left turn lanes on northbound US Route 17 to Banks Ford Parkway and a continuous right turn lane on southbound US Route 17 between McWhirt Loop and Banks Ford Parkway. He stated the County's Office of Transportation has reviewed the Traffic Impact Analysis (TIA) and has not requested any additional improvements to US Route 17 or McWhirt Loop. He stated the Office of Transportation

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requested that the improvement to US Route 17 included in the Banks Ford Extension Project be proffered by the applicant and the applicant has complied with that request. He stated the Virginia Department of Transportation (VDOT) reviewed the TIA and had concerns: VDOT has asked that since the Banks Ford Extension plan will close a crossover accessed by The Greens Apartment Complex that the applicant construct an access from the complex to Litchfield Boulevard and VDOT was concerned that the access points to McWhirt Loop may not meet VDOT standards. He stated the communications tower was to remain onsite and parcels 44-100A and 14,287 square feet of 44-101A were to be re-zoned as M-1, Light Industrial. He stated M-1 parcels currently exist directly across McWhirt Loop. He stated the proposed proffers for transportation, public safety and design features. He stated the positive and negative aspects were that the site was compatible with established commercial development pattern and zoning, consistent with the Land Use Plan, met evaluation standards listed in Section 28-206 of the Stafford County Zoning Ordinance and there were no apparent negative aspects. He stated staff recommended approval of the Reclassification application as submitted.

Mr. Di Peppe asked about a discussion regarding the possibility of moving the tower.

Mr. Schultis stated the applicant was available and would have move information regarding the moving of the tower.

Ms. Kirkman asked if the Commission had the TIA.

Mr. Schultis stated he would provide to the Commission but was not provided in the Planning Commission packages.

Mrs. Carlone asked for a copy of the GDP showing the business that would be there.

Mr. Schultis stated he would provide that.

Ms. Kirkman asked if lots lines would be consolidated to one.

Mr. Schultis stated technically the applicant would not have to consolidate. He stated the future if each building wanted to subdivide their pad site out, that would be possible as long as they meet the requirements of the Subdivision and Zoning Ordinance. He stated he could not speak to future intent would what the applicant was willing to do with there parcels.

Ms. Kirkman asked if this project involved five (5) parcels.

Mr. Schultis stated yes.

Ms. Kirkman asked if the applicant paid five (5) base fees or did they pay one base fee with incremental additions.

Mr. Schultis stated the applicant paid one fee and the fees of the department are totaled by acreage versus development parcels.

Mr. Howard stated staff mentioned VDOT had a concern with McWhirt Loop and asked what their concerns were exactly.

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Mr. Schultis stated their concern was on Bank Ford Parkway Extension plan there were entrances on the GDP that were not include in the infrastructure plan. He stated VDOT upon review could not state that the entrances met VDOT standards. He stated when individual site plans come in for review, VDOT reviews were required and would need to be signed off. He stated the entrances were not included on the Banks Ford Parkway extension plan. He stated the same TIA submitted with the application was also submitted with the Banks Ford Parkway extension plan and had already been reviewed.

Mr. Di Peppe asked about the rationale behind not allowing towers in B-2 zoning districts.

Mr. Schultis stated he would defer to Mr. Harvey.

Mr. Harvey stated the County has a telecommunication plan which was an element of the Comprehensive Plan. He stated it was discussed about ten years ago and was determined it would be appropriate to be in an Agricultural Zone. He stated it was also determined to be appropriate to have towers in the industrial zones, which provided fences around the towers. He stated the Ordinance currently was restrictive in where towers would be allowed.

Mr. Di Peppe asked if there would be a problem if the land around an M-1 tower would be B-2.

Mr. Harvey stated it would be in the future in a commercial area and would be in an underlying M-1 zone, which was one way to allow the tower.

Mr. Hess presented the staff report for item number 7. He stated the Conditional Use Permit application was requesting to allow six (6) drive-through facilities and a carwash facility in an Highway Corridor (HC) Overlay District on Assessor's Parcels 44-99, 101A, 101C and 101E and allow an existing communications facility in an M-1, Light Industrial, Zoning District on Assessor's Parcel 44-100A. He stated the drive-through facilities included one coffee shop, two restaurants, three banks and a carwash and the proposed drive-through and carwash sites were identified on GDP. He stated on September 1, 1998, the Board approved R98-216 which allowed a communications facility on A-1 property and the communications facility was not a permitted use under B-2 Zoning District. He stated staff recommended rezoning Assessor's Parcel 44-100A to M-1 Zoning District. He provided a GDP which showed the west side and east side of Banks Ford Parkway Extension. He stated the proposed conditions were the project was in accordance with GDP dated 6/12/08 (with minor revision – 6/16/08), no parcel would have direct access to Warrenton Road, light fixtures are designed to direct light away from state maintained roads, any canopy lighting will be recessed within the canopy, loading areas, dumpster pads and trash compactors will be located in a manner to be screened from state maintained roads, drive-through lanes will be oriented in a manner to minimize headlight glare onto state maintained roads, entrances for drive-through lanes would not have direct access from any primary travel lane that serves more than one building pad, stacking lanes for drive-through facilities will be designed as to not impede traffic circulation, all drive-through facilities will include a by-pass lane for vehicles not utilizing the drive-through area, all drive-through canopies shall be of coordinated color and materials as the primary structure on-site and the proposed conditions for the communication facility are primarily the same from Board approved resolution R98-216. He listed the positive and negative features and stated staff believed that the application meets the standards for issuance of a CUP and recommends approval of the application with the conditions as stated in Resolution R08-380 subject to the approval of the Reclassification.

Ms. Kirkman asked according to the conditions the drive throughs were not limited to just banks.

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Mr. Hess stated the specific parcels created would have the drive through ability and the CUP applied just to those parcels.

Ms. Kirkman stated there were five parcels with eight different uses which would all require a CUP and asked how many CUP applications fees the applicant paid.

Mr. Hess stated the applicant paid one fee.

Ms. Kirkman asked why the applicant did not pay eight CUP fees.

Mr. Harvey stated with the review of the CUP, staff looked at the entire project and typically with shopping center there were multiple CUP application for the same project. He stated that would allow better overview of the project.

Mr. Di Peppe stated there was a concern within the definitions within the Ordinance regarding shielding, dumpsters and whether they would be on the front side or back. He stated there were discussions about how to take care of that and asked how that went.

Mr. Hess stated he would defer to the applicant.

Ms. Kirkman asked how old the TIA was.

Mr. Schultis stated the TIA was completed in November 2007.

Chris Hornung, Silver Companies, stated John Riley was also present and was the project manager for the project. He stated Silver Company had been working on portions of this project since 2003, which was when the contract was received for the first piece of property and abutted the Celebrate VA North project. He stated they did not want to come forward with the rezoning application with just one piece and wanted to do a comprehensive rezoning, which would include all the parcels included. He stated there were six parcels being rezoned and if the six parcels had come in for independent rezoning, they have seen in the past that there may be a development that would not be consistent in theme, would not get the transportation improvements at one time and could not generate enough money out of a project to pay for the types of improvements that the applicant was proposing as part of the project. He stated provided an aerial view of the property. He stated the parcel behind the project was zoned a B-2 zone in 1991, he stated Silver acquired the property and conveyed it to Lowe's, which should be open in October 2008. He stated the TIA was done early with the infrastructure that came with Lowe's. He stated all of the used included in the rezoning were included in the TIA, which was submitted in November in 2007. He stated in 2006, the applicant worked with Cornerstone Baptist Church and initially there was a request to acquire additional Right of Way (ROW) to build the infrastructure. He stated the church had spoke with the applicant about the future needs to expand and the applicant discussed the option of designing the facility around the church and give the revenue of the project to the church to development the church. He stated the church wanted a larger piece of land and did not want to loss the land they had. He stated it took the applicant nearly two years to find a site that did not have a land owner in the middle of it, or that was in bankruptcy, or that did not have water and sewer and finally found a site that would give them twice the acres then they had. He stated part of the agreement of the church was that the applicant would buy the site for the church, pay for the site work for the development and give the church 2.6 million to build a church site. He stated there were significant road improvements, which included the widening of US Route 17 across the frontage, there were no new access points being proposed on Route 17, all of the access points would come off of

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McWhirt Loop or travel lanes in the development. He stated moving the crossover was significant; moving the existing crossover by The Greens was less than 800 feet from the Lichfield Boulevard, but did not meet VDOT's signal spacing and eventually that crossover would be closed. He stated the applicant spoke with The Greens and discussed alternate access over to Lichfield Boulevard, which would allow homeowners to get to a light without driving through a Wawa parking lot. He stated that would not close the entrance on Route 17 but would make it a right in right out only. He stated the applicant would proffer to make widen the road near Lichfield Blvd, the applicant proffered make improvement to McWhirt Loop at the existing CVS, would proffer the number of banks and restaurant. He stated once the project was completed the overhead power line would run along McWhirt Loop. He stated the proposed uses for the property and would like to see a clothing store, shoe store, dry goods and office supply store. He stated the applicant had signed leases with Sonic, Starbucks and Bank of America, which have CUP's being considered. He stated the applicant would be willing to eliminate some of the uses for drive throughs and come back at a later date; in the past the applicant discussed with staff doing as many drive throughs as possible to be comprehensive. He stated the applicant would be willing to remove the carwash all together. He stated the applicant would be willing to increase the landscaping along Route 17 to the proffers. He stated within the next 30 days, construction would start for the extension of Tomorrow Street and would provide an access to Target without getting on Route 17. He stated the CUP's the applicant would pursue would be for Starbucks, Sonic, Bank of America and another restaurant. He stated the property would be service a special tax district. He stated the applicant would proffer sidewalks. He stated provided computer generated prospectives for the Commission to view from Route 17. He stated the applicant would like to move the tower, which had existing leases on it and the property was owned by the church. He stated the applicant would need to speak with the tenants on the towers to see if they would be willing to have the tower moved. He stated the tower was in the middle of the project and would continue to work to try to have the tower moved. He stated the church could stay on the property until the new church was built.

Mr. Howard stated he was not aware of the Road improvement at CVS and stated he would have to recuse himself from the remainder of the hearing for Celebrate VA.

Mrs. Carlone asked if the Starbucks in the Giant would move.

Mr. Hornung stated no.

Mrs. Carlone stated she was concerned about traffic flow through at the Sonic, Starbucks and the bank. She asked if this was one of the items that was removed.

Mr. Hornung stated the applicant could remove that.

Mrs. Carlone stated there were 2 restaurants remaining.

Mr. Hornung stated the Sonic and Starbucks were both signed deals.

Mrs. Carlone stated she would like to see quality dining establishments.

Mr. Hornung stated the restaurants were hardest hit by the economy and would be looking for quality tenants they could find.

Mrs. Carlone stated she noticed on parcel 43 showed retail and asked if that was for later.

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Mr. Hornung stated the applicant was looking to just acquire ROW but that would have made a non-conforming use more non-conforming. He spoke with the land owner and purposed in the future trading her 44,000 square for roughly $\frac{3}{4}$ of an acre owned by the applicant already zoned commercial.

Mr. Di Peppe asked the height of the communication tower.

Mr. Harvey stated the tower was 199 feet; it was a monopole.

Mr. Di Peppe stated he did not feel the tower should be in a B-2 zone.

Mr. Hornung stated he did not want to proffer to move the pole without speaking to the Commission. He stated all of the property on the other side of McWhirt was M-1 zone.

Ms. Kirkman stated it was hard to make a decision without a TIA.

Mr. Fields opened the public hearing.

Julius George, representing Cornerstone Baptist Church, stated the church had worked with Mr. Hornung and the Silver Company for the last two years. He stated the church had asked for a lot and felt that Silver had bent over backward to accommodate the church. He stated this presented an opportunity for the church to do community outreach and was not in the business to make money. He stated the church had moved across from Geico and felt that Silver had worked very hard. He stated he was in favor of the project.

Bob Harrison, 59 Bayberry Lane, stated he was a resident of the county since the 1950's and was a representative of the church. He stated he had waited many years to see good things go on Route 17. He stated the Silver Companies had bent over backwards to help the church. He stated Silver sent a dumpster to the Church to help with the tornado cleanup. He stated he was in favor of the application.

Robert Baird, 19 Hanover Court, stated he was in favor of the application. He stated the Church and the Silver Company had worked very hard to come to an agreement that would serve the needs of the church and the community. He stated the Church, the Silver Company and the residents of Stafford should not be penalized because of the tower.

With no one else coming forward, Mr. Fields closed the public hearing.

Mrs. Carlone made a motion to defer the Reclassification. Mr. Di Peppe seconded the motion. The motion passed 6-0 (Mr. Howard abstained).

Mrs. Carlone made a motion to defer the Conditional Use Permit. Mr. Di Peppe seconded the motion. The motion passed 6-0 (Mr. Howard abstained).

UNFINISHED BUSINESS:

8. SUB2700557; Ruby Meadows, Preliminary Subdivision Plan - A preliminary subdivision plan for 13 single family lots, zoned A-1, Agricultural, consisting of 41.31 acres located on the south side of Garrisonville Road approximately 300 feet east of Green Acre Drive on Assessor's Parcels 9-10 and 9-11 within the Rock Hill Election District. **(Deferred to July 2, 2008 Work Session) (Time Limit: July 2, 2008) (History - Deferred at May 7, 2008 Regular Meeting; May 21, 2008 Regular Meeting; June 4, 2008 Work Session)**

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Mr. Fields asked if there were any further comments on the Ruby Meadows Preliminary Subdivision Plan or discussion or questions. It had been moved to this evening for unfinished business and he did not believe staff had any further presentations. He stated at this point it was in the hands of the Commission. He stated if there were any questions that would require other than the debate of the issue between the Commissioners, then they would want to deal with that before they put a motion on the floor.

Ms. Kirkman stated she just wanted to confirm with the applicant since she was not at the work session that the applicant had not made any changes to the plan and asked if that was correct.

Mr. Fields stated as far as he knew that was correct.

Debrarae Karnes stated that was correct.

Ms. Kirkman stated that was all she needed to know from the applicant.

Mr. Fields stated this was in the Rock Hill district.

Mr. Howard made a motion to approve the Ruby Meadows Preliminary Subdivision Plan as presented.

Mr. Rhodes seconded.

Ms. Kirkman stated she would oppose the motion to approve this preliminary subdivision plan. She believed there were three sections of the Ordinance that it did not comply with. She discussed each section and the reason it did not comply. She stated she had reviewed this plan and believed this plan could be designed differently. She had reviewed the soil reports that were submitted in conjunction with this application and found that a number of the lots were not in compliance with health regulations. Additionally, she found that the soil work for the reserve drainfields was not in compliance with health regulations also. She stated as they had heard from the AOSE there were several of these reserve drainfields because they were partial drainfields and in some instances they were going to have to send the sewage literally in two different directions which required engineering and those had not been sealed by an engineer. She stated she found that this application did not meet those three sections of the Subdivision Ordinance and would be opposing the motion to approve.

Mrs. Carlone asked because they had discussed some of these previously would the applicant be willing to extend this date for this to be meshed out.

Mr. Di Peppe asked if one of the lots was only 1.8 acres instead of 3.

Mr. Rhodes stated Parcel A.

Mr. Howard stated it was the open space Parcel A which they proffered to move the post office to.

Ms. Kirkman stated it did not matter that it was the open space parcel, the ordinance was quite clear that all lots must meet the minimum size requirements. The Subdivision Ordinance specified that all lots, it did not say only buildable lots, must meet the minimum size requirements for the district.

Mr. Di Peppe asked Mr. Harvey to weigh in on that, if open space was not three acres it did not meet the requirements.

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Mr. Harvey stated he was looking through the Ordinance and his recollection was there was a provision that said open space parcels do not have to meet the configuration requirements. Typically they did not meet minimum lot size requirements either but this was not a cluster subdivision. He stated he needed to verify with the code in regard to this situation.

Ms. Kirkman stated just to remind folks how this process worked was if it was denied you have to give specific reasons, the applicant would fix those reasons, and they could come back in 45 days. It was not like this was the end of it but it did make for a cleaner process.

Mr. Howard stated he thought they needed clarification on the open space lot before they moved forward because to deny it for something they should not be denying it for was probably not in the best interest of the applicant or the county.

Mr. Fields stated he did not believe they could just leave something on the table as they had a motion and a second.

Mr. Di Peppe stated because he wanted to be very clear, he understood the open space and he understood Ms. Kirkman's objections to what she considered to be side lots. He asked her if she could explain a little more about the sewer work, her problems with the secondary drainfields.

Ms. Kirkman stated they had a section of their Subdivision Ordinance that clearly specifies that reserved drainfields must meet all Health Department regulations. One of the regulations was that unless there was a uniform topography and a uniform soil profile, you must have a minimum of 5 profiles for each separate site.

Mr. Di Peppe stated because of the topography they were doing it did not meet the requirements.

Ms. Kirkman stated it depended on the particular one. In some instances there was not a uniform topography. If you saw a drainfield that sat where there was a bump in the line, it was not a uniform topography and there were a number of those that only had three holes. In other instances, it had to do with the soil profiles. She stated the soil profiles needed to be fairly uniform and some of them were highly variable. It always required, even if they had uniform topography and uniform soil profiles, at least 3 soil profiles and there was one reserved drainfield that had only two. She stated that was the first piece, that they had not done the adequate number. The second piece was as was explained to them by the AOSE, some of the split reserve drainfields would require engineering and the health regulations were very clear that if it required engineering the design would have to be sealed by a PE.

Mr. Schultis stated Ms. Kirkman's points were all very valid, however, he just wanted to mention that the Health Department had reviewed this in accordance with before the passage of the drainfield Ordinance. It was sent back to the Health Department to re-review under the auspice of the new Ordinance and the Health Department had once again approved that. He stated he just wanted to remind the Commission of that.

Ms. Karnes stated she was not sure that Ms. Kirkman had arrived when they discussed this at the work session. She believed staff followed-up on Ms. Kirkman's question on the seal and had heard from Tommy Thompson that that was not a requirement at this stage. The Subdivision Ordinance very clearly placed the obligation to review for compliance for State Health Department regulations in the hands of the Virginia Health Department. They may take note of the new statute or the 3 new ordinances that were passed but it was the sole responsibility of the Health Department to review for

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compliance. She stated they submitted, as shown in the staff report, that this plan met all of the requirements for septic systems.

Ms. Kirkman stated, as a point of order, she believed the debate at that point was between the members of the Planning Commission.

Mr. Fields stated he agreed and he was being a little lenient in allowing all the questions back and forth but he did want people to be clear on things at the same point. He asked if they needed a substitute motion to defer this to the end of the meeting so staff could research the issue or had they come to some conclusions on the all parcels versus buildable parcels.

Mr. Di Peppe made a substitute motion just to defer long enough for staff to answer the question.

Mr. Judy stated he thought they could answer the question.

Mr. Di Peppe withdrew his substitute motion.

Mr. Judy stated 22-147 said that all lots must at a minimum meet the size requirements of the Zoning Ordinance. The definition of lot said a tract plat portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for development. He stated it was clear that the intention was that the definition of lot was the units that would be sold for the purpose of the residential development. If they had a common area set aside, it was not a lot and therefore did not, by the definition, need to meet the minimum.

Ms. Kirkman stated it was written on the face of the plan.

Mr. Judy stated he would just leave and she could do his job for him.

Ms. Kirkman stated she just wanted to point it out that it was written on the face of the plan the ownership was going to be transferred to an HOA so it was being created for the purpose of transfer of ownership which that did seem to fall under that definition.

Mr. Howard stated not for a dwelling unit.

Mr. Judy stated he did not agree. He stated if they wanted his legal opinion that was fine.

Mr. Di Peppe stated he was a little concerned about voting right now. He certainly did not want to arbitrarily turn down the plan but he did want answers to some questions.

Mr. Howard stated with all due respect he thought the questions had been answered, some did not like the answers, but they had been answered and they probably should move to a vote because if it would get denied the applicant certainly had the course they could take legally and probably should.

The motion failed 3-4 (Mrs. Carlone, Mr. Di Peppe, Mr. Fields and Ms. Kirkman opposed).

Mr. Rhodes requested reasons for the applicant.

Mr. Howard requested the legal reasons for the applicant.

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Mr. Fields stated he thought they addressed them pretty specifically.

Ms. Kirkman stated she would be glad to restate the reasons why she opposed the motion to approve and it was because she did not believe Parcel A met Section 22-147.

Mr. Rhodes stated county counsel said it did. He was just trying to clarify.

Ms. Kirkman stated just to remind the Commissioner, county counsel's responsibility was to provide them with his understanding of the law and it was the Planning Commission's responsibility to make the decision about whether or not it complied. She did not believe that Lot A complied with Section 22-147, Remnants or outlots.

Mr. Judy stated they would need a motion for denial and the reasons why they were denying it as a Commission.

Mr. Fields asked for a motion for denial.

Ms. Kirkman made a motion to deny the Preliminary Subdivision Plan for Ruby Meadows for the following reasons: Parcel A did not meet the minimum lot size as set forth in Section 22-147, Lot 6 did not meet the requirements of 22-146 Side Lot Lines. She asked for clarification from the attorney regarding the reserve drainfields that did not meet the Health Department regulations as set forth in Section 22-118 and asked if she had to list each of those.

Mr. Judy stated no, go right ahead.

Ms. Kirkman stated Lot number 1 did not have the minimum requirement of 5 holes and was not on contour and not of a uniform soil type. Lot number 2 had only 4 holes and there was no soil profiles provided to determine whether or not there was a uniform soil type. Lot 4 only had 4 holes, was not on contour or of a uniform soil type. Lot 7, the reserve only had 3 holes and there was no soil profile to determine if there was a uniform soil type. Lot 9 had only 3 holes and there was no uniform soil type. Lot 13, there was a separate drainfield area that had only 2 holes and under any circumstances there was a minimum of 3 required, there was a second reserved drainfield area that had only 3 holes and they were not provided with the soil work for Lot number 13 so she could not determine if it was on contour or met the soil types. She stated additionally Lot 1 had a split partial reserve and there was no sealing by PE. That was one of the ones where they were further apart as was Lot 4 and Lot 9. She stated those were the reasons she moved for denial of the Preliminary Subdivision Plan.

Mr. Fields seconded.

Mr. Di Peppe stated his problem was, he knew the applicant had agreed to extensions before and he was hoping to get another extension to explore this, but in lieu of not giving them the extension, there was nothing he could do but to not support approving this preliminary plan because he thought there was some significant questions about what Ms. Kirkman raised about these secondary drainfields. He stated it took a long time to get a secondary drainfield ordinance and if there were some questions about compliance he could not support it until they got those answers. He was hoping the applicant would agree to an extension.

Mr. Rhodes stated he did not believe they were asked.

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Mr. Di Peppe stated he thought they were asked and maybe he misunderstood.

Ms. Karnes stated that she was told that except for the limited discussion they had the matter was closed. She asked if she could have one minute to talk to her client.

Mr. Fields stated yes, one minute. He stated they all would take a one minute break.

Ms. Kirkman stated she just wanted to point out that she had raised concerns about the soil work all along so today was not the first time she raised it. She wanted to remind everybody that the Department of Health, when they would do their review, they do not do a review of whether or not the work meets the department's regulations. The only review that they do was whether or not it was an AOSE that did the work. She stated if you look at the statements that they get from the Department of Health they would say yes the work was done by an AOSE.

Mr. Di Peppe stated not whether the AOSE met their requirements.

Ms. Kirkman stated that was correct. Secondly, she wanted to point out that from the first day they reviewed this plan she had raised the issue of the side lot lines and the applicant had been unwilling to address that issue and she did not see how waiting any longer, they had been unwilling for the last two months to address that issue and she was not sure what difference another deferral would make in that respect.

Mr. Howard made a substitute motion to defer action on this until the next meeting, July 16.

Mr. Di Peppe stated because of the time limit, they would have to agree.

Mr. Fields stated the applicant agreed.

Mr. Mitchell seconded.

Ms. Karnes stated this was the third time they had been there. Each time they had been there, the Planning Commission had gotten advice from their counsel indicating conclusions opposite to what the concerns were listed by Ms. Kirkman's motion. She was more than happy to work with the Planning Commission and grant an extension if she believed it would be constructive. She stated to that extent, if they were going to look for solutions, she would be happy to agree on behalf of her client to a two week request. She was unsure what changes she could make since she was hearing from their legal representative that this plan met the requirement for side lot lines, it met the requirements set forth by the Health Department and the land bay A was not in violation of the ordinance.

Mr. Judy stated he wanted to clarify one thing as to whether it met the requirements of the Health Department. He did not know and he did not think anybody there knew the answer to that question. The issue was whether it met the requirements of the Subdivision Ordinance for a preliminary plat.

Ms. Karnes stated Tommy Thompson, the representative of the Health Department, has already said in his review that it did.

Mr. Fields stated the question before her was did she agree to an extension. He understood she wanted to make the conditions but they were not including her in the debate. He stated her analysis of their

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reasons or the validity of their actions was actually not at stake. The question was did she want an extension. He asked her if she would grant an extension.

Ms. Karnes stated if they were going to be constructive, yes.

Mr. Howard stated he thought Mr. Di Peppe wanted some clarification on the drainfields, which they should have for the next meeting.

Mr. Di Peppe stated what he would like to say was between now and the next time they meet. Ms. Kirkman raised the concern that they were not meeting those requirements and if they were not, he would not vote for it and if they were, he would change his vote. He thought Ms. Kirkman had raised some important questions.

Mr. Fields stated the deferral was one way of dealing with it and denying it and having the applicant able to come back in 45 days was another way of dealing with it. Those were the choices before them. He stated if there was nothing further to discuss, the motion on the floor was for deferral to July 16, 2008.

The motion passed 7-0.

Mr. Fields stated we have unfinished work from ordinance committee on allocated density.

Mr. Harvey stated staff was contacted by Ms. Kirkman with regards to a proposed clean up of the ordinance dealing with allocated density. He stated it would make allocated density uniform throughout all of our zoning categories that have residential units associated with them. He stated there was a handout for Commission and explained, the first page includes the request from Ms. Kirkman. He stated in discussion with Mr. Stepowany today staff has other recommendations the commission may want to consider for discussion. There are two options, the first dealing with restructuring the ordinance amendment a little and two discussions about clustering. He stated the initial proposal would basically modify the ordinance to specify in A-1 zoning you would have an allocated density of .33 dwelling units per acre and in the A-2 zoning the allocated density would be 1 dwelling unit per acre. Staff has had problem with this ordinance for a while dealing with allocated density and various term within the ordinance and in looking at this ordinance and the way it was designed, in some regards having the allocated density may better be suited, in staff's opinion, to go in the measurement section, because that tells you how to measure lot lines, how you do certain routine things through out the ordinance. Staff was suggesting that the definition for allocated density be moved into the measurement section and further defined what net buildable area was. Under the definitions we would modify the allocated density definition as well as establish density, net buildable area and have some definitions for common open space. He stated the performance regulations part would specify that the allocated density in the land use designation should not be exceeded because it was important to have that in the ordinance. He stated he can go through the cluster option, but believes that would be going a little bit off the subject.

Ms. Kirkman stated the Commission was provided with an opinion that 28-38 could not apply to the agricultural because there was not an allocated density assigned to them in the Table of Uses and Standards. She stated she contacted staff and asked that they draft an ordinance to rectify that, and her understanding from staff was there were two ways to go. Either amend 28-38H or amend 28-38 regarding the Table of Uses and Standards. Staff seemed to think the best way to go about doing it was amending the Table of Uses and Standards. She stated to assign an allocated density to the A-1

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would come out to .33 units per 3 acres and A-2 would come out to 1 unit per acre. She stated staff did much more with this than requested, this was just to fix a problem we had in applying 28-38H, so she would like to recommend to the Planning Commission that the Commission only consider this part, section 28-35, Table of Uses and Standards where it amended A-1 to add an allocated density and A-2 to add an allocated density. She said then the Commission would finally be able to apply 28-38H as she believed the Board of Supervisors intended many years ago.

Mr. Fields stated, you don't want to go into put the calculation into the measurement section from 28-38.

Ms. Kirkman stated in her opinion, what was found most recently with the net buildable ordinance, when we did more with the ordinance that was requested, the Board past the least important part and did not act on the most important part. She stated she was reluctant to add more than anything that iwa absolutely essential to address the issue of application of 28-38H to the agricultural areas.

Mr. Fields asked if her recommendation was simply to move forward with a recommendation to modify 28-35, D1 and D2 under A-1 and A-2.

Ms. Kirkman stated that was correct.

Mr. Di Peppe was trying to make sure he understood exactly what she was saying. He asked if she was going to make a motion.

Ms. Kirkman asked, what would the motion be at this point, to move it to the big meeting.

Mr. Di Peppe stated to move it to a public hearing.

Ms. Kirkman made a motion to send to public hearing the amendment to Section 28-35 under A-1, D requirements to add an allocated density of .033 dwelling units per acre and under A-2, Rural Residential D add a requirement for an allocated density of 1 dwelling unit per acre.

Mr. Fields seconded.

Mr. Howard asked Mr. Harvey why did staff propose it this way if that was not Ms. Kirkman's original intent.

Mr. Harvey stated both proposals meet the same goal, the significant issue was changing the table.

Mr. Howard asked if Mr. Harvey his proposals changed both, 28-38H and 28-35. He asked Mr. Harvey if in his recommendation you actually changed the wording of 28-38H.

Mr. Harvey stated yes, staff thought it would be better suited for a lot of the language to be in the measurement section rather than the performance regulations. He stated both ordinances would essentially do the same thing, it was up to the Commissions' discretion if they wanted to proceed with the narrower of the two options.

Mr. Howard asked Mr. Harvey if his original proposal was both options, so if we do not change 28-38H, did he see an impact on the other proposed changes that Ms. Kirkman had made a motion on.

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Mr. Harvey stated if you do not change 28-38H, this was fine the way it was proposed. Again, staff was thinking of a clean-up and also trying to define net buildable area, because it was referenced in parts of the code and not really defined.

Mr. Howard asked if the tables would define that.

Mr. Harvey stated the tables of the A-1 and A-2 did not necessarily relate to that net buildable area, it mainly focused on cluster type issues, but also was a term that was used throughout the ordinance.

Mr. Howard asked for his edification to please explain what would be changing based on Ms. Kirkman's motion.

Mr. Harvey stated the motion basically the first half of the first page, you would ignore and it was only pertaining to the bottom half of the first page, which was amending Section 28-35, Table 3.1, for the A-1 and A-2 zoning categories to have an allocated density for both districts.

Mr. Howard asked if there was an allocated density for both of those districts.

Mr. Harvey stated correct, these are the only two zoning categories under residential use that does not have that standard.

Mr. Fields stated they have a minimum lot size and we are simply redefining minimum lot size of 3 acres to allocated density of .33 dwelling units per acre. He stated it was a swap, but a definition in terms that puts it into conformance with 28-38.

Mr. Di Peppe asked if allocated density was defined in the code.

Ms. Kirkman stated as with many parts of our both the zoning and subdivision ordinance, the wisdom of previous Boards has been to incorporate into the ordinance definitions in use areas rather than the definition section of the ordinance. She stated what staff was proposing was a clean up and unfortunately what was experienced the last time the Commission went along with staffs recommendation for clean up along with a significant piece of legislation, the only part that got acted on was the clean up, so that was why she moved solely to do what we need to do in order to apply 28-38H, which was to add allocated density.

Mr. Judy stated the motion would have to include the language.

Ms. Kirkman stated she would like to amend her motion to include that "the Planning finds that public necessity, convenience, general welfare, and good zoning practice requires the governing body to consider an ordinance to amend Section 28-35".

Mr. Fields stated he agrees.

The motion passed 6-1 (Mr. Mitchell voted not)

Mr. Harvey stated he would like to ask when the Commission would like to schedule this for hearing. Would you like to schedule for September 3, 2008 or another date.

Mr. Di Peppe stated September 3, 2008

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Mr. Harvey stated there may be a few things that will come up for September 3, 2008 since the Commission will not be holding any August meetings. He stated his second point was to remind the Commission that state code requires that any change to the zoning ordinance that may affect density or intensity of uses requires a notice to be mailed out to the property owners within the respective zoning districts. He stated it would require some time for staff to obtain a list of respective owners and send out the notices. He stated September should be adequate time to do that, but there was also a cost associated with doing that and this budget year we are very tight, he wanted to remind the Commission we have limited number of shots to try to get out major initiatives that require large notices. He asked the Commission to keep that in mind as they go through the fiscal year, it would be appreciated.

Mr. Fields stated he would have no problem going to the Board, if we run short of funds. He stated if we get to the point we can not initiate ordinances that are in the public interest simply because of the cost of sending out text amendments notices, in his opinion, that would be sorry state of affairs.

Mr. Di Peppe stated he would like to “make a motion for approval for a public hearing with the Planning Commission for an ordinance to amend Sections 28-185 and 28-205 of the Zoning Ordinance. The amendment established regulations pertaining to the minimum height for posting of public hearing signs. The Planning Commission finds that public necessity, convenience, general welfare, and good zoning practice requires the governing body to consider an ordinance to amend the regulations”.

Mr. Fields seconded.

The motion passed 7-0.

NEW BUSINESS

None

MINUTES

Mr. Fields asked if the Commission was ready to vote on the minutes.

Ms. Kirkman stated the Commission was waiting for clarification because there was a change in the way the minutes were done, they did not include the addresses of the speakers and had requested clarification was that a legal requirement or just a suggested policy change.

Mr. Harvey stated staff checked into that with the County Administrator’s office and it was the Boards’ practice not to have the addresses listed in the minutes. He stated we had also confirmed the BZA did not reflect the addresses, so this would be following in with the practice. He stated in staffs’ discussion with the County Administrator he instructed us not to include the addresses.

Mr. Fields asked if that was the answer.

Mr. Judy stated as to if there was a specific legal requirement there was none that says either way.

Ms. Kirkman stated in the past we have included addresses.

Mr. Harvey stated that was correct, it has been a few years since we have done that practice.

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Mr. Mitchell stated he contacted Dr. John LeDoux, the Aquia district member for the School Board after our last meeting. He stated he asked Dr LeDoux about their minutes and was informed they do not include addresses, phone number or zip codes. He stated there was a little bit of a liability, if something happens to someone and it was proven that issue happened to them because we have given an address or phone number, we are liable.

Mr. Fields asked Ms. Kirkman if her question had been answered.

Mrs. Kirkman stated yes.

Mr. Mitchell made a motion to approve the minutes

Mr. Howard seconded.

The motion to approve the minutes passed 7-0.

March 19, 2008 Work Session

March 19, 2008 Regular Meeting

April 2, 2008 Work Session

April 2, 2008 Regular Meeting

PLANNING DIRECTOR'S REPORT

Mr. Harvey stated he had one thing to ask the Commissioners to help out staff with requests for meetings, information or initiatives to focus through myself, Kathy or Andrea. He stated that helps us manage our work flow because the Commission typically deals with certain staff members on certain types of issues and sometime that could effect their work flow. If you could funnel it through one of the three of us it would help balance staffs workload and help with a quicker response to you.

Mr. Howard asked if that would include if staff were to contact a Commission member.

Mr. Harvey stated just for requests for information, meetings or initiatives.

Ms. Kirkman asked Mr. Harvey if he had anything to report on last nights Board meeting. Did they discuss the overlays?

Mr. Harvey stated it was on their agenda, but it was very late so they truncated the discussion on that issue.

Ms. Kirkman asked if any votes were taken.

Mr. Harvey stated not that he recalls.

Mr. Fields stated the Board did vote on the Potomac Resources Overlay study.

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COUNTY ATTORNEY'S REPORT

No Report

SECRETARY'S REPORT

No Report

STANDING COMMITTEE REPORTS

SPECIAL COMMITTEE REPORTS

CHAIRMAN'S REPORT

Mr. Fields stated he and Mr. Di Peppe presented the draft plan and the Urban Service Area to the Board. He stated we presented the information and would like to thank Mike Zuraf for a nice PowerPoint and helping Mr. Di Peppe and I get prepared to present and answer and field questions.

Mr. Di Peppe stated there would be another sub committee meeting for the Comprehensive Plan Monday, July 7, 2008 at 6 o'clock.

ADJOURNMENT

With no further business to discuss the meeting was adjourned at 11:53 p.m.

Peter Fields, Chairman
Planning Commission