

***STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
October 1, 2008***

The work session of the Stafford County Planning Commission of Wednesday, October 1, 2008, was called to order at 5:40 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, Kirkman and Howard

Members Absent:

Staff Present: Harvey, Roberts, Stinnette, Stepowany, Schultis, Hornung and Ansong

Declarations of Disqualification

None

NEW BUSINESS

None

UNFINISHED BUSINESS:

1. 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) (History - Deferred at July 2, 2008 Regular Meeting to September 3, 2008 Work Session) (Deferred at September 3, 2008 Work Session to September 17, 2008 Work Session) (Deferred at September 17, 2008 Work Session to October 1, 2008 Work Session)**

2. 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) (History - Deferred at July 2, 2008 Regular Meeting to September 3, 2008 Work Session) (Deferred at September 3, 2008 Work Session to September 17, 2008 Work Session) (Deferred at September 17, 2008 Work Session to October 1, 2008 Work Session)**

Jon Schultis gave an update for items 1 and 2 combined. As noted in the packet handed out preceding the meeting, the applicants have tried to address some of the Planning Commission's concerns by enlarging the M-1 parcel, which was originally just over 14,000 square feet, to a full 3

***Planning Commission Minutes
Work Session
October 1, 2008***

acres. They had reduced the size of the proposed retail building by 10,000square feet in order to meet the 20,000 square foot requirement of the M-1 Zoning District. He stated they had also proffered out building any additional cell phone towers and they had proffered out doing any construction on this parcel until the existing cell phone tower has been moved. The second issue was the cell phone tower and due to leasing arrangements it would not be able to be moved as quickly as the applicant had anticipated. Proffering out any construction of this piece until the tower was moved was considered as meeting the Commission halfway. He stated the issues were brought up about the traffic impact analysis, but it was not subject to a 527 review because it was submitted before January 1, 2008. The applicant had included a table which compared a 527 review to the review that was done on this project and they brought their traffic engineer with them if any additional questions needed to be answered. He stated the traffic impact analysis addendum was also included to show the changes that had accompanied the changes made to the GDP. Finally, design standards were submitted.

Ms. Kirkman arrived at 5:43 p.m.

Mr. Di Peppe stated he appreciated the fact that the applicant bent over backwards on the cell phone issue. He wanted to make it perfectly clear that they had proffered a couple of very important things. They will not build on that piece of property until the cell tower was down and, even though it was by-right in M-1, they proffered out ever building a cell tower there. He stated they were not going to do the postage stamp rezoning either. They were going to do the full three acres so that it would actually meet their requirements because you could have a cell phone tower in M-1 and they were holding off on doing the entire 3 acre spot so that it would actually conform to their regulations. He stated he thought they were working diligently because they said they would not build anything vertical until the tower was gone. He was satisfied with that compromise because they were doing exactly what he asked them to do. He stated he would be supporting this.

Mrs. Carlone stated on the new proffer statement, number 17 towards the end, the last paragraph, stated 'shall prohibit repairs or improvements to the existing facility prior to permanent removal'. She asked the applicant if he could explain the improvements.

Chris Hornung of Silver Companies stated there was an existing lease on the property with the cell tower company and as the contract purchaser of the property, when they acquire the piece, they were essentially assuming the responsibilities of that contract. There was currently an agreement between Cornerstone Church and the cell tower company. The agreement itself says that they have to allow them quiet enjoyment of their property. They could not do anything that would effectively require them to remove or to not be able to rebuild the tower if it were to get knocked down until such time as they relocate it in accordance with this so that they could build on that parcel. The reason this was in there was if this proffer said that they would not be allowed to build a new tower and they wanted to make improvements to it, they could not let these proffers negate the existing lease. The existing lease did not allow them to add a new tower but it did allow them to, if something happened to the tower, make improvements to it. He stated they wanted to make sure that was in there so that it was clear what they were doing was obligating themselves to move the tower before they could build anything on there. But if something would happen to the tower they would still have the right under the lease to repair it if they needed to until such time as they would remove it.

***Planning Commission Minutes
Work Session
October 1, 2008***

Mrs. Carlone stated she was wondering about the latitude and what that would encompass in improvements and that explained it.

Mr. Hornung asked Mr. Di Peppe if he understood and if it was okay.

Mr. Di Peppe stated yes and that he felt all along that the ability to repair would be in there because he knew it was going to exist until it was taken down. Of course, if something were to happen to damage it they would need the right to go in and repair it.

Mr. Hornung stated legally the proffers could be challenged if they agreed to them and then there was an existing contract that said they had the right to rebuild it if something would happen.

Mr. Howard stated for a point of clarification, with this particular applicant, back on September 17 when it was stated at the work session that there was going to be an improvement as a result of this project to the CVS on Route 17 which he did have responsibility for, that in fact was not the case. At that meeting he recused himself and stepped aside to allow the work session to continue and stayed out of any discussion since then pertaining to these two applications before them. He stated for clarity purposes sake, for the public, there was no improvement made. There had been a road improvement made on that part of Route 17 that had nothing to do with that CVS store that was located there nor did this project have anything to do with that store.

Mr. Fields stated he did not think he forgot to recuse himself but it was important that everybody understood.

Mr. Di Peppe stated for the record, Ms. Kirkman was there so it was now 5 members.

Ms. Kirkman asked if the traffic engineer was present as she had questions for him and for staff regarding the traffic impact analysis. One of her concerns was that the access points were changed and she was reading the memo and she could not see where on there they re-evaluated the flows based on the changed access points.

Mr. Hornung stated the issue that came up that she was referring to was a discussion which staff had about VDOT's review of their layout and there was an entrance that did not meet their standards that came off of McWhirt Loop. What they ended up doing was to slide it down about 150 feet so that it did meet their requirements and essentially that internal travel lane takes the same amount of traffic and comes out on the same road so it had no impact on the traffic study.

Ms. Kirkman asked the traffic engineer what kind of internal capture rates they used in doing the analysis.

John Riley, the traffic engineer, stated the pass-by percentage was 15 and on any shopping center uses internal capture was already taken into account. He may need to look that number up.

Ms. Kirkman stated while he looked that up she had a question for staff. She asked when it was determined that this application was complete and officially submitted.

Mr. Schultis stated he would have to pull the file as he was not sure.

Planning Commission Minutes
Work Session
October 1, 2008

Ms. Kirkman stated she was assuming somehow that would be related to the time limit that they had.

Mr. Schultis stated the time limit was set prior to putting together the public hearing. The time limit for the Commissioners' action on it was not tied to when the application was turned in and the paperwork was done.

Ms. Kirkman stated she was not talking about when the paperwork was turned in, that was a different issue. She was asking when this particular application was determined to be complete and therefore officially submitted. It was her understanding that was how they calculate when the time limit was.

Mr. Schultis deferred the question to Mr. Harvey.

Mr. Harvey stated he was looking in the code because there were different time limits for zoning matters and subdivision matters.

Ms. Kirkman stated she would just like to know what date they determined the application was complete and ready to move forward.

Mr. Schultis stated he would run up to his office and get the information.

Mr. Riley referred to the question on the internal capture and stated the initial assumption was 0% for the development although there were a low percentage of assignments to the adjacent Celebrate VA development. Since those technically were external to the study area, they were not termed internal capture. He believed the vast majority of the trips go out to Route 17 and to the external study network in that fashion.

Mr. Fields stated they were still waiting for the answer to the question on the time. They could hold off on the motion on this until they get that answer.

Mr. Di Peppe asked if they had to take two separate votes on this, one for the reclassification and one for the CUP.

Ms. Roberts stated yes.

Mr. Harvey stated in looking at Section 28-204 of the Zoning Ordinance for review of amendments to the zoning maps it stated the Planning Commission had 90 days to report its recommendations to the governing body. The subsection talks about within 90 days of the first meeting of the Commission after the proposed amendment was referred to the Commission so it would essentially be 90 days from the public hearing.

Mr. Fields asked if that would be today.

Mr. Harvey stated he believed they did grant one extension already.

Mr. Fields asked if Ms. Kirkman still needed to wait for the other date.

***Planning Commission Minutes
Work Session
October 1, 2008***

Ms. Kirkman stated the reason she asked was she thought they should have had a 527 review on this although for rezonings it was a little different than from Comp Plan amendments and from residential development. Her understanding, based on the conversations that she has had with both the local residency and the state office was that any applications, even if they were submitted prior to the date when it got implemented, if they were not complete then they did require a 527 review and that was why the completion date was important to understanding whether or not it required a 527 review.

Mr. Schultis stated the application was deemed complete October 4, 2007.

Ms. Kirkman asked why they did not hear it.

Mr. Schultis stated there were a lot of reasons. The application was being put together, conditions were being levied and staff time going before that. The applicant may have been able to offer suggestions as to why they went to public hearing at the date they did.

Ms. Kirkman stated she really did not understand if this was officially complete October 4 why they did not hold a public hearing until this summer on it. It may have been the way they were using the terms complete versus submitted versus in the office but it was an important point.

Mr. Schultis stated the application was submitted September 13, 2007 and was deemed complete October 4.

Ms. Kirkman asked why it was not scheduled for a hearing in October, November, December, January, February, March, April, and May.

Mr. Schultis stated the applicant could probably offer some solutions as to why there was an extended period of time before they heard it. Before staff would bring something before the Planning Commission they wanted to make sure that the application had been taken care of. In this case, the reclassification and CUP did require some staff time in formulating the conditions and reviewing the proffers, reviewing the GDP.

Ms. Kirkman asked if the conditions were not set and the proffers were not finalized, then the application was not complete last October.

Mr. Schultis stated it all depended on when they deemed the application was complete and he thought they may have had a misunderstanding. As far as the application being complete by October 4, that was complete when all the files had come in and everything had been completed in the application checklist, all the materials had been received and it was ready for review. That was when this date of completion was concerned. He stated essentially it came across the counter on the 13th and they received all the materials they needed to get it ready for review on October 14.

Ms. Kirkman stated she would ask the question a little differently. She asked on the date staff determined that the application met all the requirements for the rezoning application and was ready to move forward to the Planning Commission.

Planning Commission Minutes
Work Session
October 1, 2008

Mr. Schultis stated this was first heard by the Planning Commission on July 2, 2008, so ads would have been due about 3 weeks before that.

Ms. Kirkman stated that addressed her concern because the implementation of 527 was staggered and it did not become fully implemented until July 1 of this year.

Mr. Fields stated she raised some valid points about what the concept of complete meant and that maybe they needed to discuss that at some future date.

Ms. Kirkman stated at least with regards to residential subdivisions they actually had a definition. She was just not as familiar about commercial applications.

Mrs. Carlone made a motion on RC2700647 to move this forward to the regular meeting. Mr. Di Peppe seconded. The motion passed 5-0 (Mr. Rhodes and Mr. Mitchell were absent).

Mrs. Carlone made a motion on CUP2700647 to move this forward to the regular meeting. Mr. Di Peppe seconded. The motion passed 5-0 (Mr. Rhodes and Mr. Mitchell were absent).

3. Amendment to Zoning Ordinance - Amendment to Section 28-35, Table of Uses and Standards; and Table 3.1, District Uses and Standards, of the Zoning Ordinance, pursuant to O08-68. The amendment establishes density requirements for the A-1, Agricultural and A-2, Rural Residential zoning districts in the same manner that density requirements are to be determined for all other residential districts. The allocated density for the A-1 zoning district would be set at 0.33 dwelling unit per one (1) acre and the allocated density for the A-2 zoning district would be set at 1.0 dwelling unit per one (1) acre. To calculate the 'maximum net density' for a particular parcel, the land owner/developer would be required to apply the formula provided for in Stafford County Code Section 28-38(h) which provides: Subtract the areas of all wetlands, floodplains and slopes greater than thirty-five (35) percent from the gross area of the site to obtain the net area. Multiply the net area of the site by the allocated density to obtain the maximum number of lots permitted for the site. Application of this ordinance could potentially reduce the number of developable residential lots for new developments in the A-1 and A-2 zoning districts where parcels contain significant areas of wetlands, floodplains and/or slopes greater than thirty-five (35) percent grade. **(Deferred at September 3, 2008 Regular Meeting to September 17, 2008 Regular Meeting) (Deferred at September 17, 2008 Work Session to October 1, 2008 Work Session)**

Mr. Harvey stated at the last meeting the Commission requested Mr. Mayausky to attend the Planning Commission meeting to discuss the assessment process and was available to answer any questions.

Andrea Hornung provided a completed, ready-for-publication list of question and answers that were posted on the website. She stated that items added were the total number of parcels that needed additional information. She stated there were approximately 2,400 tracts of land in the A-1 that were greater than or equal to six (6) acres, with the availability to further subdivide. She stated there were approximately 150 tracts of land in the A-2 that were greater than or equal to the two (2) acres that could be affected by this ordinance. She stated Scott Mayausky, Commissioner of Revenue, was available to provide more information of how assessments were calculated.

Planning Commission Minutes
Work Session
October 1, 2008

Mr. Fields stated staff did a good job on listing the questions and answering them. He stated there were a number of questions regarding whether a Financial Impact Analysis (FIA) was completed. He asked who the FIA would be geared towards and asked what the thinking on that was. He asked if there was a precedent where the county was asked to provide an FIA for a proposed action.

Mr. Harvey stated this question had come up before, in the context of a rezoning the FIA provided identified what the potential impacts to the county were as far revenue generated based upon a high density zoning applied for. He stated in the case Potomac River Overlay, the Board asked staff to look into the option of contracting out the FIA, staff laid out parameters and from the county's perspective they looked at the impact to potential future land values as aggregate and what potential it would have on tax revenue on aggregate. He stated the public was looking at the specific situation and if the county was to do a study on individual parcels the county would be looking at the whole county as an aggregate. He stated after speaking with the financial consultants, a market analysis would be completed to make assumptions and the results could vary based on the assumptions made.

Ms. Kirkman stated only the revenue side of the FIA was discussed, which shows how it would affect future revenue collections from the value of property and asked if another important part of the equation how it would affect the expense side, since the county had documented by-right single family unit on average cost the county \$92,000 in capital costs. She asked if the affect of the reduction of lot yield, which was a benefit to the county, would also have to be included in the calculation.

Mr. Fields stated he would think that would be part of the balance sheet. He asked to allow Scott Mayausky to give his presentation before the Commission asked question. He stated he understood Ms. Kirkman's point and he was perplexed. He stated not all of the A-1 areas were excluded from the USA or potentially a future USA and even if there was a parcel that was significantly impacted, the value may still be substantial because it may be rezoned to a higher density use where the amount of wetlands was less and the amount of available land on the parcel valued because it was developed Commercial or high density residential rates.

Mr. Rhodes arrived at 6:07 PM

Ms. Kirkman stated she was going to ask questions of staff. She stated staff showed that for A-1 the factor of 4.63 and found on recent subdivision plans that although the zoning required a minimum of three acres per lot, particularly because it involved drain fields and other considerations, it took four and a half acres to create one lot in the A-1 on average. She stated when staff decided on which parcels to include, there was an inclusion on parcels of six acres or more and asked if it would have been more appropriate to have included only parcels of nine acres or larger because four and a half times two would equal nine acres.

Mrs. Hornung stated that was possible.

Ms. Kirkman stated she did not think the county was going into the development business and there was a large parcel zoned A-2 that was owned by the county; it was called Crow's Nest and did not think the county would be subdividing that property any time soon.

***Planning Commission Minutes
Work Session
October 1, 2008***

Mrs. Hornung stated staff looked at a print of approximately 4,000 parcels plus and removing the zoning of A-1 and A-2; with the multi-zoned, staff used the most restrictive. She stated there was no look at any parcel specific, staff was looking at six acres or greater and what the potential of total acreage, total land that could be possibly further subdivided if they choose to.

Ms. Kirkman stated she was suggesting that in the future when staff was asked to produce those reports, rather than going to GIS and relying on solely the zoning of the parcel, it might be more helpful to refer to the real estate records in the Commissioner of Revenue's office where staff can review each parcel. She stated staff included parcels that may be larger than three acres in A-1 or as designated as open space in subdivisions; she felt there was a more accurate way to get the information using the real estate records rather than using the zoning designation and the GIS system. She stated there were parcels included that should not have been.

Mrs. Hornung stated there was no parcel specific, it was utilizing the information from GIS and also the Commission of Revenue's office to gain these parcels as they were zoned and the acreage size to do a run-down of total acreage and get an estimate for the Commission.

Mr. Di Peppe stated in every other zoning category there was Allocated Density and there must be rationale why the county had Allocated Density. He stated there was no Allocated Density in the A-1 and A-2 zoning category and asked if there was any reason why that was left out originally.

Mrs. Hornung referred to Mr. Harvey.

Mr. Harvey stated it was included in the Ordinance adopted in 1995 and was removed shortly, which flipped back to the minimum lot size requirement. He stated the Ordinance initially started in 1988 and the update process went from 1988 to 1995; it started as a performance based ordinance when the county hired a consultant which would allow a sliding scale lot size provided certain threshold criteria was met and could also have different densities in the zones based on meeting different performance criteria. He stated moving back to a more Euclidian zone, there was a mixture of two things going on; which was part of the issues in the ordinance today.

Mr. Fields stated there was a difference of interpretation in 2000 when the county changed the net density requirement to the R zones, it was the county's assumption that the net density was applied. He stated the Board of Supervisors at that time agreed to change the density in the R zones to cut in half the by-right density unless the cluster plan was used and underlining zoning did not change if cluster options were used. He stated the net density was applied to all the R zones and had not decided to change the underlying density in A-1 and A-2 at that time because the Board of Supervisors were looking for other options for rural land use. He stated in Stafford County Code, Section 28-38, it was the pattern of practice in Stafford that because there was not the term Allocated Density and minimum lot size that net density did not apply. He stated in 2000 it was assumed that net density would be applied.

Scott Mayausky, Commissioner of Revenue, stated he would walk the Commissioners through the assessment process. He stated he had a discussion at the end of the last work session with Ms. Kirkman and they both agreed that a full blown presentation on assessments might be better suited outside of the discussion of a specific ordinance. He would try to answer any questions from the Commission regarding the impact of a specific ordinance; he wanted to have a discussion about how

***Planning Commission Minutes
Work Session
October 1, 2008***

the processes and impacts of not following state requirements in assessing properties. He stated the county was on a two year assessment cycle and was required by the state constitution to assess properties at fair market value, which makes Virginia very unique. He stated different states have different requirements and very few have constitutional mandates to assess at 100 percent; Virginia has since 1851.

Mr. Fields asked if that mandate applied to how the Commissioner of Revenue operates in counties with county managers and county executives, where they do not have a Commissioner of Revenue; would they be bound by that same code.

Mr. Mayausky stated yes. He stated it was in Article 10 of the Constitution and regardless of the local form of government, all counties have to assess properties at 100 percent. He stated appraisal theory was based on the concept of highest and best use. He stated when the Commissioner of Revenue's office looks at a piece of property they do not look at the current year necessarily but what the potential use could be because when the property would be placed on fair market for sale, that would determine the value. He stated an example would be agricultural, if there was a 20 acre farm zoned R-1 when it goes on the market, it would not sell for a farm value or an agricultural value, it would sell based upon the zoning and potential build out of that parcel. He stated assessments were based on potential use rather than current use. He stated there was very little market for agricultural land in Stafford County; primarily vacant land or large tracts of land were driven by development and what a developer would be willing to pay to develop a piece of property. He stated that had forced the county to change the way to assess property. He stated the Commissioner of Revenue was forced to get into lot yield, which had not been done in the past; typically the county would assess agricultural land at a flat rate across the board but now the county has had to look at properties and specifically try to determine their lot yield because that was what the developers and the market would look at to determine the values of the properties. He stated the market would react to the decisions of the Commission, which would react to the market. He stated the reasons why the county was required to assess at 100 percent of fair market value, he talked about the constitutional mandate, another reason was prior to the 1970's the state assessed at fractional value. He stated Stafford County assessed at forty percent value until 1978; the state got serious and began tying funding sources to the accuracy of the assessment. He stated if the assessment dropped below a certain level then state funding would drop. He stated the county was forced by the state to look at the properties, determine the highest and best use and find the actual fair market value.

Mr. Fields stated Mr. Mayausky's actions would be considered to be in the best interest of all the citizens. He assumed that without the requirement the assessment could be anything and could be influenced without the restriction. He asked if the convergence was so the county did not end up with a situation where the impact to the development industry and landowner should not be the only reason why the Board or Commission would or would not act on a piece of land use. He asked about the potential valuation of the property by the Commissioner of Revenue.

Mr. Mayausky stated the Commissioner of Revenue's office followed the market and the actions and ordinances passed by the Board and Commission have an affect on the market, which was the only reason the two converge. He stated that anything done to influence the market, whether positive or negative, would affect assessments. He was not suggesting that anything the Commission had done would have a negative affect but it would most likely have an affect.

Planning Commission Minutes
Work Session
October 1, 2008

Ms. Kirkman thanked staff in the Commissioner of Revenue's office for being very helpful. She stated the last time she met with revenue staff there was a mathematical formula, an algorithm, used to determine the market value of each property.

Mr. Mayausky stated there were some mathematical computations that play it the value but ultimately it would be the sales and what the market determines.

Mr. Mitchell arrived at 6:24 PM.

Ms. Kirkman stated they run regression, derive weights from the sales and apply weights to a regression on the individual parcel.

Mr. Mayausky stated that was correct.

Ms. Kirkman stated when she met with the revenue staff that based on neighborhood a price was determined for a base minimum amount needed for a lot in that area, using A-1 as an example with a three acres lot, for instance in neighborhood A and through the algorithm they determine a base price for three acres was \$200,000.00, what revenue staff then explained was if there was a nine acre parcel it was not multiplied three times 200,000, instead there was a second calculation completed based on the incremental price of each additional acre and not each additional lot. She asked if that was correct.

Mr. Mayausky stated that the last assessment cycle was the first time the revenue's office starting looking into the detail of lot yield. He stated that was difficult to do because not every property could look and determine the lot yield. He stated if there were two twenty acre pieces of property, where they did not have a site plan they used a method very similar to the method just described. He stated if they could accurately determine what the lot yield of a property would be, in many cases through a site plan then they would use that method. He stated it was difficult to use that method on every piece of property because it was not practical to do so. He stated they were getting to a point where the only way to accurately assess land was to try and find a way to zero in on lot yield; one thing recently discovered as a good guide for the county would be to look at hydric soil. He stated he may incorporate the use of hydric soils in the agricultural land reviews. He stated there were no differences in the lots located in subdivisions, they contribute the same value to the property. He stated agricultural was different because of all the different variables that affect what could ultimately be done to a piece of property.

Ms. Kirkman asked what the revenue office was doing now for those properties that had preliminary subdivision plan or may be in the process but had not recorded a final plat, looking at the lot yield based on the preliminary plan. She stated preliminary plans were vested and any change enacted on would not impact their lot yield. She stated that only leaves the small number of parcels that had not been subdivided where there was a potential for impact.

Mr. Mayausky stated that was correct.

Ms. Kirkman stated the method being used was more of the first method described and the assessment on those acres, which did not have a preliminary plan on them were not based on lot yield but based on a base plus an increment.

Planning Commission Minutes
Work Session
October 1, 2008

Mr. Mayausky stated that was correct for 2008 and 2010. He stated in a mass appraisal staff could not get as detailed as needed. He stated in 2006 there were large tracts of land that would sell to developers for three and four times the assessed value, which forced the county to change and get more specific. He stated in the Potomac Overlay District case he had sent a memo to the Chairman asking the Board to require site plans on all the properties, which he knew would be cost prohibitive but he was trying to make a point that the county is getting to the point that site plans were needed on every piece of property to accurately determine what they were worth. He stated from his work on the PDR committee that the hydric soils were a fairly accurate measure; there was some testing of existing subdivisions, looked at the hydric soils, determined the lot yield then compared it to the site plan and was remarkably accurate. He stated it seems to be fairly accurate of the number of lot they could get. He stated staff had not made the final decision for the 2010 assessment whether the hydric soil would used be but staff was considering it.

Mr. Fields asked if he had spoken with his counterparts in comparing Spotsylvania rural zoning ordinances and Fauquier County to see how the changes had affected their appraisal process.

Mr. Mayausky stated he had not spoken with Fauquier County as they did not have an in-house appraisal staff.

Mr. Fields asked if they were on a four year cycle.

Mr. Mayausky stated yes. He stated he had spoken with Spotsylvania County and their comment was that it had no impact and took that response with a grain of salt.

Mr. Fields stated if there was preliminary subdivision plan, which was affected by allocated density in an adverse way, to say it would affect the tax base was relative to the point that it would cease to have the land use valuation taken off. He stated if it was forth years in the future there would be no change, even if it were developed it would be impacted by Allocated density but as long at it was under land use the impact to the tax base would not be a factor.

Mr. Mayausky stated he agreed and the immediate impact to the tax base would be minimal because of land use. He stated Mr. Fields was talking about the long term development of the county and how it may impact that. He stated he was not qualified to answer that question; in speaking with the people asking for Fiscal Impact Studies, they would like to know how it would affect the market value of their property. He stated in 2002 there were discussions with Loudoun County, which had experienced something similar. They saw an immediate drop in land values and over time it gradually returned. He stated he did not know if it had returned to the amount prior to the reduction but the immediate drop was followed by a subsequent increase in value. He stated he would question whether it would ever reach the value prior to the loss of development rights.

Mr. Fields stated one of the points made on the analysis was that was the type of zoning that would guarantee a rural character and preservation. He stated on some of the lots in Stafford, most of the significantly large A-1 parcels were owned by developers. He stated there was a handful of big parcels that were still family farms.

Mr. Di Peppe stated it would be less likely that the commercial interests would go to single lots in subdivisions.

***Planning Commission Minutes
Work Session
October 1, 2008***

Mr. Mayausky stated the developers were in the market for large tracts of land in Stafford because there was no one who could afford the lots.

Mr. Di Peppe stated the point made was important; supply and demand did exist in Stafford County and if there was a smaller lot yield, a developer may offer less because they may not be able to utilize the entire potential of the lots. He stated on the other had if there were less lots available and land was valuable, supply and demand, it would raise the value.

Mr. Mayausky stated based on the current method for assessing property, a reduction in lot yield initially could cause a reduction in fair market value.

Ms. Kirkman clarified that only the lot yield method was used on the plans which already had preliminary subdivision plan and those plans would not be affected by any legislation passed.

Mr. Mayausky stated the only reason the lot yield method was used on the plans which already had preliminary subdivision plan was because those were the only thing the staff had data on.

Ms. Kirkman stated Mr. Mayausky stated he was using the base plus increment on those that do not use the lot yield method.

Mr. Mayausky asked if she meant for assessment purposes.

Ms. Kirkman stated yes.

Mr. Mayausky stated for fair market value, it would depend upon the lot yield.

Ms. Kirkman stated she had looked at land ownership in the county and the largest land owner in Stafford County was Quantico, owning twenty percent of the land mass. She stated she would be glad to bring basic information to the Commission based on analysis of the real estate records. She stated it was quite instructive to see the large land owners in the county.

Mr. Howard stated he would prefer Ms. Kirkman's request go through county staff because they were hired by the county to do county work, if there was an analysis to be made in terms of real estate, the Commission should leverage staff. He stated at the beginning of the presentation Mr. Mayausky stated the value in terms of tax assessment was 100 percent of the market value, based on the potential use and not the existing or current use and as explained in two different methodologies, take lot yield into account or consideration when determining the taxable amount needed to collect for those properties.

Mr. Mayausky stated that was correct.

Mr. Howard stated the Mr. Mayausky also had indicated that the market dictated typically and asked if 2008 taxes collected for assessment were higher or lower then they were in 2007 for a property.

Mr. Mayausky stated the assessments on land were higher and the assessments on homes in subdivision were lower.

***Planning Commission Minutes
Work Session
October 1, 2008***

Mr. Howard asked if the same methodology described was used and the market dictated that the property value seemed to sell at a higher rate than the county was taxing on or assessed on.

Mr. Mayausky stated his staff found that the slow down in the market lagged by about twelve months when it came to land, the home values starting going around 2006 and staff did not see land values start to drop until approximately the end of 2007. He stated even in the end of 2007 there were some strong home sales and now land values had fallen off the table, at that time it may have been a case of land lagging behind home sales in the downturn of the real estate market. He stated in 2010 the Commission would see a reduction in land values.

Mr. Howard asked if he meant based on the economy and not based on the potential change in A-1 and A-2.

Mr. Mayausky stated that was correct.

Mr. Howard stated the Commission may have stated something incorrectly at the public hearing held at Colonial Forge High School, he went through the scenario previously discussed. He asked how many parcels in the county had not been subdivided or were not vested in a subdivision plan currently.

Mr. Mayausky stated he did not know.

Mr. Howard stated a statement had been made that most of the county, just like the Commission made statements at the public hearing at the high school that may not have been accurate, he wanted to make sure the Commission was making the right statements so the public could understand exactly what the potential impact could be in terms of their own finances; more importantly the county. He stated when he talks about fiscal impact he talked about the county and what the county could take in fiscally. He asked how many parcels in the county had not been subdivided or were not vested in a subdivision plan in the county today.

Mr. Harvey stated Mrs. Hornung gave an order of magnitude scale, as far as the number of parcels that could potentially be subdivided, as Ms. Kirkman said that was not a complete 100 percent accurate list. He stated there were parcels listed that were county owned or owned by other entities, also, staff did not look to see if any of the parcels had road frontage or other requirements necessary to subdivide. He stated that would be difficult to do because some would be in subdivisions that may or may not have covenants or restrict the ability to be further subdivided.

Mr. Howard stated that the Commission and staff did not know the answer to the question.

Mr. Harvey stated that was correct.

Mr. Howard stated that was an acceptable answer.

Ms. Kirkman stated there was a drop off point in the data she had in terms of large parcels.

Mr. Howard stated he would prefer for staff to answer his questions if he still had the floor. He stated he would yield to Ms. Kirkman with the potential to come back to finish his questions.

Planning Commission Minutes
Work Session
October 1, 2008

Ms. Kirkman thanked Mr. Howard for being so gracious. She continued to discuss the data which showed the large parcels and smaller parcels. She stated it would be burdensome to ask staff to go through every small parcel to look at whether or not there was a subdivision plan. She stated there may be a way to figure out what the drop point was and look at the larger parcels, and of the larger parcels, how many have preliminaries or were in process for preliminaries. She asked if that was a doable task.

Mr. Harvey stated staff could do a GIS search based on parcel size and lay in all the preliminary subdivision plans that we had on the parcels and figure out what was left over.

Mr. Howard asked why this was before the Planning Commission today. He stated he understood that in the A-1 and A-2 there was a difference in terms of lot yield to some of the other zoning listed. He stated he did not understand why this was being discussed today, who initiated this and how did it get to this point.

Mr. Harvey stated this was initiated by the Planning Commission initiative, it came up in the ordinance committee and the Planning Commission forwarded it on to public hearing.

Mr. Howard stated he understood that but asked how it came to a point to come up in the Planning Commission meeting. He asked if there was an audit that looked at the A-1 and A-2; there was no Allocated Density formula.

Mr. Fields stated it was an initiative of many of the Planning Commission members who were concerned about the issue for many years. He stated his concerns on several occasions and felt his vote in 2002 had resolved the issue. He had always been concerned about the resolution of the Allocated Density and always felt it was inconsistent, that A-1 and A-2 should be exempt from what was an attempt to create a much better and well regulated type of land use. He stated like the Potomac Resource Overlay he supported moving this forward for the sake of discussion because he felt that one of the weaknesses in all of land use was the inability to consider each parcel of land on an individual basis. He stated having a public hearing gets at the issue so that land that was well suited for development at three acres densities could proceed unabated and land not well suited for three acres was not bulldozed, leveled, cleared and beaten into submission to yield more lots than responsible to allow the yield for. He stated that would take care of the future homeowners, environment and citizens of Stafford County. He stated from a personal view why this issue had come up and he supported moving it forward. He stated this item was coming forward on the initiative of himself and several Commissioners.

Mr. Howard asked if there was a purpose statement for each zoning district.

Mr. Harvey stated yes, the zoning ordinance does have a purpose statement.

Mr. Howard asked for the purpose statement for A-1 and A-2 zoning districts to be read. He stated he agreed with Mr. Fields that he wanted to see the land in the county used appropriately and does not want to see any areas bulldozed or trees taken down. He stated he was more concerned with how the Commission got to this point and not necessarily concerned with the why; how it was that the Commissioner of Revenue was before the Commission stating something a little different than the Commission might have indicated to the public in the past. He read the purpose of the A-1 and

Planning Commission Minutes
Work Session
October 1, 2008

A-2 zones. He asked in reading what the commission was presented with for the allocated density, the fourth paragraph indicated there was a map showing the parcels zoned A-1, Agricultural, and A-2, Rural Residential, and staff believes that the use of the Allocated Density method to determine a lot yield would significantly differ from the current method when applied on a county wide basis. The most significant factor in determining lot yields in A-1 and A-2 zoning districts was the ability to locate drain field sites. He asked if there was a disconnect between what the Commission was trying to accomplish based on the fact that the A-2 zoning district, by definition of the purpose statement, indicated that A-2 would be closed to sewer and water and where there was more residential density that was already existing. He stated he understood what everyone said but was not sure if the right problem was being solved and was not sure what this would get the county in the A-1 and A-2 zoning. He stated other than the potential of less payment for property by developers, this was good for developers and not necessarily the land owners and down the road the assessment of those properties would be less because of this and not because of the economy. He asked if the purpose statement should be revised because it was not the intent of the zoning ordinance any more. He stated he would like to discuss the document handed out at the September 3, 2008 meeting, there was an indication by staff that there was the potential reduction that would match the five percent road dedication on certain lot sizes; what he was hearing now was that may or may not be the case.

Mrs. Carlone stated one of the most prevalent statements by homeowners was the concern that they were being assessed on adjacent properties sale and potential use rather than the current use. She stated it was not fair to the citizens of Stafford County.

Mr. Mayausky stated it was a difficult situation and mentioned the article in the paper of a citizen with a forty acre farm zoned A-1, their assessment went from one million to seven million but the fact that they were constitutionally bound and the state would come in to audit the county to make sure that properties were assessed at fair market value. He stated it forces the county into looking at the farm for the development potential and not for the current use as a farm. He asked what would happen if the county continued to assess the farm as agricultural land and it sold to a developer for the true market value. If the true market value was ten million then the true market value would be ten percent of what the property was worth, which would have negative consequences to the county in terms of the revenue received from the state. He stated the county would be forced to try to determine what the values of the properties were, often at the expense of the land owner. He stated the land use program was the best program in the county because it helped the land owners hang on to their farms.

Mrs. Carlone stated she was speaking to the smaller land owners adjacent to some recent large sales.

Mr. Mayausky stated the same principle would apply.

Ms. Kirkman made a motion to move to the regular meeting for discussion.

Mr. Di Peppe seconded the motion.

Mr. Rhodes stated he thought there was more information that the Commission would be receiving, different elements of acreage. He stated he continued to not see the exact need for this; it does mathematically diminish the amount. He stated he has problem with it without seeing what the need

***Planning Commission Minutes
Work Session
October 1, 2008***

was and thought there would be additional information from the discussion tonight. He stated he was not sure why this was moving forward.

Mr. Howard stated a zoning ordinance was the law and as this advances and moves forward, this would change lives. He stated to change a zoning ordinance or a law of the Virginia General Assembly views zoning ordinances and should only occur when the Commission finds that the public necessity, convenience or the absence of good zoning practice exists. He stated none of those issues were prevalent in the A-1 and A-2, the county already had an A-1 and A-2 zoning ordinance and he read the purpose statement. He stated amending Section 28-35 of the A-1 and A-2 zoning districts was wrong and only serves to benefit future developers who would now have leverage over existing property owners in Stafford County. He stated that was not a valid reason to not adopt the changes, people will still have land value, just less, the reason to vote no was because the county already had good zoning practice in place for A-1 and A-2 zoning districts and to change the ordinances for the sake of change only, there was no public necessity and no absence of good zoning practice. He stated he would vote no and wanted to explain why he was voting that way. He stated he agreed with Mr. Rhodes that the Commission did not have enough information and should wait and make this as accurate as possible.

Mr. Mitchell stated he could not support the issue, he would like the further information from staff and was concerned how this item got to this point and why the Commission was pushing it forward. He stated he wanted to see more information.

The motion passed 4-3 (Mr. Rhodes, Mr. Howard and Mr. Mitchell opposed).

ORDINANCE COMMITTEE

4. Discuss Restricting Vehicles from Being Used as Business Signs
5. Reservoir Protection Overlay District
6. Definitions for Major and Minor Site Plan and Security Requirements for Site Plan
7. Agricultural Districts Lot Yield

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 7:00 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES

October 1, 2008

The regular meeting of the Stafford County Planning Commission of Wednesday, October 1, 2008, was called to order at 7:36 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, Roberts, Stinnette, Ansong, Hess, Hornung, Ennis, Schulte, Baker, Stepowany, deLamorton, Zuraf and Forestier

DECLARATIONS OF DISQUALIFICATIONS:

None

PUBLIC PRESENTATIONS:

None

PUBLIC HEARINGS:

1. CUP2800479; Conditional Use Permit - Patient First Garrisonville - A request for a conditional use permit to allow a medical clinic use in a B-2, Urban Commercial, Zoning District consisting of 0.64 acres, located on the north side of Garrisonville Road approximately 300 feet west of Stafford Market Place on Assessor's Parcel 21-26F within the Aquia Election District. **(Time Limit: December 30, 2008)**

Amy Ansong presented the staff report. She showed maps for existing zoning, the land use plan and an aerial photograph, along with an architectural rendering of the property. She stated access to the property would be limited to one entrance on Prosperity Lane. If requested by VDOT, the median located in Prosperity Lane along the frontage of the subject parcel would be removed by the applicant/owner in accordance with VDOT standards. The billboard located on site would be removed prior to issuance of a building permit. Storage and disposal of infectious or medical wastes would be conducted in accordance with federal, state and local guidelines. She stated minor surgery may be permitted; however, there would be no use of blood products associated with performing surgical procedures. Lighting for the facility would be directed downward and inward on the site to prevent glare. If building permits were not obtained within three years from the date of approval, this Conditional Use Permit would expire. The CUP may be revoked or conditions amended by the Board of Supervisors for violation of these conditions or any applicable county, federal or state codes. She stated staff believed the request, with the proposed conditions, met the standards for issuance of the permit and staff recommended approval of the application.

Mrs. Carlone asked if the entrance was adequate for turnaround of fire engines.

Ms. Ansong stated that was a very good point and she would make sure they looked at that.

Mr. Rhodes asked to see the architectural rendering again.

*Planning Commission Minutes
October 1, 2008*

Mr. Howard asked how many employees would the facility house. He also asked what type of medical services would be provided.

Ms. Ansong stated she was not sure but she understood it would be an urgent care type of service.

Jay Lustig, the applicant, stated with regard to the fire response question the initial site plan had a 24' entrance and in a face-to-face meeting with VDOT they requested it be widened to 30' which they did.

Mrs. Carlone asked if there was enough space for fire engine equipment.

Mr. Lustig stated the site layout met all minimum driveway widths. In response to employees, at maturity which should be after about 3 to 4 years they would employ approximately 50 people who would include 5 or 6 physicians and 40 to 45 non-physician personnel.

Mr. Howard stated the reason he asked how many employees was because of the size of the parking lot and he had counted 36 parking spaces.

Mr. Lustig stated that was correct and that exceeded the requirement of 26. They would be open 98 hours per week with 2 shifts per day. He stated at any given time at peak hours there would be approximately 10 to 12 personnel.

Mrs. Carlone stated she was concerned as it did not look like there was adequate parking.

Ms. Kirkman asked what type of medical services would be provided.

Mr. Lustig stated primary care, urgent care and occupational health services.

Ms. Kirkman asked if there would be storage of any radioactive materials on site.

Mr. Lustig stated no.

Mr. Howard asked where the sanitation containers be held on the property.

Mr. Lustig stated for regular waste there was a dumpster in a masonry enclosure on the site plan and for medical waster there were lock boxes in every treatment room which would be collected daily.

Mr. Howard asked if it was picked up from the premises daily.

Mr. Lustig stated yes.

Mr. Howard asked where on the site plan was the brick-enclosed trash dumpster.

Mr. Lustig stated behind the building adjacent to SunTrust.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Ms. Kirkman stated the proffer conditions right now state that it was for the operation of a medical clinic which was a broad term. She asked Mr. Lustig if he would be willing to make that more specific

Planning Commission Minutes
October 1, 2008

by adding the provision of primary care, urgent care and occupational health services. She stated they would be approving this based on the statement today that that was the type of service but as this was written, he could offer a much more intense service in the future.

Mr. Lustig stated they have medical centers throughout Virginia and Maryland and the services at every single center were exactly the same. He would hate to be restricted, if a decision was made on a corporate level, to broaden their services to the public at all medical centers and it would be very difficult for them not to follow through at one particular medical center.

Ms. Kirkman asked if they would not be willing to proffer that they would provide only the kinds of services that they were representing to them tonight.

Mr. Lustig stated he would prefer not. The consistency of the services was very important to their company and it was very important that they provide the same services at every single medical center that they operate so people know what to expect when they go to Patient First. He stated limiting the types of services at one particular medical center could be difficult for their operations. They did not have any immediate plans to go beyond primary care, urgent care and occupational health services at this time but they wanted to hold the option open.

Ms. Kirkman asked if he was willing to proffer that there would be no storage of radioactive materials on site.

Mr. Lustig stated he was sure that would be fine.

Mr. Harvey stated this was a conditional use permit so this would be the County imposing the conditions on the application. They could certainly add the condition about no radioactive materials stored on site. He stated it would be up to the Commission if they would want to entertain additional clarifications.

Mr. Howard asked, as a point of clarification, with the imaging technology that they use currently, if they would be doing imaging in the building.

Mr. Lustig stated yes and it would all be digital.

Mr. Fields stated they would need to add that condition as part of the motion.

Mr. Mitchell made a motion for approval with the added condition that no radioactive materials be stored on site. Mrs. Carlone seconded.

Ms. Kirkman stated she would like to know if her colleague from the Aquia District would consider amending his motion to make it specific that it was for the purposes of a medical clinic to provide primary care, urgent care and occupational health services.

Mr. Mitchell stated no.

The motion passed 6-1 (Ms. Kirkman opposed).

2. RC2800572; Reclassification - Telecom Tower - Stafford County - Mountain Avenue - A proposed reclassification from B-1, Convenience Commercial Zoning District to A-1, Agricultural Zoning District to allow a telecommunication facility on Assessor's Parcel 54-45A for the purpose of bringing an existing telecommunication facility into conformance with the

Planning Commission Minutes
October 1, 2008

Zoning Ordinance. The property, consisting of 3.61 acres, is located on the west side of Mountain Avenue approximately 700 feet north of White Oak Road within the George Washington District. The Comprehensive Plan recommends the property for Suburban Residential use. The Suburban Residential use would permit single family residential development at a density of three (3) dwelling units per acre. See the Zoning Ordinance for a full listing of permitted uses in the A-1 Zoning District. **(Time Limit: December 30, 2008)**

3. COM2800574; Comprehensive Plan Compliance Review - Telecom Tower - Stafford County - Mountain Avenue - 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 a telecommunication facility, located on the west side of Mountain Avenue approximately 700 feet north of White Oak Road on Assessor's Parcel 54-45A within the George Washington Election District. **(Time Limit: November 30, 2008)**
4. CUP2800573; Conditional Use Permit - Telecom Tower - Stafford County - Mountain Avenue - A request for a Conditional Use Permit to allow a telecommunication facility in an A-1, Agricultural Zoning District on Assessor's Parcel 54-45A for the purpose of bringing an existing telecommunication facility into conformance with the Zoning Ordinance. The property, consisting of 3.61 acres, is located on the west side of Mountain Avenue approximately 700 feet north of White Oak Road within the George Washington Election District. **(Time Limit: December 30, 2008)**

Joey Hess presented the staff report for Mountain Avenue. The existing conditions for the telecommunications facility included the tower being constructed in 1988, it was a 496-foot tall guyed tower, it held primary and secondary FM antennas and satellite dishes, an AM antenna, yagee antenna and microwave links, there was a 25' x 40' equipment shelter, and a wooden fence that went around the tower only. Also the facility was located on the center of the subject parcel, access was by means of Mountain Avenue, and the subject parcel was relatively flat and open. He stated the applicant proposed to utilize this site to upgrade its public safety radio communications system. On-site improvements included to construct a 12' x 24' equipment shelter, to add 2 omni antennas and 2 6' microwave links onto the existing guyed tower, to remove the existing wooden fence and replace it with an 8' tall chain link fence with vinyl slats and barbed wire, and to plant a 15' wide landscaping buffer. He showed maps of the site overview, the development plan and the tower design. He stated positive features for the reclassification included that the site was in compliance with the Telecommunications Plan, the facility had been there since 1988, co-location would reduce the need for a new tower and added expense to the citizens of the County, it would provide an up-to-date radio 911 communications system, the proposed equipment shelter would be screened, and the site would promote co-location opportunities for future carriers. Some negative features included the site being inconsistent with the recommended Land Use Plan designation of Suburban Residential and it was surrounded by established residential communities. He stated staff recommended approval of the application as submitted. He showed propagation maps with existing coverage and proposed coverage. He stated sitting criteria for the Telecommunications Plan included co-location on existing telecommunications facilities, spacing of 3 to 5 miles between facilities, discourages impacts to historic properties and aircraft operations, and discourages the location of facilities near residential concentrations. Facility design standards included the co-location of at least 3 carriers, the antenna design, color, and scale, the facility was designed to minimize visual impacts, specifically near residential developments, and the tower setbacks from property lines and adjoining dwellings. He stated for the Comprehensive Plan Compliance request some positive aspects were co-location was consistent with the Telecommunication Plan, co-location would reduce the construction of new towers, it was consistent with Goal 13 of Land Use Plan, it would upgrade the public safety network and

Planning Commission Minutes
October 1, 2008

services, and there would be no height increase of the existing tower. A negative aspect would be that the existing tower was not compatible with its adjacent land uses because of the surrounding established residential communities. Staff believed that the positive aspects of this request outweigh the negative aspects and recommended the Planning Commission find the request in compliance with the Comprehensive Plan. He stated proposed conditions for the CUP included the site being developed as shown on the GDP, it would permit only the one existing guyed tower at its current height of 496 feet, no habitable structures would be located on the subject property, the existing wooden fence would be removed and replaced with an 8' tall chain link fence with vinyl slats and barbed wire, the chain link fence would be screened with a 15' wide landscaping buffer, and a metal, rust-resistant sign would be placed on the gate of the gravel road. Some proposed conditions would include that future carriers must provide an intermod study to the County and the permit would expire within 5 years if permits were not obtained. He stated staff believed the proposed use was in accordance with the standards of issuance of a Conditional Use Permit and recommended approval.

Mr. Di Peppe stated he had a procedural question and asked if they should be taking the Comprehensive Plan Compliance Review first out of the three items. He sometimes wondered if they should handle all three things on the same night but that was a whole other issue.

Mr. Hess stated with land use amendments they do take the Comprehensive Plan Compliance Review first but this was slightly different than a land use amendment.

Mr. Harvey stated if the Commission wanted to take one before the other, that would be perfectly fine.

Mr. Di Peppe stated he thought it just made more sense.

Mr. Mitchell stated he knew they had a bond requirement on some of their telecommunications towers that if they were abandoned or not used there was a bond that would be there to take down the existing tower. He asked if this tower had a bond on it.

Mr. Hess stated there was no bond establishing the conditions.

Mr. Mitchell asked if they looked at the loss of revenue for evaluation of property.

Mr. Hess stated Carol Adams looked into that and what had occurred was the fact that because additional carriers were going on the tower that would mean revenue for the tower owner. Because of the additional revenue they would be getting it would raise the revenue up from if there were not additional people going on. He was told there would not be a change in revenue from B-1 to A-1 because the existing use was still the same. With additional users going on the tax rate would go up for the tower owner.

Mr. Mitchell asked if the County was being charged for co-location.

Mr. Hess stated there was a lease agreement on all three towers between the County and the cell tower owners.

Mr. Fields asked who the actual owner of this tower was.

Mr. Hess stated Star Broadcasting Inc.

*Planning Commission Minutes
October 1, 2008*

Ms. Kirkman stated although the County did not own this property or the tower, they have applied for all three of these applications, a rezoning, a comp plan compliance review and a CUP. She asked what the total cost of all three applications was. She asked if the CUP was \$10,000.

Mr. Hess stated the base rezoning was approximately \$4,400 and the comp plan compliance was about \$300.

Mr. Harvey stated they would have to research the fee costs and the Board also authorized site plans which would be an additional cost. He would check into the total value of each application.

Ms. Kirkman asked if the lease was structured so that the County was getting an offset for their costs in doing this.

Mr. Hess deferred that to Carol Adams.

Ms. Kirkman stated she knew this was part of the County's plan to upgrade the communications system and there were several applications in front of them tonight. She asked if there would be any more or after this were they done.

Mr. Hess stated there was the potential for more as the County has contracted Motorola and they have asked about a couple other towers and if they proceed to go on these towers they would have to go through the reclassification, the CUP and the comp plan compliance.

Ms. Kirkman asked if those were for the County's communication system or just something Motorola was thinking of doing.

Mr. Hess stated they were looking at the towers in the County to see which would best fill in the gaps.

Carol Adams, Communications Director and Project Manager for the County for its public radio system upgrade, stated she would answer any questions she could.

Ms. Kirkman stated this was quite a value the County was providing to the property owner and asked if the value was being offset in any reduction of the lease cost to the County.

Ms. Adams stated they were still in the process of negotiating the leases with the tower owners. One reason they had not completed the lease process yet was because they were not going to invest in that until they knew the tower could be brought up to compliance. They did not want to lock themselves into a lease for a tower that they would not be able to use. She stated if they do lease negotiations they would consider that, as well as adding other users onto the system to hopefully offset some of what the County's cost would be, but that was something they were still working on. There were a total of 13 sites within the County that they were looking at to be able to provide the appropriate coverage that they need for those responders in the field.

Mr. Fields asked if one of the CUP's was to allow the co-location of County facilities on the tower but there would still be a fee involved.

Mr. Harvey stated with new construction there was a condition in the CUP that the applicant would have to provide space on the tower for the County.

Mr. Fields asked if that was leased space to the County or free space.

Planning Commission Minutes
October 1, 2008

Mr. Harvey stated they would prefer it to be free.

Mr. Fields stated he thought that a condition on most of those towers. He was a little perplexed since their process on new towers was to provide a condition that would allow the County free access to co-locate on the towers, on a tower that had no CUP why they would be spending the money to bring it up to code and then paying for the privilege to do that. He stated that seemed contrary to the way they have handled other processes.

Mr. Harvey stated Ms. Adams was on a certain timeframe which she had to hit to implement the system. If they were to wait on individual property owners to come in and voluntarily try to bring their sites up to compliance she may not be able to meet her target.

Ms. Kirkman stated to clarify since one of these was a CUP they could impose the same condition on this CUP that they have on others which was that free space be provided to the County and asked if that was correct.

Ms. Roberts stated technically that was correct but since the County was the applicant, she was not sure they could impose. What they would be imposing was the condition on the company. If the company was the one coming in and asking for the CUP, she would say yes but since they were not the applicant she was not sure that would be binding on them.

Ms. Kirkman asked then how could any condition of the CUP be binding.

Mrs. Carlone stated she was just concerned that they were waiving a tremendous amount of fees for these and they did mention they were negotiating right now.

Ms. Adams stated for the leases they were negotiating there were 13 sites they were trying to collectively bring into the fold so that they would get the coverage they need and based on the studies that had been done in the past on the public safety radio system. They were collectively working all 13 at the same time between site development and site drawings, as well as making sure that all the questions of the owners had been taken care of. They did not want to lock themselves into a lease that for some reason down the road they may not be able to facilitate and then pay that lease if they were not prepared to go on the site. The towers that were put out there were the ones that had been developed through some extensive studies by Motorola.

Mrs. Carlone stated she was looking more at if there were 13 possibilities and maybe 8 out of that 13 or 7, if they were doing the same thing, the County being the applicant for these people, then they were waiving quite a bit of fees for the usage.

Ms. Adams stated for all of the sites except for Rabbit Road the County was the only applicant that they were going to allow go on the site. Rabbit Road and Thorny Point were both privately owned, one was an individual that owned it and the other was a corporation, and they were allowing public safety to go on there but they had no intent of allowing any other user or provider to go on those sites. Rabbit Road had one other tenant that was looking to go on the site and the County had actually talked with them and they were going to share in the cost of any structural that would have to be done to bring that site up to speed. The County had reached out to AT&T and they have agreed that they were going to share in any costs that would be involved and any work that would have to be done to that site to help offset some of the monies that the County would have to put out for the project.

Mr. Howard asked who owned the tower.

***Planning Commission Minutes
October 1, 2008***

Ms. Adams stated Star Broadcasting.

Mr. Howard asked how many towers of the 13 they owned.

Ms. Adams stated one.

Mr. Di Peppe stated this was a very thin broadcast tower.

Mr. Howard asked who was paying for the upgrades that were proposed in terms of the 15' buffer, the evergreens, moving some of the buildings and changing the fencing.

Ms. Adams stated for this particular site the County was sharing the cost with AT&T.

Mr. Howard asked if AT&T had a signed lease agreement for the space on the tower.

Ms. Adams stated she did not know.

Mr. Howard asked if the County had a signed agreement with AT&T that states they would share the costs.

Ms. Adams stated no, she did not have anything signed from them but there had been discussions between them and the tower owner that those costs would be shared.

Mr. Howard stated he understood the need for the County to get the internal communication system up but what he was confused about was why the County would have to foot the entire bill. There really was no agreement with AT&T, that was what they would hope to have occur but there was nothing signed, they did not have lease space and the County did not even have lease space. He stated it almost appeared as though these things were out of order and they may have the wrong entity as the applicant. At the very least, they should be leasing the space for 100 years for free with the capital investment they were putting into this. But not knowing that, it was very difficult to make a decision. He stated they wanted to do it, it was right for the County, but at the same time it did not seem like the County was in as good a negotiating situation as they should be.

Ms. Adams stated she did not disagree with him.

Mr. Fields stated he wanted to confine the discussion to technical questions and keep the Commission on task.

Ms. Adams stated most of it was because they were the initial applicant who went to all 3 towers specifically for public safety and 2 out of the 3 sites had no intent of allowing anybody else to go on those sites but the County.

Mr. Fields asked if there were sites where they would have to purchase land to build a tower from scratch to provide the necessary coverage.

Ms. Adams stated no, the only site that was currently in the plan to be built was associated with the prime site and that was at the Public Safety Building and planned for when that building was put up.

Mr. Fields asked if she knew the general cost of what it would cost to purchase land and build their own tower.

*Planning Commission Minutes
October 1, 2008*

Ms. Adams stated probably anywhere from around a \$500,000 to \$1 million between the land and the tower.

Mr. Fields asked where the County's antenna was on the tower map of new proposed locations.

Ms. Adams stated the four listed were theirs.

Mr. Fields stated at 220' they were already exceeding what they would normally allow for tower height so there was obviously a serious advantage to this location from a technical aspect.

Ms. Adams stated yes, it was all based on a past study done by Motorola and they looked at the elevation, topography and tree heights to determine where they would need to be placed on a tower, as well as the space that was available on the tower.

Mr. Di Peppe asked if they were under a time constraint to get all this communication network done.

Ms. Adams stated the system was to be up and operational by March 2010. A lot of the constraint was trying to coordinate all 13 sites at one time and get the installation done. Most of the construction was scheduled based on their timeframe between now and April/May 2009 to complete all the construction on the sites.

Mr. Mitchell asked what would be the approximate cost to the County per month to have a spot on the tower.

Ms. Adams stated it was anywhere from \$2,000 to \$4,500 a month and this site was not a \$4,500 a month site. A lot of it depended on the limited amount of space the tower owner had to lease to others as well as how many dishes and antennas they were putting on the site. There were a lot of variables as well as the amount of grounds space they were using.

Mr. Mitchell stated using ballpark figures, if they were looking at \$2,000 a month that would be \$24,000 a year and in 4 years that would be just under \$100,000 cash output for the County.

Ms. Adams stated the direction the County received from the Board when this was initially going was they did not want any additional tower sites built in the County and their direction to the County was to go and seek out co-locations so there would be no additional towers built for this particular project.

Mr. Mitchell stated he was just concerned about the \$100,000, and then multiplied it out incrementally.

Ms. Kirkman asked, for clarification, could additional facilities be co-located on this tower without this process tonight and was that why the County had to go through this process, because they could not co-locate until after these approvals were obtained.

Ms. Adams stated yes.

Ms. Kirkman stated they could not expand who to use the tower until they have gone through this.

Ms. Adams stated yes.

Ms. Kirkman asked if AT&T was currently there.

*Planning Commission Minutes
October 1, 2008*

Ms. Adams stated no.

Ms. Kirkman stated they could not allow AT&T on this unless they have these permits.

Ms. Adams stated correct.

Mr. Di Peppe stated he thought this was one of the towers that was just going to have the County on it.

Ms. Adams stated this one had a co-location with AT&T. The owners had specifically said they were allowing the County to co-locate on the other two because they were public safety and the owners had no intent of opening their towers up to others.

Mr. Di Peppe asked if the County's dish for communications was any different than what AT&T would use.

Ms. Adams stated for Mountain Avenue the County would be using satellite dishes and AT&T would be using an antenna. It would be similar to the two the County was putting on to transmit and receive.

Mr. Di Peppe stated he was still worried because Ms. Adams was saying AT&T was going to co-locate.

Ms. Adams stated they had asked the landowner but as far as she knew there was no lease agreement in place with the landowner. The County, the landowner and AT&T were in agreement that they would share any costs that it would take to bring the tower up to compliance.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Ms. Kirkman asked staff if the County was not involved and if the applicant was coming forward in order to bring everything into conformance in order to lease space to AT&T, would they typically look at some kind of condition on the CUP that the County be provided space on the tower.

Ms. Roberts stated yes.

Ms. Kirkman asked if they could impose that condition on this CUP.

Ms. Roberts stated she did not believe so and in reviewing the conditions on the CUP they all seemed to pertain to the applicant except number 12. In every agreement she reviewed regarding the telecommunication facilities, it was part of the agreement anyway so that would be enforceable through their agreement.

Mr. Fields asked other than condition number 12, could they enforce 1 through 11 and 13 and 14 on themselves.

Ms. Roberts stated she was finding the whole conversation a little strange because if one of these conditions was violated the Board would revoke the CUP.

Planning Commission Minutes
October 1, 2008

Ms. Kirkman stated her concern was because of the convoluted way in which this had been brought forward they were not being allowed to impose the condition that the County be able to get space on the tower.

Ms. Roberts stated she had no problem if they wanted to add that as a condition and she thought it would not be enforceable against the owner of the tower.

Ms. Kirkman stated the height of the tower was currently 496 feet and asked what would keep them from going higher than that height.

Mr. Hess stated condition number 2 addressed that.

Ms. Kirkman stated she did not understand since the attorney was telling them they could not impose conditions on the landowner because they were not the applicant

Mr. Harvey stated these conditions would run with the zoning of the land so they fall to the underlying landowner and use of the property. In the case of where it stated applicant, those would apply to the county and would still be a telecommunication facility in an A-1 zone, limited to one free standing tower and conditions that apply to the site in general.

Mr. Fields stated these were valid questions and asked if the Commission would need to make individual motions. He would like to move these items to the work session and have a representative from the county discuss the Board of Supervisors' thinking and economic details of the case. He did not want to see the county getting a raw deal by trying to rush the approval of the applications. He stated he wanted make sure the county was getting the best possible deal and would recommend deferring to the work session.

Mr. Fields made a motion to move item 3, the Comprehensive Plan Compliance Review, to the next work session. Mr. Di Peppe seconded. The motion passed 7-0

Mr. Fields made a motion to defer item 2, the Reclassification, to the next work session. Mr. Di Peppe seconded. The motion passed 7-0.

Mr. Fields made a motion to defer item 4, the Conditional Use Permit reclassification, to the next work session. Mr. Di Peppe seconded. The motion passed 7-0.

Mrs. Carlone asked what work session this would be set for.

Mr. Fields stated the next available work session.

Mr. Harvey stated the Commission had a work session scheduled for the 15th of October and it would depend on how many items would be pushed to that work session.

Mr. Fields stated he was not comfortable voting on the item this evening and would like to discuss it at a work session.

Mr. Di Peppe asked if the owners could come speak before the Commission.

Mr. Fields stated he was making the request of the Board of Supervisors that the chairman of his designated member or his designated staff person attend the work session.

Planning Commission Minutes
October 1, 2008

Mr. Hess asked what the direction of staff would be.

Mr. Fields stated this question was more of the nature of the negotiation and what the intent or desire was of the Board of Supervisors, which would be beyond the scope of the Planning staff.

Ms. Kirkman stated her concern was the county was expending a lot of money on behalf of the applicant, particularly in terms of fees and processing of site plans. She stated this would enable the applicant to generate a lot more revenue than currently received.

Mr. Fields stated this was a County Administrative legal issue and not a planning issue.

Mr. Howard stated it would be \$1.3 million based on a \$2 million calculation times the 13 towers, which would be an amazing amount of money to have to spend. He stated this may be the template going forward.

5. COM2800576; Comprehensive Plan Compliance Review - Telecom Tower - Stafford County - Rabbit Road - 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 a telecommunication facility, located on the east side of Rabbit Road approximately 1,400 feet north of New Hope Church Road on Assessor's Parcel 55-158B within the George Washington Election District. **(Time Limit: November 30, 2008)**
6. CUP2800575; Conditional Use Permit - Telecom Tower - Stafford County - Rabbit Road - A request for a Conditional Use Permit to allow a telecommunication facility in an A-1, Agricultural Zoning District on Assessor's Parcel 55-158B for the purpose of bringing the existing telecommunication facility into conformance with the Zoning Ordinance. The property, consisting of 20.00 acres, is located on the east side of Rabbit Road approximately 1,400 feet north of New Hope Church Road within the George Washington Election District. **(Time Limit: December 30, 2008)**

Joey Hess presented the staff report. He stated there was a correction with the election district listed and was from Falmouth to George Washington. He provided revised application affidavits which showed a change of ownership. He stated item 5 was a request for compliance with the Comprehensive Plan for an existing telecommunications facility and item 6 was to allow a telecommunications facility on A-1 property for the purpose of bringing an existing telecommunications facility into conformance with the Zoning Ordinance. He showed a picture of the existing conditions, zoning and current land use plan. He stated the Telecommunications Facility, constructed in 1991, was a 425' tall guyed tower with primary and secondary FM antennas and satellite dishes, omni antennas, microwave links, a 20' x 40' equipment shelter, and an 8' tall chain link fence around the facility. The facility was located on the center of the subject parcel and access was by means of Rabbit Road. The applicant proposed to utilize this site to upgrade its public safety radio communications system. He stated the onsite improvements included constructing a 12' x 24' equipment shelter, adding two omni antennas and two 6' microwave links onto an existing guyed tower and expanding the existing 8' tall chain link fence to include a proposed equipment shelter. He provided a picture of the site overview, development plan, tower design, propagation map showing the existing coverage and propagation map showing the proposed coverage. He stated the siting criteria was for co-location on an existing telecommunications facility, spacing of 3 to 5 miles between facilities, discouraged impacts to historic properties and aircraft operations, and discouraged the location of facilities near residential concentrations. The positive aspects was the co-location was consistent with the Telecommunication Plan, the co-location reduced the construction of new towers,

Planning Commission Minutes
October 1, 2008

was consistent with Goal 13 of Land Use Plan, upgraded public safety network and services, no height increase of existing tower and the facility was compatible with adjacent land uses. He stated there were no negative aspects. Staff believed this co-location was consistent with the Telecommunication and Land Use Plans and recommended the Planning Commission find the request in compliance with the Comprehensive Plan. The proposed conditions for the CUP were to develop the site as shown on the GDP, permit only the one existing guyed tower at its current height of 425', no habitable structures would be located on the subject property, future carriers must provide an intermod study to the County, and the permit would expire within five years if permits were not obtained. He stated staff would recommend approval with the conditions proposed.

Ms. Kirkman asked if owner consent was provided.

Mr. Hess stated because the county was the applicant owner consent was not submitted.

Mr. Harvey stated the Board of Supervisors, by a legislative act, could rezone property without the owners consent.

Ms. Kirkman stated this was not a rezoning.

Mr. Harvey stated in zoning cases where the Board would impose zoning regulations, they could do it as a legislative act without the consent of an owner. He did not think the county had consent on these applications.

Ms. Kirkman asked if the owner knew this was happening.

Mr. Harvey stated Ms. Adams indicated the owners were aware.

Ms. Kirkman stated on the affidavit it listed an LLC but did not list the members of the LLC.

Ms. Adams stated she did not have it in front of her but thought a Mr. Grey was listed as a contact. When she did the research to find who the members of the board were, she found it was a North Carolina organization and the member was shown as G-Force LLC identified with Centennial Broadcasting LLC. She stated Mr. Grey's information was connected with G-Force LLC and would be notified.

Mr. Fields asked when the ownership was transferred.

Mr. Hess stated July 2, 2008.

Mr. Mitchell stated in reading the information that stated once the equipment was determined to be obsolete, written notice would be sent to the owner and after 12 months use of the facility the tower would be removed. He asked if there was a bond backing that up.

Mr. Hess stated there was no bond backing it up. He stated if the owner did not comply with the 12 months of removing the tower, this would turn into a zoning violation.

Mr. Harvey stated the zoning violation would be assessed against the property owner and would have to comply with the zoning requirements. In this case, if the applicant was posting the bond, it would be the county posting the bond to itself. He stated without the consent of the owner it would be hard to impose a condition of whether the owner would post the bond.

*Planning Commission Minutes
October 1, 2008*

Mr. Fields asked if the county could impose a condition for the owner to dismantle the tower.

Mr. Harvey stated yes.

Mr. Mitchell asked if there was a certification from the FAA.

Mr. Hess stated there was not a certification but that could be added as a condition.

Mr. Mitchell stated the tower did not have a light.

Mr. Hess stated there should be lights on the tower unless required by the FAA.

Mr. Mitchell asked if it was a 425 foot tower.

Mr. Hess stated that was correct.

Mr. Fields stated he could not believe the tower did not have lights.

Mrs. Carlone stated any tower over 200 feet would be required to have lights.

Mr. Fields asked if there were lights on the tower.

John D. Mantis, Chief Engineer at WBQB, stated there was a middle beacon and a top beacon. He stated the tower was pre-existing before the airport and there was an FAA registration number.

Ms. Kirkman asked why the county was applying for the application and not the owner.

Mr. Mantis stated the county requested to come on the tower as a tenant. He stated the owner did not approach the county, the county approached the owner.

Mr. Howard stated there had been cases in the past when the county imposed conditions and asked Ms. Roberts for clarification.

Ms. Roberts stated if the owner agreed to any conditions there would not be a problem. She stated it may need to be addressed in the lease agreement that both parties would abide by the conditions.

Ms. Kirkman asked if any other services would be co-located on this tower.

Mr. Hess stated if the CUP was approved it could allow for other co-locators. He stated they would need to still go through the Code Administration process but would not have to submit another CUP.

Mr. Di Peppe asked if the owner was planning to add any more tenants.

Mr. Mantis stated currently there were no tenants on the tower.

Mr. Di Peppe asked if the owner knew what it cost the county.

Mr. Mantis stated he was not sure.

Mr. Fields opened the public hearing.

Planning Commission Minutes
October 1, 2008

With no one coming forward the public hearing was closed.

Mr. Fields stated there were a couple more questions regarding the lease agreement.

Mr. Fields made a motion to move item 5, the Comprehensive Plan Compliance Review, to the next available work session. Mr. Di Peppe seconded. The motion passed 7-0.

Mr. Fields made a motion to move item 6, the Conditional Use Permit, to the next available work session. Mr. Di Peppe seconded. The motion passed 7-0.

7. COM2800578; Comprehensive Plan Compliance Review - Telecom Tower - Stafford County - Thorny Point - 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 a telecommunication facility, located on the south side of Thorny Point approximately 4,000 feet north of Brooke Road on Assessor's Parcel 41A-1-8K within the Aquia Election District. **(Time Limit: November 30, 2008)**
8. CUP2800577; Conditional Use Permit - Telecom Tower - Stafford County - Thorny Point - A request for a Conditional Use Permit to allow a telecommunication facility in an A-1, Agricultural Zoning District on Assessor's Parcel 41A-1-8K for the purpose of bringing the existing telecommunication facility into conformance with the Zoning Ordinance. The property, consisting of 40.33 acres, is located on the south side of Thorny Point Road approximately 4,000 feet north of Brooke Road within the Aquia Election District. **(Time Limit: December 30, 2008)**

Joey Hess presented the staff report for Thorny Point. He showed maps of the existing conditions and zoning, and a map of the current land use plan. He stated existing conditions for the telecommunications facility included being constructed in 1990, it was a 300-foot tall guyed tower, there were four antennas and two microwave links for the property owner's paging business, and there was an 8' x 20' equipment shelter. The facility was located on the northeast side of the subject parcel with steep terrain on all sides and access was by means of the property owner's driveway. He stated the applicant proposed to utilize this site to upgrade its public safety radio communications system. On-site improvements included construction of a 12' x 24' equipment shelter, the addition of two omni antennas and two 6' microwave links onto the existing guyed tower, and upgrading an existing dirt road to a 20' wide gravel road from Brooke Crest Lane, if necessary. He showed maps of the site overview, development design, tower design, and propagation maps of existing and proposed coverage. He stated siting criteria for the Telecommunications Plan included co-location on an existing telecommunications facility, spacing of 3 to 5 miles between facilities, discouraged impacts to historic properties and aircraft operations, and discouraged the location of facilities near residential concentrations. He stated facility design standards included co-location of at least three carriers, antenna design, color, and scale, the facility would be designed to minimize visual impacts specifically near residential developments, and tower setbacks from property lines and adjoining dwellings. He stated some positive aspects for the Comprehensive Plan Compliance Request included co-location would be consistent with the Telecommunication Plan, co-location would reduce the construction of new towers, it was consistent with Goal 13 of the Land Use Plan, it would upgrade the public safety network and services, there would be no height increase of the existing tower, and the facility would be compatible with adjacent land uses. There were no negative features. Staff believed this co-location was consistent with the Telecommunication and Land Use Plans and recommended the Planning Commission find the request in compliance with the Comprehensive Plan. He stated some proposed conditions for the CUP included the site be developed as shown on the GDP, permit only the one

Planning Commission Minutes
October 1, 2008

existing guyed tower at its current height of 300 feet, no habitable structures would be located on the subject property, if necessary the existing dirt road would be upgraded to a gravel surface at least 6 inches thick and the road would be gated, if necessary the applicant would agree to place a metal, rust-resistant sign on the gate of the gravel road, future carriers must provide an intermod study to the County, and the permit would expire within five years if permits were not obtained. He stated staff recommended approval of the CUP. Staff believed the proposed use was in accordance with the standards of issuance of a Conditional Use Permit, it would not change the character of the established pattern of development, it would not hinder or discourage future development on adjacent properties, no residences were within the fall zone of the tower, and it would promote public safety through the enhancement of wireless 911 capabilities countywide. In addition, a condition for a Phase I recommendation was it was noted from the historic preservation chairman that there could potentially be civil war fortifications on this property. He stated a pedestrian survey was done Tuesday and it was recommended that a Phase I study be done if the existing dirt road were to be upgraded to a gravel surface because of the grading and clearing that would take place.

Ms. Kirkman asked if there was a special use permit for this property for the rural home business.

Mr. Hess stated he did not know.

Mr. Harvey stated they would have to investigate that.

Mr. Fields asked what the current use of the tower was.

Mr. Hess stated it was for a paging business. The property owner had the tower constructed to operate his business.

Mr. Fields stated the owner's address was listed in Alexandria.

Mr. Hess stated he did not know much about the owner and deferred this to Ms. Adams.

Ms. Adams stated it was her understanding it was not the owner's permanent home and had caretakers that managed the property.

Mrs. Carlone asked, as far as saturation in the area, how many more towers would be required in the area where there were gaps in communication.

Ms. Adams explained the coverage on the maps provided.

Mrs. Carlone asked with the addition of these would it meet their requirements.

Ms. Adams stated yes and there was good coverage with the sites they had identified.

Mr. Mitchell asked if there were any bonds.

Mr. Hess stated no.

Mr. Fields opened the public hearing.

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

Planning Commission Minutes
October 1, 2008

Mr. Mitchell made a motion to defer item 7, the Comprehensive Plan Compliance Review, to the next available work session. Mr. Howard seconded. The motion passed 7-0.

Mr. Mitchell made a motion to defer item 8, the Conditional Use Permit, to next the next available work session. Mr. Howard seconded. The motion passed 7-0.

Mr. Fields asked staff since the items were similar if they were familiar with who would need to be in the room for the work session.

Mr. Harvey stated staff would try to get the property owners or a representative for them. He stated Mr. Fields also had legal questions regarding the conditions and how they could be applied with the county being the applicant rather than the owner.

Mr. Fields stated someone from the Board of Supervisors or County Administration should be present to discuss what the plan and negotiations were. He stated he would contact Mr. Schwartz from the Board of Supervisors and Mr. Harvey could contact Mr. Romanello to be present. He stated the Commission wanted to get a grasp of how the lease would work.

Mr. Harvey asked if the Commission would like to have the consultant that helped design the system present at that meeting.

Mr. Fields stated whoever had the expertise on alternatives and why this was the way it was. He stated the Commission was asking for clarification.

Mr. Howard stated it would be \$350,000 for one year.

Mr. Mitchell asked if there could be a specific identification of what it cost or money the county would be out in order for the Board of Supervisors to be the applicant as opposed to the owners.

Mr. Harvey stated he could provide a cost. He stated he would look at the application fees, the contract with the consultant and estimated costs for the physical improvements.

9. CUP2800467; Conditional Use Permit - Stafford County School Board, Stafford High School Site - A request for a Conditional Use Permit to allow an exception to height regulations up to 60 feet for athletic field lighting in the A-1, Agricultural Zoning District, on Assessor's Parcel 45-227C consisting of 124.56 acres, located on the east side of Stafford Indian Lane approximately 500 feet south of Enon Road within the Hartwood Election District. **(Time Limit: December 30, 2008)**

Mr. Di Peppe stated he was not going to reclude himself but did want to disclose that his wife worked at Stafford High School for 17 years as a guidance counselor and teacher.

Andrea Hornung presented the staff report. She showed maps for the existing zoning and the Land Use Plan. She stated the school was constructed in 1975. There currently existed a football field with lighting at 90' and a baseball field with lighting at 60'. This was adjacent to residential uses and there was no evidence of complaints to the County. There was an approved site plan for a softball field but it did not include the lights because during the review it was noted that being 60' it needed a conditional use permit. She stated it was also within proximity to the Stafford Regional Airport. She showed aerial photographs and photographs of the softball field currently under construction. The softball field would be between the school building and the baseball field. Some of the conditions

Planning Commission Minutes
October 1, 2008

agreed upon were the maximum height shall not exceed 60' and the School Board would submit a revised plan showing the softball field lighting in the location of the field in relation to the approved site plan SPR2800085. The lights would be extinguished or turned off no later than midnight and the light fixtures would be constructed in a way so they would direct the light downward and away from adjacent properties. She stated school staff or appropriate personnel would be present during operation of the lights. Staff believed the request, with the proposed conditions, met the standards for issuance of the conditional use permit. There would be no change in character and established pattern of the development, there were no impacts to adjacent properties and there were no complaints. She stated it was also within the Urban Services Area. Staff recommended approval.

Mrs. Carlone asked if a representative from the airport was present.

Ms. Hornung stated no but there was an FAA letter in the file stating there were no impacts with the lighting to the airport. There were studies for high school number 6 that was closer to the airport and even cited no impacts to the airport.

Mrs. Carlone stated she saw the statement where it did not exceed obstruction and they were talking about the poles. She did not see anything in the actual application that mentioned the lighting or any statement from the airport authority on the impact from the lighting itself. She stated in paragraph 3 on page 3 it stated it was required to determine the impact of lighting poles on air traffic and the letter concluded that the proposed structures did not exceed obstruction standards. She stated they were talking about poles, not the lighting. There was also discussion previously on the expansion of the airport itself and that was why she was wondering if there was someone from the airport present.

Ms. Hornung stated she could obtain further information.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Mrs. Carlone made a motion that this be deferred until they could have a representative from the airport authority. Ms. Kirkman seconded.

Mr. Rhodes asked if they could clarify with staff if the airport was aware of this request.

Ms. Hornung stated yes. The parcels that were in the vicinity of the airport were flagged and a letter did go to the airport manager to let him know that the proposal was before the county as well as any site plan, rezoning or conditional use permit.

Mr. Rhodes asked if the airport contacted her.

Ms. Hornung stated she had heard nothing from the airport authority or airport manager.

Mr. Howard asked for a point of clarification on Mrs. Carlone's concern about the glare from the lights interfering while planes were taking off or landing.

Mrs. Carlone stated yes, there had been discussion about expanding the length of the airport. There was a certain traffic pattern that they would have to keep to and unfortunately planes would have to circle around by the school.

*Planning Commission Minutes
October 1, 2008*

Mr. Horan stated he wanted to bring several points of information to the Planning Commission. He had not contacted the airport. The FAA clearance obstruction was for the height, not for the lights. He stated for high school number 6 and the discussions they had with the flight pattern, the design was very similar if not exactly the same as the lights they proposed for that particular high school. They talked about dark skies, the policies, and these lights would not obstruct the flight patterns. He stated these lights were embedded within existing lights at the high school as Ms. Hornung had pointed out. They had construction going on currently and the site plan was approved without the lights. They awarded the contract with the lights as an alternate if they were not approved and could pull them out. He stated it would certainly put a hardship on them because they would like to continue the construction and have the field available for night use in the spring. If it was not approved and if it was delayed, then they would probably roll into the winter months when it would be a little tougher to continue and would probably cost the school a little more money because they would have to do a change order as the conditions would be changing in terms of the length of the contract. He stated he was extremely confident that the design met any design of any sports lights and they had the photometric design computations as part of the site plan. They went through these discussions during high school number 6 and they provided documentation supporting that. He did not have that documentation with him tonight but said it would be very similar.

Mr. Di Peppe stated he would like to refer to the letter in the packet from the FAA. In the second paragraph, first sentence, it stated based on this evaluation, marking and lighting were not necessary for aviation safety. In the next to the last paragraph it stated this determination concerned the effect of this structure on the safe and efficient use of navigable airspace by aircraft. He stated he would not like to hold this up because he did not believe it was a safety issue. If it was a safety issue, he would be jumping up and down and screaming. He thought all it would do was delay and cost the School Board more money.

Ms. Kirkman asked for clarification from Mr. Horan, stating she thought it would be very easy for him to get a letter from the airport saying they were aware of this and they were fine with it. She asked if this was deferred for two weeks until the next work session would it cause any great expense to the school.

Mr. Horan stated he thought it would go past the completion schedule of the contract. This was brought on by the school and the schedule should have been further back in the summer. He stated they were trying to get BOS approval by the 21st.

Ms. Kirkman stated even if the Planning Commission approved it the BOS would not be able to hear it on the 21st as there was not sufficient time for them to advertise.

Mr. Horan stated staff had conveyed that to him that there was but not knowing the specifics, he could not comment. He stated that was a hope. He thought it would impact them but if the Commission so chooses to, they could certainly deal with that.

Mr. Howard asked if Mr. Horan could explain again the existing lights on the field.

Mr. Horan stated there were six lights that light the football field which were 90' in height and the baseball field had four lights that were only 60' in height. The softball field would have four very similar to the baseball field.

Mr. Howard asked if there was ever an occasion where all the fields would be lit at the same time.

Planning Commission Minutes
October 1, 2008

Mr. Horan stated the probability existed but it probably would not happen. Softball would not be used into the spring, baseball would be used both fall and spring, and the football field would be used both fall and spring. He stated they could potentially have all three going at one time.

Mrs. Carlone asked if they were a little behind schedule.

Mr. Horan stated if he had his druthers and they did this correctly, they would have come to the Planning Commission in the spring or early summer.

Mr. Harvey stated this could make the Board's public hearing on the 21st as the ad would be due to the paper tomorrow.

Mrs. Carlone stated she truly believed they should get the airport in. She felt it was important with the airport to get them into this because of their future expansion.

Mr. Harvey stated the Planning Commission could, in its recommendation to the Board, recommend approval and request the applicant provide sufficient information to the Board with regard to the airport's concern or lack of concern with regard to the application.

Mr. Fields asked Mrs. Carlone if she wanted to change her motion to recommend to the Board they approve the CUP with the caveat that they obtain a letter stating the airport authority was aware of this.

Mrs. Carlone stated to put something in writing to the Board that they did not have a concern.

Ms. Kirkman asked for clarification from the Planning Director regarding the ad running tomorrow. She asked if that meant the ad had already been submitted.

Mr. Harvey stated the ad would have to go to the newspaper tomorrow.

Mrs. Carlone withdrew her motion.

Ms. Kirkman consented to the withdrawal.

Mrs. Carlone made a motion to recommend approval to go forward to the Board of Supervisors with the caveat that a letter be provided to the Board from the airport authority. Mr. Di Peppe seconded.

Ms. Kirkman stated she may want to amend that to say airport manager because they were talking about less than three weeks from now and she did not know if the airport authority was meeting between now and then.

Mr. Fields stated the current airport manager works for the authority.

Mrs. Carlone stated she understood but asked if the airport manager had the authority to respond.

Mr. Fields stated he probably had the technical expertise to do that.

Ms. Hornung stated she thought so because they had sent the airport manager letters many times and if there was an impact he would write them. Typically they had not received any letters if there was no impact. She stated she would check on that.

Planning Commission Minutes
October 1, 2008

Mrs. Carlone stated she would change airport authority to manager.

Mr. Di Peppe agreed.

The motion passed 7-0.

UNFINISHED BUSINESS:

10. 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) (History - Deferred at July 2, 2008 Regular Meeting to September 3, 2008 Work Session) (Deferred at September 3, 2008 Work Session to September 17, 2008 Work Session) (Deferred at September 17, 2008 Work Session to October 1, 2008 Work Session)**

11. 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) (History - Deferred at July 2, 2008 Regular Meeting to September 3, 2008 Work Session) (Deferred at September 3, 2008 Work Session to September 17, 2008 Work Session) (Deferred at September 17, 2008 Work Session to October 1, 2008 Work Session)**

Mr. Fields stated they had been over these on several numerous work sessions and moved from the work session to the evening meeting to either be decided or discussed. He asked if there were any questions from Commissioners or comments from staff before they put this on the table.

Mrs. Carlone pointed out on the CUP it still showed the 6 drive-throughs. It was changed to 4 and the carwash was taken out for number 11.

Mr. Harvey stated the agenda still reflected the initial description of the project.

Mr. Hess stated he did have an updated planning application that showed the CUP to allow 4 drive-throughs and it took out the 2 additional drive-throughs and the carwash. He would make sure the conditions reflected the same thing.

Mrs. Carlone made a motion to recommend approval of RC2700647 to the Board of Supervisors. Mr. Mitchell seconded.

Mr. Fields stated he appreciated all the hard work everybody did on this. He felt it was his duty as incumbent to advise the Board that this type of development was a painful transition of a completely automobile-driven stand-alone massive parking lot and it was just not the way to go. He stated they

Planning Commission Minutes
October 1, 2008

could not develop that way anymore. He meant no disrespect to the companies developing the property or the owners of the property or everybody who worked on it. He felt they did the best they could. But in all consciousness, particularly as an advisory recommendation, he simply could not support it. He thought this type of development in this day had long since passed. He stated they could still do a better job to create a type of development that was more congruent with the way people live, move, work and transport in the future. He stated with all due respect to the efforts he would be voting no on it.

The motion passed 5-2 (Mr. Fields and Ms. Kirkman opposed).

Mrs. Carlone made a motion to recommend approval of CUP2700648 to the Board of Supervisors. Mr. Di Peppe seconded. The motion passed 5-2 (Mr. Fields and Ms. Kirkman opposed).

12. Amendment to Zoning Ordinance - Amendment to Section 28-35, Table of Uses and Standards; and Table 3.1, District Uses and Standards, of the Zoning Ordinance, pursuant to O08-68. The amendment establishes density requirements for the A-1, Agricultural and A-2, Rural Residential zoning districts in the same manner that density requirements are to be determined for all other residential districts. The allocated density for the A-1 zoning district would be set at 0.33 dwelling unit per one (1) acre and the allocated density for the A-2 zoning district would be set at 1.0 dwelling unit per one (1) acre. To calculate the 'maximum net density' for a particular parcel, the land owner/developer would be required to apply the formula provided for in Stafford County Code Section 28-38(h) which provides: Subtract the areas of all wetlands, floodplains and slopes greater than thirty-five (35) percent from the gross area of the site to obtain the net area. Multiply the net area of the site by the allocated density to obtain the maximum number of lots permitted for the site. Application of this ordinance could potentially reduce the number of developable residential lots for new developments in the A-1 and A-2 zoning districts where parcels contain significant areas of wetlands, floodplains and/or slopes greater than thirty-five (35) percent grade. **(Deferred at September 3, 2008 Regular Meeting to September 17, 2008 Regular Meeting) (Deferred at September 17, 2008 Work Session to October 1, 2008 Work Session)**

Ms. Kirkman made a motion to recommend adoption of the Allocated Density Ordinance O08-68. Mrs. Carlone seconded.

Ms. Kirkman stated she made the motion to approve because she believed it would improve the zoning ordinance and, in particular, the benefits of the general welfare was that it looked at the total carrying capacity of a particular parcel, which was important, particularly in the agricultural areas.

Mr. Howard stated with the zoning change there would be less buildable area on the parcels. There already existed an A-1 and A-2 zoning district or ordinance that comprehended how the properties should be handled. He stated a zoning ordinance was a law and when ordinances were recommended to the Board of Supervisors, it was done with great responsibility. The changing of a zoning ordinance should only occur when the Commission finds that public necessity, convenience or the absence of good zoning practice existed; none of those issues were prevalent in the issues. He stated the county already had an A-1 and A-2 zoning ordinance whose purpose was to reserve areas for traditional agricultural activity and to provide for the continuation, as well as preservation, of each area's rural character. Additionally, the A-2 zoning district already provided a transition between rural and urban areas in residential areas adjacent to the growth area, which allowed the increased density from A-1 districts where public water or sewer were provided. Amending zoning ordinance 28-35 for the A-1 and A-2 districts was wrong and only served to benefit future developers who would have significant

Planning Commission Minutes
October 1, 2008

leverage over existing Stafford County property owners. He stated that was not a valid reason to not adopt the changes as people would still have land value, just less. The reason to vote no was because the county already had good zoning practice in place for A-1 and A-2 zoning districts and, to change the ordinances for the sake of change only, there was no public necessity and no absence of good zoning practice. He stated there had been no definitive fiscal impact study or assessment on the timing of when this occurred and what it would mean to the county in the long term. He believed that voting yes on the ordinances was wrong.

Mr. Di Peppe stated he did not think that by reducing lot yield the county would be doing anything for the developer. He did not believe it would significantly reduce lot yield. The first obligation of the Commission was to the entire population and he would vote in favor of the ordinance because he felt it was good for the average citizen in the county. He stated in the rural areas there where steep slopes, wetlands and a lot of problems that needed to be addressed which Allocated Density would address. He did not feel this was taking land away from citizens and believed it was necessary and a better zoning ordinance.

Mr. Mitchell stated he could only reiterate what Mr. Howard stated. He did not believe this was the time or place to present the ordinance. He believed that more regulation did not mean good regulation and he would not support the ordinance.

Mr. Di Peppe stated Stafford County had three to five times more high growth density than many other counties in the A-1 area. He understood losing a little bit but also reminded the Commission that a lot of localities in their A districts had one house per every ten to twenty-five acres. He stated in Stafford County there was one house per every three acres or one house per every one acre, with three to five times the density in the A-1 and A-2 districts already.

Ms. Kirkman stated, in addition, ensuring there was adequate caring capacity on a particular parcel of land she believed was a public necessity. This was good zoning practice to make the land use have an allocated density category in the same way the county required of the other land uses and through oversight interpretation this had not already been implemented. She stated this was to correct that and make sure the intention of the allocated density in 28-38 was implemented.

Mr. Howard stated Mr. Mayausky reiterated at the work session how the county assessed tax and it was based on what the Commissioner of Revenue's office believed the land use would be. It did appear the buildable area would be less than what the potential could be today. The county had other zoning ordinances in place that addressed most of the issues that the Commission had brought forward about the A-1 and A-2. He stated it was not good zoning practice just to change the zone so it would look like another zone. That was the reason for different zoning districts, so they did not all look alike.

Mr. Fields stated since 2000 he felt this was the intention that net density provided for a yield on a lot that was appropriate to the capacity and environmentally. He stated that was a protection to the environment but also a protection to the value of the current and future landowners on land that was appropriate, therefore, sustainably developed. He encouraged anybody that had a doubt about the ordinance to drive out to Courthouse Road and Brook Road to look at some of the subdivisions. He reiterated what Mr. Di Peppe stated. The intent was to provide sustainable development and he stated he would support the motion.

The motion to recommend adoption of the Allocated Density Ordinance O08-68 passed 4-3 (Mr. Rhodes, Mr. Mitchell and Mr. Howard opposed).

NEW BUSINESS

13. Recommendations to the Board of Supervisors in consideration of the FY2010-FY2015 Interstate, Primary, and Urban Six-Year Improvement Program (SYIP).

Mr. deLamorton stated the subject of this item was for the Planning Commission to make a recommendation to the Board of Supervisors on the VDOT revision of the Six Year Improvement Program for the interstate, primary and urban systems, known as the SYIP. He stated the revision would be for fiscal year 2010-2015. The Board would then be provided with the Commission's recommendation and would take action on a recommendation to be forwarded to the Secretary of Transportation and VDOT. He stated the purpose of the action was to ensure the county's recommendations were entered into the public record in concert with VDOT's pre-allocation meeting historically conducted in the autumn timeframe. Last years' VDOT meeting regarding the SYIP was held in the Board Chambers on October 30, 2007. He stated the details of the upcoming meeting had not been announced and if the past was any indicator then the notification would be too short to complete that action. He reviewed some background regarding the transportation planning process. He stated VDOT developed two plans each year. One was the SYIP for the interstate, primary and urban highway systems and those with route numbers less than 600. The plan was developed for VDOT Fredericksburg district, which spanned from Stafford County southeast of Gloucester County and included the northern neck. He stated the other plan was known as SSYP, which was for VDOT's secondary system with Stafford County only. The SYIP was developed statewide by VDOT and would ultimately be presented to the Commonwealth Transportation Board (CTB) for approval. The SSYP was developed by local VDOT staff in collaboration with county officials and county staff. He stated the Board of Supervisors would conduct a public hearing before considering the SSYP then present it to the CTB for approval at the same time as the SYIP. The steps toward updating the county's SSYP would start soon and would culminate with the Board of Supervisors' public hearing in spring 2009. The Planning Commission's transportation committee was provided information on the current SYIP, which was for FY2009 to 2014, provided to the full Commission for the meeting this evening. He stated the committee considered recommendations for the upcoming revision to the plan. The current plan contained four key projects in Stafford County. One of the projects was the proposed interstate 95 interchange just south of the existing Courthouse Road interchange, on page 153 of the current SYIP. VDOT estimated the cost of that project at \$185 million and funding was provided for preliminary engineering which was underway by VDOT. He stated right-of-way acquisition and construction were not funded. The Committee recommendation was to encourage VDOT and the CTB to allocate additional and continued funding to this important project. He stated the second project was the widening of Warrenton Road, approximately from interstate 95 northwest to Village Parkway and was on page 165 of the current SYIP. Funding in the current plan would allow for the completion on preliminary engineering which was currently underway, as well as right-of-way acquisition and relocation of utilities. He stated funding for the construction phase of the project was missing. The project had a combination of funding sources, which included federal and local dollars. The Committee recommendation was to encourage VDOT and the CTB to allocate additional and continued funding to this critical project so it could be constructed in the planning horizon of the updated SYIP. He stated the third project was the Falmouth intersection which was fully funded in the SYIP on page 171 of the current SYIP. Preliminary engineering by VDOT on a single pint urban interchange design was underway. The current plan indicated right-of-way acquisition being in FY2012 and construction in FY2015. The Committee recommendation was to encourage VDOT and the CTB to continue to allocate funding to this project to be constructed within the planning horizon of the SYIP. He stated the fourth project was a bridge replacement project on US Route 1 at Aquia Creek which was located just south of the southern intersection of Telegraph Road on page 159 of the current plan. VDOT added the project to the SYIP within the last couple of years due to the deteriorating

Planning Commission Minutes
October 1, 2008

condition and an anticipation of federal bridge monies to allow for the replacement. The Committee recommendation was to retain the project in the SYIP. He stated staff recommended approval of the transportation committee recommendations for the SYIP for FY2010 to FY2015 and staff recommended approval of PCR08-09. He stated if the Commission took action this evening, it would be presented to the Board at the October 21, 2008 meeting.

Ms. Kirkman asked if there were any other projects on the SYIP other than the four Stafford projects mentioned.

Mr. deLamorton stated there was none that he was aware of. In the SYIP document there was a section on secondary budgets which included dollar amounts and traffic signals in the county.

Ms. Kirkman asked if the only thing the Commission was voting on was the four projects Mr. deLamorton reviewed.

Mr. deLamorton stated yes.

Ms. Kirkman stated the description referred to, not only the I95 interchange but also Courthouse Road west and asked if the Commission would vote on that or if it affected Courthouse Road west in any way.

Mr. deLamorton stated no, that would be taken care under the SSYP.

Ms. Kirkman asked what the proposed design was for the new interchange and capacity for it.

Mr. deLamorton stated the CTB approved the location for the interchange when it approved the location for the now Centreport Parkway interchange and the design was a cloverleaf with CD lanes connecting the two interchanges. As VDOT had progressed with preliminary engineering, they were doing traffic studies and one of the recommended options was a complete interchange with directional ramps, no loops or weaves. He stated VDOT had also obtained information pertaining to the question of whether CD lanes were actually required, that the make-up of the Centreport Parkway interchange had changed from the original design. The carrying capacity indicated was twenty to twenty-five years beyond the construction. He stated it was important to note that VDOT committed to getting a footprint for the interchange within the next twelve months.

Ms. Kirkman asked what the interchange would look like with no loops or weaves.

Mr. deLamorton stated there were a couple designs and one option being presented by VDOT was four bridges where the ramps cross at one point of the intersection. Another option was a design that looked more like a circle where all ramps were directional.

Ms. Kirkman asked if a study had been completed on what kind of impact this would have on land use in the area. She stated he was describing a huge interchange.

Mr. deLamorton stated yes. In fact, the designs would shrink the footprint originally approved by the CTB in the 1990's and was an important issue with VDOT and to minimize wetlands to the south of the location. The full circular interchange would be a smaller footprint than a big cloverleaf interchange.

*Planning Commission Minutes
October 1, 2008*

Ms. Kirkman asked by adding the interchange and expanding the capacity of the interchange from what the county already had, what would that do to the land use in the area.

Mr. deLamorton stated in some aspects it would improve transportation and access to those land uses and in other areas it would impact the land uses.

Mr. Di Peppe stated the first week he and Mr. Schwartz were public officials they met with VDOT regarding the Falmouth light and asked if it would be completed by 2015. He asked if there was any idea when they may drive through an improved Falmouth light.

Mr. deLamorton stated the only indication he had referred to the document on page 171 and the date he referred to was the date that construction would begin, which was FY2015.

Mr. Di Peppe asked if that would be completed one or two years from 2015. He stated he knew it would be difficult to build it and allow traffic to pass through it at the same time.

Mr. deLamorton stated maintenance of traffic would be a big issue and would speculate eighteen to twenty-four months for construction.

Mr. Fields asked if there was a timeframe on the resolution.

Mr. deLamorton stated yes.

Mr. Di Peppe made a motion to approve R08-09. Mr. Rhodes seconded.

Ms. Kirkman moved to divide the projects because she supported all the projects but did not feel the Commission was given enough information regarding the Courthouse Road interchange in terms of the impact on land use in the area. She fully supported the other three projects but felt there needed to be a better assessment of what this would do to land use.

Mr. Rhodes asked if that item only had funding for preliminary engineering

Mr. deLamorton stated yes.

Ms. Kirkman stated the resolution read “funding for the construction” and that was her concern.

Mr. deLamorton stated staff meant that construction was used inappropriately in the resolution because construction was an actual phase. Staff’s intention was to move ahead with the project toward construction.

Mr. Fields asked Ms. Kirkman if she felt the interchange was a yes or no, or if the design of the interchange was her concern. He asked her if there was an outcome that she would not support the construction of the new interchange of any type or was it just the design and the relationship to land use.

Ms. Kirkman stated it was particularly the relationship to land use. She had yet to see a study that said the county needed a new interchange based on volumes. She stated the decision should be made based on good land use planning.

*Planning Commission Minutes
October 1, 2008*

Mr. Fields asked if there was a connection in the funding of the Centreport Parkway and the Courthouse interchange.

Mr. deLamorton stated yes.

Mr. Fields asked what the technical obligation was and if there would be a circumstance where Stafford could state that they did not want the interchange and back out of the plan.

Mr. deLamorton stated it would not be prudent to back out of that particular agreement because the federal allocation for the construction of the Centreport Parkway was predicated on that agreement where VDOT would allocate money toward the future Courthouse Road interchange at some appropriate time. The feds notified VDOT that they would like an updated report regarding the Courthouse Road interchange and had threatened to hold back approximately \$40 million allocated toward the Centreport Parkway Project.

Ms. Kirkman stated she was not suggesting backing out. She felt confident after reading the agreement after it was re-negotiated, that the county was only obligated to the extent that it was funded and not obligated to the extent that there was no funding. She stated her concern was giving the full blessing on requesting funding for construction when the Commission did not have basic questions answered.

Mr. Fields asked if any other Commission member had any problems with separating the question from the resolution.

Mr. Rhodes stated there was no need to. The county was early in preliminary engineering and he felt part of the information was needed to make further informed inputs.

Mr. Howard stated without an engineering plan, he was not sure how to understand what the impact would be on the land use.

Mr. Mitchell stated he would rather vote on all four at the same time.

Mr. Di Peppe stated he would like to vote on it as it stood and the Commission would need the engineering to know the impacts.

The motion to approve R08-09 passed 6-0-1 (Ms. Kirkman abstained).

14. SUB220849; Arkendale Estates - Preliminary Subdivision Plan - A preliminary subdivision plan for 132 single-family residential lots on public water and sewer, zoned A-1, Agricultural and B-2, Urban Commercial, consisting of 569.04 acres located at the intersection of Arkendale Road and Brent Point Road on Assessor's Parcels 31-50, 31-95 and 31-97 within the Griffis-Widewater Election District. **(Time Limit: December 24, 2008)**

LeAnn Ennis presented the staff report. She stated the applicant was Arkendale Associates, L.P., the application was received November 4, 2000, and it went to TRC on December 11, 2002. She discussed the site information and showed the location of the property. She provided an aerial view of the site. She stated the minimum lot size was three acres and the zones were split between A-1 and B-2. There was approximately 23 acres designated as conservation and open easements. All lots were served by internal roads with no direct access to Brent Point Road or Arkendale Road. She stated the proposed Widewater Parkway was shown as required on the Comprehensive Plan. Utilities on the property laid in the Urban Service Area (USA) and the site was served by public water and sewer. The

Planning Commission Minutes
October 1, 2008

offsite water and sewer would be coordinated at the construction plan review. She stated if the Comprehensive Plan was adopted and removed the area from the Water and Sewer Master Plan, the applicant would need to modify the preliminary plan to show drainfields and wells through a technical change. A note had been provided regarding a joint permit application to the Virginia Marine Resources Commission (VMRC) that would be required prior to construction plan approval and the perennial flow evaluation report was field checked by staff on March 23, 2006, and concurred with report findings. She stated the requirement for a floodplain study prior to construction plan approval had been noted on the preliminary plan and the RPA had been shown on several lot locations and also had been verified by staff by field delineation. A cemetery was shown lying within its own parcel and it was noted to have proper fencing at the time of construction. She stated the SWM would be maintained through bio-filters located on lots. She stated this project met all county requirements and would answer any questions.

Mr. Di Peppe stated he was not able to locate the cemetery on the plan.

Mrs. Ennis stated it was a flag shaped lot located on Manchester Road labeled parcel and it was next to lot 120.

Mr. Di Peppe asked how much of a buffer was around it.

Mrs. Ennis stated it was on a separate parcel, it was 0.27 acres and fenced.

Ms. Kirkman asked why there was no Traffic Impact Analysis (TIA) as required by chapter 527. She stated this application was not deemed officially submitted until after July 1st and July 1st was when the requirements for that statute became fully implemented in Stafford County.

Mrs. Ennis stated she was not sure if a TIA was completed.

Ms. Kirkman stated she did not see any TIA in the record but as discussed earlier today, many of the papers were removed from the record.

Mr. Harvey stated when the application was initially filed there was no requirement for a TIA. He stated he thought Ms. Kirkman was referring to pursuant the ordinance the application would be deemed complete when all comments were addressed and forwarded to the Planning Commission. He stated the Virginia Administrative Code had a reference to having a completed application and once completed, a traffic study would be sent to VDOT. It may have been a situation where the local subdivision ordinance and Virginia Administrative Code may not have been saying the same thing.

Ms. Kirkman stated last January she spoke with people from VDOT in Richmond and locally and they confirmed that even if an application was in the process and not completed by the implementation date then the Chapter 527 review would be required. She asked if the TIA was completed.

Mr. Harvey stated that was correct.

Ms. Kirkman stated the staff report showed all comments had been met from TRC and asked if that was for the 2002 TRC.

Mrs. Ennis stated yes, those were the comments addressed.

*Planning Commission Minutes
October 1, 2008*

Ms. Kirkman stated there were substantial changes in the zoning and subdivision ordinances in the last six years.

Mrs. Ennis stated the applicant was required to meet all the changes in the ordinances. The applicant was required to change with the Comprehensive Plan, the LID and install bio-filters as well as change with the environmental changes.

Ms. Kirkman asked if there were only three areas of changes.

Mrs. Ennis stated the applicant was required to comply with stormwater management, environmental, utilities with comprehensive plan and Water and Sewer Master Plan.

Ms. Kirkman stated based on the record reviewed today, it looked as though there had not been any work on the stormwater management plan since 2004. She stated there were no review comments after that date.

Mrs. Ennis stated the comments may have been cleared but the LID had changed around that time. She stated all of the comments were addressed.

Ms. Kirkman stated the comments were two and a half years old at this point. On the environmental piece there was new guidance issued from DCR in December 2007 and the last time an environmental planner looked at this was about two and a half years ago and asked if that was correct.

Mrs. Ennis deferred to Amber Forestier.

Amber Forestier, Environmental Planner, stated the site visit was conducted in 2006 and her last review was completed in July or August of 2007 because there were numerous reviews.

Ms. Kirkman asked if that was before the new guidance came out.

Ms. Forestier stated she believed her last review was within a few weeks of the guidance coming out and was unsure as to how to apply it to the plan.

Ms. Kirkman asked if the plan had been reviewed in light of the new guidance issued.

Ms. Forestier stated she looked at the plan earlier that day and there may have been a section that would have required the guidance but that could be required on the construction plans, which had been done on several other projects.

Ms. Kirkman asked Ms. Forestier if there had not been a formal review taking into account the December 2007 guidance.

Ms. Forestier stated she looked at the plans today and there was one section that could possibly require the guidance.

Mrs. Ennis stated the stormwater management was re-reviewed and comments were addressed and approved in 2007.

Ms. Kirkman asked if it was approved with a waiver.

***Planning Commission Minutes
October 1, 2008***

Mrs. Ennis stated there were no waivers.

Ms. Kirkman asked if it was reviewed in 2007, why did the review not show up in the review system.

Mrs. Ennis stated it did show in the system with the approval date in 2007.

Ms. Kirkman stated that was not in the record she received early that day.

Mrs. Ennis stated it was in the computer system.

Ms. Kirkman asked Ms. Forestier about a note on the application that the Army Corps of Engineers (ACOE) review was completed in 1995.

Ms. Forestier stated yes and she asked for a new delineation because it would only last for five years once approved. She stated she had the new jurisdictional determination dated June 8, 2006.

Mr. Di Peppe asked about her concerns regarding one section of the plan.

Ms. Forestier stated her concerns were for lots 128 to 132 and would possibly require that an RPA be placed on it from the non-tidal wetlands guidance. She stated the wetlands followed along the stream.

Mr. Di Peppe asked if it was here now.

Ms. Forestier stated yes and after measuring it the lots were still buildable.

Mrs. Carlone stated the lots were still buildable with RPA and wetlands and there were quite a few lots made up of the RPA and wetlands. She asked Ms. Forestier how many lots may not be buildable because of the RPA and wetlands.

Ms. Forestier stated she was referring to the new RPA required on some lots.

Ms. Kirkman stated the Commission was shown a section that was B-2, which was part of one of the parcels being considered tonight.

Mrs. Ennis stated that was omitted.

Ms. Kirkman stated she was referring to the area 31-97.

Mrs. Ennis stated that area was omitted from this preliminary subdivision plan.

Ms. Kirkman stated she did not think a piece of a parcel could be omitted with the submission of a site plan. The disposition of all the acres in the parcel had to be shown.

Mrs. Ennis stated the applicant labeled that parcel "O" and was not part of the plan.

Ms. Kirkman stated there could not be out lots created.

Mrs. Ennis stated it was residue and could be left as the residue of the parent parcel.

Ms. Kirkman asked if parcel O was the residue of the parent parcel.

*Planning Commission Minutes
October 1, 2008*

Mrs. Ennis stated it was labeled as parcel O but was not included in the preliminary plan.

Rick Lawson, planner with McGuire Woods, stated he had the opportunity to review many of the issues addressed tonight. He was very familiar with the process applicants go through because he was a Planning Director in Prince William County and had forty years experience as a regulatory manager in local government in Northern Virginia. Many of the issues discussed were apparent to him and stated a few things were not mentioned regarding changes the applicant was asked to make. He stated staff was advised that in 2002, since public water and sewer was not available and did not appear to be available in the foreseeable future, the applicant was directed to design the plan showing well and septic. In 2003, after a review from the county, it was determined that it was in the USA and the applicant was asked to redesign the project showing public water and sewer. It was difficult in the absence of the master sewer plan that showed where the connection should be made to give the applicant guidance on how to make those connections. He stated there were several months and years of discussion and ultimately recommended and advised the applicant eliminate three lots and show and build a pump station on their site where it would be connected to the public sewer system. The applicant complied and ultimately showed in the Comprehensive Plan that there was a preferable location and inappropriate to the one shown on the applicant's plan. He stated it would be shown on the adjacent property and the applicant was asked to remove the pump station, revise the plans and re-submit them to the county. There was a request from staff that the applicant design the roads using the LID criteria and the applicant complied. The plans showing the LID criteria were submitted to VDOT which stated they could not approve the roads and the applicant would need to redesign the roads according to VDOT criteria and re-submit and the applicant complied. He stated there was one delay on the environmental review when the perennial stream flow determination was submitted in 2006 and the initial review was not completed until 2006. The applicant was significantly disadvantaged by that type of delay and each time there was a revision needed the applicant acted in good faith to meet every request from the county on every regulatory change, including the Stormwater Management 2007 LID updates. He became involved a couple weeks ago and reviewed the entire application with the applicant and engineer and met with staff to go through each item and discuss the history of the project. He stated the applicant asked what they could do to move the project along and received a short list of updates needed. The list included removing the pump station from the plan and work diligently over the next ten days to get the plans revised for the final time and re-submitted to staff. He stated he now felt that the plan was compliant with all the county codes and regulations that the applicant was asked to address. One of the reasons for urgency to get the plan approved was the wetlands study completed in 2003 would expire soon and if it were necessary to complete again, it could cost the applicant an estimated \$150,000. There were other revisions and expenses that the applicant had already incurred and could anticipate other engineering costs and expenses. He stated the applicant would ask for the Commissions' favorable action on the plan and would answer any questions.

Mr. Howard stated he did not have the TIA and asked where the vehicles per day shown on the plan came from.

Mr. Lawson stated it was ten trips per day according to VDOT requirements per lot.

Mr. Howard asked if it was a standard VDOT requirement.

Mr. Lawson stated yes and there was not a traffic impact study.

Ms. Kirkman stated one of the difficulties in preparing for the meeting was the records in the county were slim for this project and she was shocked to not have as much information in the file as she

Planning Commission Minutes
October 1, 2008

expected. She was dumbfounded that an application that was six years old was now coming before the Commission and did not understand how it could take two years to get an environmental review completed. She stated there were periods in the six years where it seemed the applicant delayed the planning process.

Mr. Lawson stated there were times where substantial costs were involved and was incumbent on the applicant to look at the financial implications.

Ms. Kirkman stated she would like to make a motion to return the application to the applicant as incomplete because it did not have the Chapter 527 TIA which became required for all projects of this nature July 1, 2008.

Ms. Roberts stated without going through the file and looking at the date there seemed to be some conflicting information about when the application was completed. She would not be able to answer the question whether the applicant did or did not meet that requirement.

Ms. Kirkman made a motion to defer to the November 6, 2008 work session. Mrs. Carlone seconded. The motion passed 5-2 (Mr. Mitchell and Mr. Howard opposed).

Ms. Kirkman asked staff or the applicant to compile the zoning and subdivision changes that had been since the time of the original TRC review and how those changes had been met by this application.

Mr. Fields asked if there was anything pressing for the Planning Director's or County Attorney's report that would need to be discussed tonight.

Mr. Harvey stated he only had a handout for the Commissioners.

Mr. Di Peppe stated items for the Ordinance Committee did not have to be discussed tonight as the meeting was quickly approaching the eleven o'clock hour.

15. SUB2700206; Sycamore Hills - Preliminary Subdivision Plan - A preliminary subdivision plan for 30 single family residential lots zoned A-2, Rural Residential, consisting of 186.41 acres located on the north side of Raven Road approximately 4,500 feet south-east of Brooke Road on Assessor's Parcels 48-1 and 49-27 within the Aquia Election District. **(Time Limit: December 24, 2008)**

Brenda Schulte presented the staff report. She stated the applicant was Kamel Tabbara, Stafford Lakes L.P., the date of application was March 30, 2007, and the TRC date was April 25, 2007. She discussed the site information and showed the location of the property. She provided an aerial view of the site. She stated the project area was 118.96 acres and the minimum lot size was one acre. The approximate 21.83 acres designated open space parcels and the impervious surface ratio was 6.2 percent. The site was served by well and septic and the Health Department re-reviewed after passage of O08-05, O08-06 and O08-07. She stated the Health Department approved the subdivision July 22, 2008. Access to the proposed subdivision was from Raven Road and an ingress/egress easement was recorded for access to Assessor's Parcel 39-127A. The perennial flow study was conducted by Williamsburg Environmental in March 2007 and staff concurred with the results of the perennial flow determination after a site visit was conducted on April 20, 2007. She stated wetlands were confirmed by the Army Corps of Engineers on May 21, 2007, and all CRPA areas would remain undisturbed. Small whorled begonia was identified and located in the proposed open space area during the survey. She stated staff believed the Plan met the minimum standards and was ready for the Planning Commission's consideration.

*Planning Commission Minutes
October 1, 2008*

Ms. Kirkman stated the application was not deemed officially submitted until after July 1, 2008, which was when Chapter 527 became fully implemented in Stafford County. She asked if a TIA required by Chapter 527 had been completed.

Mrs. Schulte stated no.

Ms. Kirkman stated she knew VDOT reviewed the plan and asked if VDOT certified the bridge on Raven Road was safe to carry traffic.

Mrs. Schulte stated she did not believe VDOT reviewed that and made no comments to that.

Ms. Kirkman stated she had some concerns regarding the location of the subdivision entrance in relationship to the entrance to Crow's Nest Harbor and asked if staff reviewed that.

Mrs. Schulte stated staff reviewed that and there was a comment addressed from the engineering department of Transportation. To access that would have been an issue for site distance because the road curved after the Crow's Nest Harbor entrances or proposed platted entrances were located. She stated it was a better site up toward the intersection by the open space parcel and originally the lots were not positioned the way they were shown on the plans.

Ms. Kirkman stated VDOT standards required a minimum separation distance between subdivision entrances and asked if the minimum distances had been met with this plan.

Mrs. Schulte stated yes they had as well as site distance had been met for easements that were required and shown on the plan.

Ms. Kirkman stated in terms of the ingress/egress easement it was a private access easement and would require a separate application and approval by the Planning Commission. She asked if there was an application for that.

Mrs. Schulte stated no, this application was to access an existing property. She stated the applicant would move an existing area and road that was currently being accessed by the property behind the open space.

Ms. Kirkman asked if there was currently a private access easement.

Mrs. Schulte stated no, the existing road had been used for more than twenty years to access the property because the property was land locked.

Ms. Kirkman stated this was a new private access easement and she thought there was a separate process for that.

Mr. Harvey stated yes. The private access easement standards were applied when subdividing property. He stated it did not speak to providing access to existing lots.

Ms. Kirkman stated parcel 49-27 had two lots that were not contiguous on the plan and asked the disposition of those lots.

Mrs. Schulte stated one lot was for a sign easement for Crow's Nest Harbor and the other lot was another parcel and was not sure of the intended use.

*Planning Commission Minutes
October 1, 2008*

Ms. Kirkman stated it was her understanding that everything in a lot was to be disposed of and she would need to know what would happen with those lots. She stated parcel 48-1 had a huge amount of acreage and asked if Mr. Harvey was able to clarify what the subdivision process was for that parcel.

Mr. Harvey stated no.

Ms. Kirkman stated the issue was there appeared to have been a subdivision made of parcel 48-1 without any application for a subdivision plan, which was how it got 48, 48-1a, 48-1b and 48-1c. She stated that was relevant for this application because if it had not been properly subdivided, the Commission would need to know the disposition of the acreage.

Mrs. Schulte stated she did not have that information at this time.

Mr. Fields asked if the applicant would like to present anything.

Debrae Karnes of Leming and Healy stated she was representing the applicant. She stated there were representatives of the archaeological firm, AOSE, environmental and the engineer who could answer any questions the Commission may have had. She stated she believed the application met all standards as reported by staff.

Mr. Fields asked how Ms. Karnes would address the current Chapter 527 issue.

Ms. Karnes stated she did not believe this would come under the 527 requirements. VDOT did not flag it in their comments and they were flagging 527 requirements at the time the letters were written for other projects.

Mr. Fields asked about the parcel 48-1 and how they would become separate parcels without a record of the subdivision.

Ms. Karnes stated she did not have an answer and if the engineer did not have an answer, she would find out.

Terry Yates of Dewberry stated he represented the applicant. He stated the remainder of parcels 48-1 and 49-27 would be consolidated to parcel 49-27.

Ms. Kirkman stated she understood the plan was to consolidate the lot lines for two parts of 48-1 and 49-27. There were other parts to 49-27 and possibly other parts to 48-1 and she had not received an answer to the disposition of those parts of the lots.

Mr. Yates stated one portion would remain as open space. He stated behind lot one was part of parcel 48-1 and would become open space.

Ms. Kirkman stated there were parts of 49-27 that were nowhere near the parcel being subdivided and would need to see the disposition on those.

Mr. Yates stated those lots were platted residential lots that could support a single family dwelling. They would need to be parceled out and change the tax map to be recordable and buildable.

*Planning Commission Minutes
October 1, 2008*

Mr. Harvey stated those were existing lots with the same tax map and parcel number for tax billing purposes. Often times when someone owned more than one parcel they could consolidate their tax bill. He stated he could verify that with the Commissioner of Revenue's office.

Ms. Kirkman stated if that was the case there would be separate deeds.

Mr. Howard asked Mr. Harvey if staff had a copy of 527 so the Commission could understand why the applicant did not believe that the TIA was required.

Mr. Harvey stated he could provide copies of the regulations to the Commission.

Mr. Howard stated there were thresholds which he believed was 1,000 vehicle trips per day or 500 per peak hour. He stated a project of this size would not meet the 1,000 vehicles trips per day threshold.

Ms. Kirkman stated she had the regulations with her and on subdivision projects the regulation was "(c) proposal generates more than 200 daily vehicles trip on a state controlled highway", which this project generated 300 and "more than doubles the daily traffic volume the highway presently carries", and by the latest VDOT county this highway more than carried 45 vehicles trips per day and clearly more than doubled that.

Mr. Howard asked the applicant what went wrong as to why that was not a part of the preliminary plan.

Ms. Karnes stated it was her understanding that 527 did not apply and would not apply to applications completed before July 1, 2008.

Mr. Howard stated the Commission was told that the application was completed after July 1, 2008.

Mr. Harvey stated for the purposes of the subdivision ordinance, staff had a complete application at the time it was presented to the Planning Commission. He stated 527 stated upon submission of a complete application, the information would be conveyed to VDOT and they would review it.

Mr. Fields asked if there was any traffic analysis completed for the surrounding area.

Mr. Yates stated the applicant tallied the traffic in the subdivision and on Raven Road. He stated the applicant had not completed a TIA that would meet VDOT standards.

Ms. Karnes stated the plan was reviewed twice by VDOT and the last review with a letter documenting it was on October 25, 2007. She stated there were improvements to Raven Road.

Mr. Yates stated he wanted to explain the disposition of parcel 49-27 and 48-1. The parcels were consolidated but the 48-1 he was referencing was the wrong number. He stated the remainder of 49-27 would be consolidated with 49-24d at the time of plat.

Ms. Kirkman stated there were large amounts of acreage on 48-1 south of Raven Road and this did not address that area.

Mr. Yates stated it was meant to imply that 48-1 was associated with Sycamore Hills and this parcel would be consolidated with that.

Planning Commission Minutes
October 1, 2008

Ms. Kirkman stated she understood that.

Mr. Mitchell made a motion to approve SUB2700206. Mr. Rhodes seconded.

Mr. Mitchell stated there was a difference of opinion in county regulations versus the state regulations and did not think that was an issue that should hold the application up.

Mr. Howard asked if Mr. Mitchell would entertain a substitute motion to defer until the November 6, 2008 work session to address the Chapter 527 issues regarding the traffic impact.

Ms. Kirkman made a substitute motion to defer to the November 6, 2008 work session. Mr. Di Peppe seconded.

Mr. Mitchell stated in Mr. Howard's statement, he offered that Mr. Mitchell make a friendly amendment and asked if it was too late to present that.

Mr. Fields stated there was a substitute motion that needed to be addressed first.

Ms. Kirkman stated she made the motion for the following reasons: the 527 issue needed to be cleared up, to clear up the issues of disposition for the remaining parcels, to figure out whether something was required on the private access easement and she understood that the regular engineers at VDOT reviewed the plan. She stated the bridge on Raven Road had a sufficiency rating of seventeen. Bridges with a sufficiency rating of fifty should be replaced. There was already a weight limitation on the bridge and in terms of general safety and welfare she would want to see a letter from the bridge engineer at VDOT showing the bridge could maintain both the anticipated residential traffic, but it could also sustain the heavy weight of the construction equipment for the subdivision. She stated that was the only point of access.

Mr. Mitchell stated he would like to get a ruling from legal counsel on the two variances of the regulations regarding the 527.

Ms. Roberts stated she would be looking into that to discuss with the Commission.

The substitute motion to defer this item passed 6-1 (Mr. Mitchell opposed).

Mr. Fields stated the Ordinance Committee items had been deferred to the November 6, 2008 work session.

Mr. Di Peppe stated after speaking with Mr. Stepowany, the items for the work session could be carried over to the November 6, 2008 meeting.

Mr. Howard stated according to Robert's Rule, when a Commissioner abstains from a vote that Commissioner would be required to give a reason for abstention that has to be part of the record. He stated there was a vote earlier where that occurred and in order to be compliant, the Commission should be sure the reason was given before the end of the meeting.

Ms. Roberts stated that was correct and took Ms. Kirkman's statement as her reason for abstention.

Mr. Howard asked if Ms. Kirkman would like her statement for the record or if she would like to say something different.

***Planning Commission Minutes
October 1, 2008***

Ms. Kirkman stated if a Commissioner was going to make a point of order, it would need to be at the time of occurrence of the incident. She stated although she was under no obligation to respond to Mr. Howard's request, she would be more than happy to officially state the reason for her abstention. She stated she abstained because she disagreed with the Courthouse project and putting in a vote of support for increased funding when the Commission did not know what the land use consequences were. She stated she did not want to hold up in any way or express a lack of support for the remaining three projects, and had the question been divided she would have been able to vote on both.

MINUTES

April 16, 2008 Work Session

April 16, 2008 Regular Meeting

May 7, 2008 Work Session

May 7, 2008 Regular Meeting

May 21, 2008 Work Session

May 21, 2008 Regular Meeting

Mr. Mitchell made a motion to approve the minutes as a whole as presented. Mr. Di Peppe seconded.

Ms. Kirkman abstained from the vote for the following reason: she could not locate the minutes until late this evening and did not have time to review them.

The motion to approve the minutes as presented passed 6-0-1 (Ms. Kirkman abstained).

Mr. Rhodes asked if staff could gather information for two areas. He articulated in the last session that one area would be the use of the word "shall" in portions of the Comprehensive Plan. While it was a guiding document, it did not necessarily have to be complied with. He asked if staff could get some indication from other Comprehensive Plans as to preponderance or not as to the use of the word "shall". He also asked if the Commission could get legal consideration as to any liability that might open the Commission to choose not to follow the zoning ordinance when using such a definitive term. He stated the second area to get helpful information when going into that review for the public hearing dealt with the transportation portion of the Comprehensive impact fee.

Mr. Fields stated there was a planner, Connie B. Cooper, who wrote a book pertaining to Transportation Impact Fees nationwide. He stated that may be a valuable resource for staff and the Commission.

PLANNING DIRECTOR'S REPORT

COUNTY ATTORNEY'S REPORT

SECRETARY'S REPORT

STANDING COMMITTEE REPORTS

Planning Commission Minutes
October 1, 2008

SPECIAL COMMITTEE REPORTS

CHAIRMAN'S REPORT

ADJOURNMENT

With no further business the meeting was adjourned at 11:30 p.m.

Peter Fields, Chairman
Planning Commission