

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
November 6, 2008

The work session of the Stafford County Planning Commission of Wednesday, November 6, 2008, was called to order at 5:36 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

Members Absent:

Staff Present: Harvey, Roberts, Stinnette, Zuraf, Stepowany, Hornung, Schulte, Schultis, Hess and Ennis

Declarations of Disqualification

NEW BUSINESS

None

UNFINISHED BUSINESS:

1. 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) (History - Deferred at October 1, 2008 Regular Meeting to November 6, 2008 Work Session)**

Ms. Kirkman made a motion to defer Arkendale Estates until the December 17, 2008 work session.

Mr. Di Peppe seconded the motion.

Mr. Rhodes asked if there was anyone to speak on behalf of the applicant.

Rick Lawson, McGuire Woods, stated the applicant requested a deferral to December 17, 2008. He stated December 17, 2008 may be a little early but the applicant was working with staff to try to sort out the implications of the Potomac Overlay District as well as the repeal of the Water/Sewer Master Plan. He stated the best the applicant could do on December 1, 2008 would be to provide an update to the Commission.

Ms. Kirkman stated the Chairman did not do item C on the agenda, Declarations and Disqualifications. She asked to go back and do that portion of the agenda.

Mr. Fields asked if there were any Declarations or Disqualifications.

Ms. Kirkman stated she had two (2) disclosures to make to the Commission. She stated the first was that Mr. Lawson contacted her today and discussed both the deferral and the motion of possibly doing more planning regarding this area. She stated the second disclosure was that she was a member of Save Crow's Nest and owned property that was in proximity to the proposed Sycamore Hills Preliminary Subdivision Plan. She stated she obtained an opinion from the Commonwealth's Attorney that advised that she did not

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have a conflict of interest and would participate in the discussion and decisions regarding that subdivision plan. She stated in reference to item 1, she spoke with Mr. Lawson early regarding the deferral and his original request, which was for an indefinite deferral. She advised Mr. Lawson that she could not support an indefinite deferral and would like this item to come back within the timeframe of ninety (90) days, which was required by the subdivision ordinance. She requested that the Commission schedule a closed session with the Attorney's to get legal advice on this application, at the next meeting.

Mr. Fields stated he felt the Commission and applicant were working toward the goal of trying to resolve the issues.

Mrs. Carlone arrived at 5:40 P.M.

Mr. Lawson stated he understood the concerns from the Commission of an indefinite deferral. He stated the applicant would be working with staff to sort through the application of the ordinance.

Mr. Mitchell arrived at 5:41 P.M.

Mr. Fields asked for the motion to be reiterated for the Commissioners that just arrived.

Ms. Kirkman stated her motion was to defer SUB220849, Arkendale Estates, Preliminary Subdivision Plan to the December 17, 2008 work session.

Mr. Di Peppe seconded.

The motion passed 5-1 (Mr. Mitchell opposed) (Mr. Howard absent).

2. 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) (History - Deferred at October 1, 2008 Regular Meeting to November 6, 2008 Work Session)**

Mr. Fields asked if this plan was in the same situation as item one (1).

Mr. Harvey stated the applicant requested a deferral.

Mr. Fields asked if the applicant requested an indefinite deferral.

Mr. Harvey stated the letter did not specify a specific date and a representative for the applicant was available to answer any questions.

Mr. Fields stated he would hear from the applicant and the Commission would be willing to work with the applicant.

Debrae Karnes, Leming and Healy, stated the engineers were working on a revised plan and the update was requested in order to give the engineers time to complete the plans. She stated the applicant had no problem with the Commission setting a date.

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Mr. Fields asked if there were any questions for the applicant or staff.

Ms. Kirkman stated the time limit of the item was December 24, 2008 and in order to give the applicant the maximum time to complete the plan and allow the Commission time to review the plan before that timeline expired, she asked if the applicant would have any problems with sending this item to the work session on December 17, 2008.

Ms. Karnes stated there were no objections.

Mr. Mitchell made a motion to defer SUB2700206 until the December 17, 2008 work session.

Mr. Di Peppe seconded.

The motion passed 6-0 (Mr. Howard absent)

3. Adoption of the Comprehensive Plan - A proposal to adopt the Stafford County Comprehensive Plan in accordance with Section 15.2-2223 of the Code of Virginia (1950), as amended. The Comprehensive Plan serves as a framework to guide coordinated and harmonious development of the County, in accordance with present and probable future needs and resources, and best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities. The plan consists of background data; goals, objectives and policies; land use policies and map; the costs of growth and development; and data projections and subsequent needs of the County. This proposal would include adoption of a Land Use Plan map, dated September 24, 2008. The proposal would also repeal the current Land Use Plan component of the Comprehensive Plan, including the text dated February 2003, and Land Use Plan map dated February 13, 2003, last revised August 19, 2008. **(History - Deferred at October 15, 2008 Regular Meeting to November 6, 2008 Work Session)**

Mr. Fields stated staff was asked to work on the plan the there were nine (9) revisions listed in the materials provided to the Commission. He stated the Commission and staff would go one by one through the revisions.

Mr. Zuraf stated this item was deferred at the October 15, 2008 public hearing and at that meeting there were several revisions requested by the Commission. He stated staff provided a package to the Commission, which reference the nine revisions the Commission requested. He stated staff also provided additional information with updated previsions information for the Commission. He stated information was provided to the Commission regarding the comments from Quantico. He stated revision one (1) was a correction with the acknowledgements to identify Mr. Rhodes as the Vice-Chairman of the Steering Committee and specify dates of the Steering Committee and the Planning Commission Sub-Committee by when they were in action.

Mr. Fields asked if this revision was in accordance with what the Commission was looking for. He stated each of the revisions would be voted on separately to get through them quickly and smoothly.

Mr. Di Peppe made a motion to accept revision one (1). Mr. Mitchell seconded. The motion passed 6-0 (Mr. Howard absent).

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Mr. Zuraf stated Revision two (2) was within goals one and two of the Comprehensive Plan and go through page thirteen (13) to twenty-five (25), there was a request to revise some of the objective and policy terminology. He stated some of the language used the term “shall” and there was a concern that it made the plan to rigid and limited flexibility. He stated this was a recommendation to change the terminology of “shall” to “should”. He stated staff provided the entire section of the Comprehensive Plan of Goals one (1) and two (2) that showed the proposed changes.

Mrs. Carlone stated she thought the Commission had already decided to make this definitive and “should” was not definitive.

Mr. Rhodes stated there was further discussion about this document being a general guide and could build ordinances around and the word “shall” was too prescriptive to be consistent. He stated the Commission also received advice from legal council that it could pose problems with potential and future litigation.

Mr. Di Peppe asked to hear from the attorney again.

Mrs. Roberts stated that it was just a potential and there was no case law shown where I had happened. She stated the Comprehensive Plan was a guide and that would be brought up in court, but any judge could hang on a definitive word.

Mr. Di Peppe stated these were the kind of recommendations as the Commission moved forward that they would like to see done. He stated he was in favor of the stronger wording in the word “shall”.

Mr. Rhodes made a motion to adopt revision two (2), replacing the word “shall” with “should”.

Mr. Mitchell seconded.

Ms. Kirkman stated she would oppose the motion because as she stated before in previous discussion regarding this matter, “should” was a weasel word and created so much wiggle room that we could wiggle right out of the intent of the Comprehensive Plan.

Mr. Rhodes stated if should was a weasel word and would continue with the word shall, the county would be stating that the Comprehensive Plan was actually the direction. He stated the Comprehensive Plan was not the direction; for the same reason that “shall” would be acceptable on the Comprehensive Plan because it was general guidance, the word “should” would be acceptable because it was general guidance. He stated this would set up language that was not consistent with the intent and purpose of the Comprehensive Plan, which was to provide broad and general guidance associated in directing the Zoning Ordinances.

Mrs. Carlone stated she opposed the motion.

Mr. Di Peppe stated he also opposed the motion and thought the Commission would need to give direct guidance as to what they want to happen. He stated he wanted strong wording for the plan.

Mr. Rhodes asked about knowledge of other Comprehensive Plan in other counties who were using the language strongly and consistently though out the plan. He stated maybe the reason it was not precedence because it was not pervasive in all the other Comprehensive Plans.

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Mr. Mitchell stated he would support the motion and felt it could be restrictive. He stated it was a guide and was not perfect.

Mr. Rhodes stated there were areas in the Plan that stated, "There shall not be road improvements outside of the USA before all that were necessary were made inside of the USA". He asked how to define "all that were necessary" or define "until all lots were developed". He stated there inconsistent terms that drove themselves to be more consistent then "should or "shall". He stated he did not feel it was appropriate to be so restrictive.

Ms. Kirkman stated regarding the roads, there was a General Assembly Legislation that did direct the Commission as part of the Urban Development Areas (UDA) to prioritize infrastructure improvements for those areas and asked Mr. Harvey if that was correct.

Mr. Harvey stated the UDA legislation said that you shall provide incentives for development to locate in your UDA. He stated the incentives could be a wide variety of things in which the county could choose. He stated by making those higher priority areas for infrastructure, it would provide an incentive.

Mr. Fields stated if the Comprehensive Plan was a guideline and respected the argument of replacing "shall with "should", however, he did not feel that "shall" in a Comprehensive Plan was over regulating.

The motion to replace the word "shall" with "should" failed 2-4 (Mr. Fields, Ms. Kirkman, Mrs. Carlone and Mr. Di Peppe opposed) (Mr. Howard absent).

Mr. Rhodes asked how the Commission could define things, for example on one four five (145) on page nineteen (19) of the Comprehensive Plan "road project that increase in volume capacity shall not be funded until all other transportation needs with the USA have been met" and asked how the Commission would know when all the transportation needs had been met. He stated there were many items in the Comprehensive Plan that were similar and would allow for flexibility. He asked how the Commission could define when all needs were met.

Mr. Di Peppe stated he did not want to go across that board and change all the words "shall" to "should". He stated he would not mind going through and listening to arguments for specific cases of the use of "shall" and "should".

Ms. Kirkman stated as a point of information, she remembered on the Board of Zoning Appeals (BZA) there was a compelling Supreme Court ruling from the State of Virginia that the Comprehensive Plan was a guidance document and was not a binding document.

Mr. Fields moved to revision three (3).

Mr. Zuraf stated revision three (3) was a replacement of terminology in Objective 5.3, to replace the term handicap with disabled. He stated it was in response to a comment from Mr. Lawrence with the Disability Resource Center (DRS).

Ms. Kirkman made a motion to replace the term handicap with disabled.

Mr. Carlone seconded the motion.

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Ms. Kirkman stated it was nice to see that he took such an interest in the Comprehensive Plan.

Mr. Di Peppe stated Mr. Lawrence spoke at the Commission meetings from time to time and was a worthy advocate for the disabled community and we were fortunate to have him in the Stafford and Fredericksburg area.

The motion to replace the term handicap with disabled passed 6-0 (Mr. Howard was absent).

Mr. Zuraf stated Revision four (4) on Page 56, in the Land Use Chapter, under Agricultural Land Use Designation, there were changes to clarify that the district permitted a minimum lot size of at least three (3) acres and was consistent with language stated elsewhere in the plan.

Mr. Di Peppe made a motion to change the language to clarify the district permitted a minimum lot size of at least three (3) acres and was consistent with language stated elsewhere in the plan.

Mrs. Carlone seconded.

The motion passed 5-1 (Mr. Mitchell opposed) (Mr. Howard absent).

Mr. Zuraf discussed Revision five (5) and stated this was also in Chapter 3, Pages 56 and 57, this was under the Park Land Use Designation, there was language added to clarify the use of land in the designation within and adjacent to the Park Designation on the Land Use Map. He stated the changes were on Page 56, "areas adjacent to designated for parks" and on Page 57 toward the end of the paragraph staff added language that stated "although recreational facilities with higher water and sewer demand shall be located within the USA" and the new sentence added was " Residential development shall be limited and Commercial uses shall be consistent with those supporting Eco and Recreational tourism, all land uses shall be designed to minimize impact on natural resources".

Ms. Kirkman stated on page 56, she had suggested the language areas to assert "adjacent to or designated to parks". She stated the reason for requesting the change, on the Crow's Nest Peninsula and the lower half of the Widewater Peninsula as feature land use, there were some parcels designated as park that were currently not parks. He stated it the language was left to what she previously referenced and asked if that would include those parcels because they were designated for future park use or would the Commission have to classify the adjacent parcels too.

Mrs. Roberts stated as pointed out previously, the Comprehensive Plan was a guide.

Ms. Kirkman made a motion not to adopt the change on page 56 and that the Commission did adopt the change to page 57.

Mr. Fields asked if the motion was to strike through "adjacent to or" and keep the additional language.

Ms. Kirkman stated that was correct.

Mr. Di Peppe seconded the motion.

Mr. Fields stated it was important to understand that area discussed was in the Comprehensive Plan and not Zoning Districts.

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Mr. Rhodes asked how the change would read on page 56.

Mr. Fields stated it would read “areas designated for parks and recreation facilities or resource conservation that serve residents countywide or within sub areas of the county”. He stated that was the definition of Park. He stated the “adjacent to or” was removed from the following “areas adjacent to or designated for parks and recreation facilities or resource conservation that serve residents countywide or within sub areas of the county”.

Ms. Kirkman stated the Commission would go back to the original suggested language.

The motion passed 6-0 (Mr. Howard absent).

Mr. Zuraf discussed Revision six (6) and stated this was an issue raised regarding the Land Use Map. He stated the Commission wanted to reconsider future Land Use Designation and Urban Service Area (USA) limits that were being recommended in an area on the north side of Warrenton Road near Holly Corner Road. He stated at the previous meeting the Commission voted to revise a map to expand the USA limits to include several properties that front on Warrenton Road. He stated within the expanded USA, the future Land Use Designation were M-1, Light Industrial and A-1, Agricultural, although the current zoning was M-1, Light Industrial and A-2, Rural Residential. He showed a photo of the affected area and within that area, the Land Use recommendation included Light Industrial and the remainder was Agriculture. He showed that zoning of the land in the area in question in a slide presentation.

Ms. Kirkman asked what staff was suggesting the land use was.

Mr. Zuraf stated the suggested land use as it was changed was M-1, Light Industrial and Agricultural across the rest. He stated at that time only the USA was changed and the underlying land use was not changed to be consistent with the parameters with the rest of the county.

Ms. Kirkman asked what the current area was on the future Land Use Map.

Mr. Zuraf showed her the future Land Use on the map.

Ms. Kirkman stated the guiding principle was, inside the USA with the exception of the middle section of the county along the Route 1 and Interstate 95 corridor, was that parcels within the USA’s future land use would be their current zoning. She stated the proposed revision would make the small parcels consistent with how the county applied that principle to the USA. She made a motion to adopt revision six (6).

Mrs. Carlone seconded.

The motion to adopt revision six (6) passed 6-0 (Mr. Howard was absent).

Mr. Zuraf discussed revision seven (7) and stated there were several changes to the Comprehensive Plan that pertained to Comprehensive Impact Fees, specifically, policy 2.7.2, page 25, section 4.3.3, under Chapter 4 pages 77 and 80, these changes would add language that would clarify the provision of deferring the cost of public facilities as recommended under the current State Code that existed or any future bills that were to be adopted. He stated the current State Code provision would expire at the end of the year and would have allowed Urban Transportation Service District’s (UTSD) and Comprehensive

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Impact Fees. He stated this change would keep this open as a future option, should it be re-authorized by the state.

Ms. Kirkman made a motion to adopt revision seven (7).

Mr. Di Peppe seconded the motion.

Mr. Rhodes asked if it stated that the county would use the methodology in the Plan or that the county would collect Comprehensive Impact Fees under a different methodology.

Mr. Zuraf stated the plan had to be specific to the current State Code and if any future legislation changes that required any type of parameters, there would likely be a Comprehensive Plan amendment to follow the changes.

The motion to adopt revision seven (7) passed 4-2 (Mr. Rhodes and Mr. Mitchell opposed) (Mr. Howard absent).

Mr. Zuraf discussed revision eight (8) and stated within the Existing Conditions, Chapter 5, Section 5.9.2 discussed water resources on page 163. He stated there were some minor revisions provided that updated the levels of impervious cover that impact streams and water quality. He stated the update was based on the latest standards.

Mr. Di Peppe made a motion to adopt revision eight (8).

Ms. Kirkman seconded the motion.

The motion to adopt revision eight (8) passed 6-0 (Mr. Howard was absent).

Ms. Kirkman stated Revision nine (9) had three separate parts and asked if each part could be discussed and voted on separately.

Mr. Fields stated he had no objection.

Mr. Zuraf stated he would give a brief background of Revision nine (9). He stated staff reviewed and identified three (3) errors that were present which occurred during the latest revision of the Land Use Map. He stated at the September 24, 2008 meeting the Commission voted to amend the future land use recommendations outside of the USA to designate Commercial and Industrial land use where such land was already zoned. He stated when that happened it covered land that was previously designated Institutional and Rural Commercial. He stated it was staff's intent to maintain the Institutional land use designation and Rural Commercial land use on the map. He showed the changes on the map to the Commission. He stated the first revision was in the Westlake area, the map revised several properties within the Westlake project which was land that was zoned M-1, and revised to designate those areas as Light Industrial. He stated within that area on the proposed revisions there was land that was publicly, owned by Mary Washington College and there was a portion that was not publicly owned but under the Westlake rezoning, a portion of the property was proffered for public school sites.

Ms. Kirkman clarified the information provided.

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Mrs. Carlone made a motion to adopt Revision nine (9) part one (1).

Ms. Kirkman seconded the motion

The motion to adopt Revision nine (9) part one (1) passed 6-0 (Mr. Howard was absent).

Mr. Zuraf discussed Revision nine (9) part two (2) and the colored area on the map. He stated the gray area was Quantico and showed the Commission the location of Garrisonville Road and Lake Arrowhead Subdivision. He stated when the change was made, the properties in light pink on the map, would be recommended under the future plan for B-1, Convenience Commercial. He stated those properties were specifically designated RC, Rural Commercial when the map was originally drafted; staff asked if the Commission if they wanted to consider retaining that rural designation. He stated there were five (5) locations where Rural Commercial was recommended thought out the county and this was one of the areas. He stated that land was currently zoned B-1, Convenience Commercial, the proposal would change the designation from B-1, Convenience Commercial to RC, Rural Commercial.

Mr. Fields asked staff to describe the difference between B-1, Convenience Commercial and RC, Rural Commercial.

Mr. Zuraf stated there was not a major difference; they would be low intensity convenience retail uses and may allow offices as well.

Ms. Kirkman stated she would like to double check the table of uses to get a better understanding of the differences between the two (2) designations.

Mr. Fields asked if they were currently zoned B-1, Convenience Commercial.

Mr. Zuraf stated yes.

Ms. Kirkman asked if staff was proposing a future land use of RC, Rural Commercial.

Mr. Zuraf stated yes, there were specific areas designated different than what the zoning was.

Mr. Fields asked if the Commission went to RC, Rural Commercial, which was slightly less intense, would they restrict the use of the underlying zoning. He stated there may be a conflict in the intent of the Comprehensive Plan and the underlying zoning.

Ms. Kirkman stated it may make a difference if the applicant applied for a Conditional Use Permit (CUP), if the use proposed was inconsistent with proposed future land use. She asked Mrs. Roberts if that would be where it would make a difference.

Mrs. Roberts stated it could but with a CUP the applicant would be looking at the current uses surrounding them in existence at the time.

Ms. Kirkman stated there were many more Conditional Uses allowed in the B-1, Convenience Commercial than in the RC, Rural Commercial.

Mr. Fields asked if the most of the parcels around Lake Arrowhead had homes on them.

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Mr. Zuraf stated yes.

Mr. Fields asked if the parcels in close proximity had homes as well.

Mr. Zuraf stated he was not certain.

Ms. Kirkman asked if the Commissioner from Rockhill had any suggestions.

Mr. Fields stated Mr. Howard was not present. He stated he would hate to move forward for the Rockhill District without Mr. Howard present to make the motion. He asked the Commission if this could be deferred until Mr. Howard arrived.

The Commission agreed.

Mr. Zuraf discussed revision nine (9) part 3 and stated map three (3) was property discovered off of Shackelford Well Road. He showed the property on the map to the Commission and said the Land Use Plan currently recommends M-2, Heavy Industrial and was currently zoned M-2, Heavy Industrial, and was owned by the county. He stated staff suggested the parcel be revised to the designation of Institutional as it was public owned.

Ms. Kirkman asked what the county was going to do with that parcel.

Mr. Harvey stated currently that parcel had a communication tower.

Ms. Kirkman stated that was a large parcel for a communication tower and asked what the future uses were that the county was considering for the property.

Mr. Harvey stated he was not aware of any uses for that parcel at this time.

Ms. Kirkman stated just because the county owned the parcel did not mean it was suitable for Institutional Use.

Mr. Di Peppe asked if a tower could be on an Institutional Use.

Ms. Kirkman stated it would not change the use of the parcel.

Mr. Harvey stated it was a county communication tower for the county Emergency Response System (ERS).

Mr. Zuraf stated adoption of the plan as proposed would say the county would recommend M-2, Heavy Industrial Land Use.

Ms. Kirkman asked what was covered under Institutional Uses.

Mr. Zuraf stated it was publicly owned land and listed the uses.

Ms. Kirkman stated the land would have to be rezoned before the uses could go into affect.

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Mr. Harvey stated public uses were by right uses in all of the districts. He stated if it was a county owned facility that would be used for public use, it would be a by right use in that Zoning District. He stated one of the issues with that parcel was that it did not have any public road frontage and had an access easement with limited ability to pass traffic. He stated whatever happened would have to be low intensity use, unless the county was to acquire improved access to the parcel.

Mr. Fields asked how the parcel got to be in M-2, Heavy Industrial in the first place.

Mr. Harvey stated he did not know that history of the parcel and stated his assumption was that the county looked at the site for a land fill.

Mrs. Carlone made a motion to accept Revision nine (9) part three (3).

Mr. Rhodes seconded the motion.

The motion to accept Revision nine (9) part three (3) passed 6-0 (Mr. Howard was absent).

Mr. Fields stated the Commission would go back to area two (2) when Mr. Howard arrived. He stated there was an information request for the commercial land use comparison.

Mr. Zuraf stated staff was asked to revise data provided at the September 24, 2008 Planning Commission meeting. He stated this was a comparison of Commercial, Industrial and Office Land Use between the current Land Use Plan and the proposed Land Use Map. He stated after the latest changes that added more Industrial and Office future land use outside of the USA, staff was asked to revise the data. He provided a chart to the Commission with three columns that identified the existing plan of 2003, the original comparison prior to the revisions; there was an overall reduction of 13,788 acres to 9,453 acres and after the changes in the third column that increased the amount of commercial land use that was being recommended in the plan. He stated under the Commercial category it increased to 3,821 acres and Industrial was increased to 3,245; the other land uses stayed constant. He stated there was total increase to 11,872 and said if there were no questions from the Commission he would move on to the last item. He stated staff received input from Quantico and provided specific suggestions to the policies; the first suggestion was to policy 1.2.3 on page 16, which dealt with the Directing of Growth into the USA, they suggested that the Commander of Marine Corps Base Quantico shall be apprised of any proposed extension of water or sewer service outside of the existing USA on lands within five (5) miles of Quantico; the second suggestion was to policy 1.7.5, which would be a whole new policy added within objective 1.7 and would be to implement below criteria to ensure future development adjacent to or near Quantico was compatible with the military training mission of the base, with sub-policies that included amending the existing Military Facility Overlay District to adopt an MZ District Boundary Map to provide a buffer area on the land surrounding Quantico that limited recommended land uses to those compatible with military training activities conducted at the installation as identified in the August 2006 Range Compatible Use Zone Study for Quantico; the last policy recommendation was to adopt a minimum by right lot size of one (1) dwelling unit per ten (10) acres for Agriculturally Zoned lands within the Military Impact Zone Buffer Area. He stated a map was included that identified the proposed areas; the main area affected was in the Rockhill District.

Ms. Kirkman asked if this could be divided for motions and stated she had a suggestion for the second portion.

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Mr. Fields stated the Commission had just received this information and should not just be discussed in the work session. He stated the Marine Corps had serious and significant recommendations and felt it would be a good idea to have a representative from Quantico at the next Commission meeting to discuss the policies and implementations.

The Commission agreed with Mr. Fields.

Ms. Kirkman stated if the Commission was to act on this item tonight she would discuss the information she learned regarding an Encroachment Control Plan. She stated Quantico had a draft Encroachment Control Plan and assumed it had not been released for public use yet. She suggested the Commission add an objective to support Quantico's Encroachment Control Plan through land use policies to the section on Health, Safety and Welfare in the Comprehensive Plan. She stated she would be willing to defer this section to another work session to have a representative from Quantico at the meeting to discuss the Plan.

Mr. Mitchell made a motion to defer.

Mr. Di Peppe seconded the motion.

The motion to defer passed 6-0 (Mr. Howard absent).

Mrs. Roberts stated Ms. Kirkman was correct with the question regarding CUP's. She stated looking at the general conditions under the Standards for Issuance it said "the use shall be in accord with the purposes and intent of this chapter and the Comprehensive Plan of the county".

Ms. Kirkman stated she wanted to suggest changes to the USA and asked if staff could revise the maps and bring them back to the next work session. She stated the first change would be to the southwest quadrant of the county to extend to the USA to include the entire parcel zoned RBC, Recreational Business Campus; the second mapping change would be to extend as part of the 2019 phased expansion, extend the USA to include the Westlake Properties.

Mr. Zuraf asked if there would be any suggested land use changes to go along with that phased expansion of the USA.

Ms. Kirkman stated the Commission already went through a process where the Commission approved a revision that would make those parcels consistent with the current zoning.

Mr. Zuraf stated the USA would now include other lands planned for agricultural.

Ms. Kirkman stated she was only suggesting to include the Westlake Properties and those were not Zoned Agricultural.

Mr. Zuraf asked if the portion of the Westlake zoned R-1 and R-2 would be designated as such.

Ms. Kirkman stated yes. She stated if the revision was accepted by the Commission it would then be in the USA and would be consistent with what the Commission had done in the USA. She stated the third change was to add a parcel that was designated to be a future park inside the USA.

Mr. Zuraf asked if the parcel was the Musselman Jones parcel on Truslow Road and Enon Road.

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Ms. Kirkman stated yes. She stated the fourth change would be to include within the current USA the properties south of Enon Road, East of Interstate 95 and West over to Wyatt Lane. She stated related to that, there was a parcel above that up to the existing USA that would be proposed for the 2019 phased expansion. She stated the last proposed expansion would be to include the Widewater School property within the USA. She proposed two (2) contractions of the USA if the Commission decided to move forward with recommended changes and asked if the Commission decided to move forward with contracting the USA from what was originally advertised, would there need to be another public hearing held.

Mrs. Roberts stated yes.

Ms. Kirkman stated there were two (2) contractions and asked if staff could bring the revise USA back to the Commission for review. She stated the first area was right on the river boarder along Interstate 95 and the second area was a portion off of Garrisonville Road, a potion of the quarry and some properties adjacent to it. She stated she had drawn a map for the Commission to reference.

Mr. Fields stated the Commission would now move on to Ordinance Committee.

ORDINANCE COMMITTEE

4. Reservoir Protection Overlay

Jamie Stepowany stated at the last meeting the Commission asked staff to provide some information which was provided in the Memo. He stated staff was asked to continue to discuss Reservoir Protection Overlay District that started at the last meeting. He stated there was a request to determine how many properties were to be notified for public hearing by certified mail and was determined that because it was in another Zoning District on top of the underlying Zoning District, the existing properties would have to be notified. He stated the Reservoir Protection Overlay required the county to notify every property within the affected area. He stated the preliminary listing was 11,343 and there was a request to approach the Board of Supervisors for allocation of funding for the advertisement of mailing of affected property owners letters. He stated staff sent out 11,230 notices for Allocated Density at a cost of \$5,074. He stated the cost be similar for the Reservoir Protection Overlay notifications to be sent. He stated the advertisement would be larger and may be less notices after staff went through the affected properties.

Mr. Harvey stated the \$5,000 cost estimate was just for one public hearing with the Planning Commission; the amount would need to be doubled to include the Board of Supervisors notifications also. He stated that would include postage, creating the notices and mailing them out in envelopes.

Mr. Stepowany asked if the Board was requested to appropriate funds for the public hearing.

Mr. Harvey stated that was a request the Planning Commission would need to make.

Mr. Fields asked if staff was stating that the money did not exist in the budget.

Mr. Harvey stated currently in the Planning Commission line items of the budget for postage there was \$1,143 left and the public hearing notifications had \$10,814 left; often times there was a delay in billing on public notifications.

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Mr. Fields asked if the budget include both the newspaper ads, notices that were posted on properties and notification.

Mr. Harvey stated yes. He stated the department would absorb coping costs for operational purposes. He stated this was the money left for the remainder of the fiscal year.

Mr. Fields stated if the Commission decided to move the Reservoir Protection Overlay District to public hearing then it would need to be accompanied by a request for funding to advertise the public hearing.

Mr. Harvey stated that was staff's recommendation to the Commission; otherwise the department would run out of funds very shortly.

Mr. Fields asked what the line item was for non-departmental.

Mr. Harvey asked if he was referring to administration budget.

Mr. Fields stated usually there was a large line item called non-departmental that would be a contingency fund in the budget.

Mr. Harvey stated he did not know that number.

Mr. Fields stated he would be happy to make the request to the Board of Supervisors.

Ms. Kirkman stated she was not convinced that the Commission was required to make that request and would like the attorney to provide a legal opinion. She stated notifications were mandated by the State Code and did believe that kind of statutorily activity, the county would be required to fund it. She stated that would be up to the attorney opinion and would like to hear from them regarding this matter.

Mr. Fields stated that was a reasonable request.

Mr. Stepowany stated there were two (2) other questions he would answer for the Commission. He stated related to the regulations within the Overlay District; within the proximity and buffer zones any property served by water and sewer could not be smaller that three (3) acres and any lots that did not have access to public water and sewer could not be smaller than five (5) acres. He stated the existing lots would become not conforming. He provided a large map to identify the parcels with houses; he counted 670 houses that where identified on the map that would be non-conforming by the adoption of this Ordinance. He stated staff could not state the total number of lots affected.

Mr. Howard arrived at 6:54 P.M.

Mr. Fields asked if there were lots that did not have structures, would this prohibit the building of a structure on those lots.

Mr. Stepowany stated the underlying zoning would remain the same and this would prevent owners from subdividing the parcels. He stated staff would also need to review the affect to the underlying zoning. He stated when there was a non-conforming lot that was undeveloped; a house could be built on that lot provided the house met the requirements of that Zoning District. He stated if a property owner wanted to

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expand their house they would need to go before the Board of Zoning Appeals (BZA) for a Special Exception.

Mr. Rhodes asked if this would affect the 670 property owners identified.

Mr. Stepowany stated yes.

Mrs. Carlone stated there were many properties in Hartwood that were abandoned and asked how this would affect those properties.

Ms. Kirkman stated her understanding from issues heard by the BZA, if a use of property was abandoned for a period of two (2) years and it was non-conforming, the owner would lose that use and would have to go through a process to reinstitute that use.

Mr. Di Peppe stated there were other Ordinances that were important and if the Commission had time; he would like to continue the discussion at the regular meeting.

Mr. Fields stated when the Commission continued the discussion at the regular meeting they would continue with Reservoir Protection Overlay.

5. Agricultural Districts Lot Yield
6. Propane Distribution Facilities
7. Time Limits Imposed on Applications Under Review
8. Eliminating the Preliminary Subdivision Plan Process

Mr. Fields stated items 5 through 8 would be moved to the evening session.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 6:59 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES

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The regular meeting of the Stafford County Planning Commission of Thursday, November 6, 2008, was called to order at 7:32 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, Howard and Kirkman

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Roberts, Stinnette, Zuraf, Stepowany, Hornung, Schulte, Schultis, Ennis and Baral

DECLARATIONS OF DISQUALIFICATIONS:

Mr. Di Peppe stated he would recues himself for items one (1) and two (2) because he owned stock with Virginia Power.

PUBLIC PRESENTATIONS:

None

ORDINANCE COMMITTEE:

7. Time Limits Imposed on Applications under Review

Brenda Schulte stated the Commission requested that staff draft an Ordinance, which dealt with adding time limitations to plan resubmissions by applicants. She stated the time limitation required for acting on any proposed plat, plan or plan of development by the Commission or an agent was provided for in the Code of Virginia. She stated the time limitations for resubmissions of proposed plats, site plans or plans of development by applicants after staff review were not addressed in the Code. She stated many preliminary and construction site plan applications had been dormant in Planning for as many as three (3) years. She stated because there was no time limit, currently on the applicant for resubmission of any proposed plan, it was necessary to establish a time limit for the submission of subsequent reviews. She stated without time limits, staff must re-review an application for compliance with any current Ordinance amendments in the same manner as if it were a detailed first review. She stated by establishing a time limit, applications could be approved in a timely manner and improve quality control. She stated staff reviewed the six (6) comparison counties for study to verify if they had similar Ordinances that dealt with resubmission for reviews and the only county identified was Spotsylvania County. She stated Spotsylvania County had in the Code a time limitation on resubmission for site plans only. She stated in order to add a time limit in Stafford County on preliminary plans, construction plan or site plan application resubmissions, Section 22-61, 22-77 of the Subdivision Ordinance and 28-251 of the Zoning Ordinance would need to be amended. She stated in the Planning Commission memorandum, the language from Spotsylvania County was included and added to what it would look like in Stafford County Ordinances for requiring time limitation on the application. She stated this would be a sixty (60) day turn around for the planners to address all of the open reviews and comments. She stated the changes would be to 22-61, 22-77 and 28-251 for site plans, construction plan and preliminary plans. She stated staff would be happy to address any questions from the Commission.

Mr. Howard asked what some of the causes were for subdivision plan to be delayed or requiring the plan to be resubmitted.

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Mrs. Schulte stated she could not answer for an applicant or an engineer. She stated sometimes it was working out engineering details or a bond posting issue in which the applicant would just hold on to plans until they were ready to post bonds.

Ms. Kirkman asked if the sixty (60), sixty (60) and thirty (30) was what Spotsylvania County did.

Mrs. Schulte stated yes.

Ms. Kirkman stated she remembered that Hanover County had smaller timeframes and consequences where they specified in the Ordinance, and she felt Stafford County should do that to make this more effective, the county needed a consequence with the wording "if the submission is not received within the date the application was deemed to be withdrawn by the applicant" or something like this wording. She stated the issue with the plan was that the County needed to bring closure to them and would need to be added to the language, that if they do not act on them the application would be deemed withdrawn.

Mrs. Schulte stated she would look this up and get back to the Commission. She stated some jurisdictions had policies and it was not in the code. She stated similar to what Stafford County had with staff review; it was not in the code but was a policy for the department. She stated there was a jurisdiction where it was a policy but not in the code.

Mr. Rhodes stated that the applicant could request a resubmission in writing for a period not to exceed sixty (60) days and asked if the applicant requested that it would be automatically approved or does the Commission need to address the approval.

Mrs. Schulte stated language could be added stating that the agent would determine whether it was justified.

Mr. Di Peppe stated this would be retained in Committee until the November 19, 2009 work session.

PUBLIC HEARINGS:

1. COM2800534; Comprehensive Plan Compliance Review - Dominion Virginia Power Aquia Harbour Substation - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended for the construction of a public service corporation facility located on Channel Cove at Aquia Drive on a portion of Assessor's Parcel 21-173 within the Aquia Election District.
2. CUP2800533; Conditional Use Permit - Dominion Virginia Power Aquia Harbour Substation - A request for a Conditional Use Permit to allow an electrical terminal facility and an exemption to the maximum height requirements in an R-1, Suburban Residential Zoning District on a portion of Assessor's Parcel 21-173, consisting of 2.51 acres, located on Channel Cove at Aquia Drive within the Aquia Election District.

Jon Schultis asked if he could combine items 1 and 2.

Mr. Fields stated yes.

Mr. Schultis presented the staff report. For the Comprehensive Plan compliance review, he showed an existing zoning map, an aerial photo, a current land use plan map and existing conditions photos. He

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stated the State Corporation Commission (SCC) determined that increased electrical demand in Stafford required additional electrical capacity. The new line would run from this proposed terminal station to the Garrisonville substation on Mountain View Road. The location of the terminal station was chosen because of its relation to existing Dominion power lines. This station would be designed to transfer power from existing overhead lines to the new proposed underground lines. There would be no transformers on site, as this station would not be designed to provide power to lower voltage distribution lines. He stated the current Comprehensive Plan did not provide specific location recommendations for electric substation facilities. The Land Use Plan addressed these facilities through goals and objectives. Goal 13 stated the expansion of public facilities shall not adversely affect property values, however, Goal 13 Objective 6 encouraged power companies to expand services to county residents. Positive and negative features included the proposal allowing for Dominion to expand services to county residents in keeping with Goal 13 Objective 6 of the Land Use Plan. A Conditional Use Permit would be required to mitigate negative impacts. He stated use would be consistent with surrounding transmission towers and use would not be in harmony with the surrounding residential development. Although the use would not be in harmony with residential development, landscape buffers and existing vegetation would help screen the terminal station from view. Staff recommended approval of the application for the Comprehensive Plan Compliance. For the CUP, he showed a drawing of the development plan and a development rendering. Primary access to the site would be through a driveway to Channel Cove. Traffic generation would be approximately one trip per day or less. He stated the site would include a tower which would measure 90 feet in height which would replace an existing 105 foot transmission tower and a 20 by 20 structure to house control paneling. The site would also include a barbed wire fence enclosure and landscaping buffers around the compound. He stated landscape buffers would be included along Channel Cove and Aquia Drive. Landscape buffers would include 10% more plant units than required, and 50% of plantings would be evergreens. Banners and flags would be prohibited. He stated the site would be in substantial conformance with the GDP. Lighting would not exceed 0.5 foot candles at the property line. The current ordinance allowed 1.5 foot candles at the property line. Habitable structures would be prohibited, as well as storage of vehicles and equipment except for emergency situations. The terminal station would be dismantled and the site restored to its natural state should the substation ever be abandoned. He stated negative features included that the use was not in harmony with the surrounding residential development. Positive features included it met criteria for a Conditional Use Permit, conditions had been proposed to mitigate negative impacts, the development was in keeping with Goal 13 of the Land Use Plan, and it was also consistent with adjacent transmission towers. He stated staff recommended approval of the application, with conditions as specified in Resolution R08-510 subject to the Planning Commission determining the proposal to be in compliance with the Comprehensive Plan.

Mrs. Carlone asked what type fencing would they be using.

Mr. Schultis stated the Federal Government required certain regulations as far as securing these areas and he believed that an 8' barbed wire fence would go along with those guidelines. The 8' barbed wire fence that was proposed here was consistent with what was proposed and approved with the Garrisonville substation. He stated if she was asking the applicant to provide something that was consistent with Federal regulations but would be better in screening, he would let the applicant respond.

Ms. Kirkman stated she understood the regulations regarding fencing of these types of sites and asked if there was any reason why a purely aesthetic board fence could not be placed in front of the barbed wire fence.

Mr. Schultis deferred that question to the applicant.

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Mr. Howard asked if the Homeland Security documents were listed in this document and if it would be provided in detail in the GDP. He asked what the landscape buffering would be and what percentage of evergreen. Those were things discussed when Dominion came before them for the last approval. He stated he did not see evidence of that here and he was wondering if they took them through that same process or would it be discussed tonight.

Mr. Schultis stated for the Homeland Security, in his staff report he did mention it would be consistent with Federal regulations but he was not familiar with all the details that were involved with that and he would defer that to the applicant.

Mr. Howard stated there were fencing requirements and a specific kind of lock.

Mr. Schultis stated the Fire Department requested a Knox lock for the gate and as far as he could remember from the last application that was put to the side because the Fire Department would not go into the sites until Dominion was called and it was shut down.

Mr. Howard stated there was a whole list of things and he was wondering if they had that for tonight.

Mr. Schultis stated as far as that was concerned he did not expand any further. With the landscaping one of the conditions imposed that 50% of the plantings be evergreens and that was on the CUP.

Gail Lamm, Virginia Dominion Power, stated also present was Al Smith who regularly coordinated with the County on issues, along with Gloria Frye with McGuire Woods who would be assisting with discussing the project. Mr. Schultis had covered most of her comments. She stated she would like to emphasize again the need for this terminal station. The SCC order on April 8 determined that the company had established the need to provide service to the Garrisonville area with the double-circuit transmission line. They also directed that the transmission line be built underground. She stated they needed the Aquia Harbour terminal station simply to take that transmission line from overhead to underground. The intersection of the two rights-of-way was the only reasonable place to put such a station in order to accomplish that. The fenced area of the property that they were purchasing fell within that easement area. She stated the backbone structure replaced the existing lattice transmission structure and it was shorter at 95' whereas the existing transmission structure was 105'. They purchased enough property to maintain 79% open space and she believed 50% was the requirement in R-1 and they also intend additional plantings in the area. She stated the site plan submittal would address the details. They have committed that 50% of the plantings would be evergreen. They accept all of the County's conditions and they ask for approval. She stated Ms. Frye had more to offer and she did note the discussion of fencing. They were required to have at least 7' of fencing and the company would add an additional foot to the NESC requirements and they do need the barbed wire placed at a 45 degree angle for security. They had some history and tried placing solid fencing in other areas but what they found was frequently the solid fencing did not accomplish what they intended. It would attract a fair amount of graffiti and they had replaced this in other areas. She stated the plans indicated how much of a buffer they were maintaining in this area and a depth of landscaping that they believe would address the area concerns for this property and the terminal station. She stated they would be happy to answer any questions after Ms. Frye makes comments.

Gloria Frye, McGuire Woods, stated she was there on behalf of Dominion Virginia Power. She wanted to make a few comments about the compliance with the Comprehensive Plan and the criteria that would need to be established for approving a Conditional Use Permit. On the Comprehensive Plan this facility was not specifically shown on the plan but this power line easement had been in existence since 1964. She understood that the subdivision, the homes that were built around it, were not there until 1969. She stated her point was that even though the land was zoned R-1, the physical

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presence of the easement and the power lines had not adversely affected the development or the value of homes around it. In this case, with the tower being replaced with a shorter one, with the landscape buffer being provided, it would actually help to make this facility more harmonious with the development around it than currently exists. She stated for those reasons she thought it could be found to be in compliance with the Comprehensive Plan. On the Conditional Use Permit criteria, the proposed changes would actually be improvements over what was there now as they did not have the landscaping or any of the provisions that were being provided in this permit. She stated it would not change the character or pattern of development in that vicinity especially since that pattern of development had already been established. The proposed changes would not adversely affect the use as the homes and power line easement had co-existed since the late 1960's and early 1970's. The location, the height, the fence and the landscaping were all designed to be as sensitive as possible to the adjoining neighborhood and should not impair value. The safety measures that were being put in place did comply with all the local federal laws and they were designed to protect the health and safety of people in the area and the general welfare of the public in the surrounding properties. As Ms. Lamm stated, they had reviewed each of these conditions very carefully and they were in full agreement with them. She stated for those reasons they ask that they find the facility in compliance with the Comprehensive Plan and that they have complied with meeting the criteria that need to be established to approve the Conditional Use Permit. One question Mr. Howard brought up about Homeland Security was the company could not reveal what those measures were just for security reasons. She stated on Mrs. Carlone's question about the fence, they were not required to have that landscape buffer but one of the reasons that they were offering to provide it was to help provide the screening for that fence which would secure the equipment behind it. It would do double-duty in screening the fence and screening the facility itself from the roadway. She stated the details of that would be worked out in the landscape plan when that got submitted. As Mr. Howard brought up in the Garrisonville case, when that plan would come in and would be reviewed by the staff, if Mrs. Carlone found there were gaps or there were elevations where berming needed to be done to help make sure that that screening was accomplished, those details could be worked out at that time to accomplish the screening objective she was looking for. The other thing about board on board fences was because of a fire hazard there would be concern about that. She stated the fire department did not ask them for a lock box on this facility.

Mrs. Carlone stated they mentioned they were doing fine on the 50-50 which she complimented them on because of the winterscape and there were gaps and they would take care of that during TRC. When she mentioned board on board she did remember that they did end up with a woven type fence. The barbed wire remained there but she believed it was a woven fence.

Ms. Frye stated sometimes they could get chain-link that had a vinyl clad to it which would help make it not look shiny but in this situation, with the landscaping, they did not think that situation was necessary.

Mrs. Carlone stated as long as it would block it from Channel Cove.

Ms. Frye stated that was the objective of that landscaping plan and that 35' buffer.

Ms. Kirkman stated she was at the Board of Supervisors meeting when they held the public hearing on the CUP and the amendments for the last substation. There was a resident there who raised concerns about the line being pulled underneath her parcel of land. She asked if those concerns were addressed with that resident.

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Ms. Frye stated yes, Diana Faisson, who was one of the site project managers, had a talk with her and was willing to show her where the lines were going to go. They did not think they were going to affect her property but she was going to get with her to show her on the map.

Mr. Fields opened the public hearing and combined the comprehensive plan review and the conditional use permit.

David Brigham stated this substation was no minor thing and was an area as large as half a football field. It was a chain-link fence and a chain-link fence would not hide the structure behind it. They were replacing the tall tower with a new tower and they had no objection to that. He stated they did not like the big half-football size place being stuck right in the middle of their community. The screening and the shrubbery would not hide it as the rest of the structure was 20' high. He stated it would be a horrible looking thing for years and they were going to plant these little plants and by the time they grow big to hide it all he would be dead. This was like putting a concentration camp-like thing right in the middle of a residential area. He stated the whole thing came to pass because people outside of his purview decided that other people in Stafford County should not be inconvenienced by an overhead power line. Instead of stretching the wires westward, they would have to bring them down and build this enormous structure in order to put them underground. He stated to put this thing underground, that was what everyone else was doing. Hide it so they could not see it. They could see the tall tower but hide the rest of it or at least part of it so they could not see over it. They would bury half of it and then put a fence around it and you would not see it. He stated he thought there were other ways to build this thing and hide it but it would cost more money. Dominion probably would not want to spend it but then they were spending \$17 million or something for something that could have been done for \$2 million so a few extra bucks should not hurt anybody. He stated he thought they should go back to the drawing board to figure out a way to hide this thing entirely except for the tower. If they were going to plant plants, they should put 20' plants to hide everything, not these little things that would take years to grow.

Adam Hawkins, speaking on behalf of the Aquia Harbour Property Owners Association, wanted to clarify that the applicant received the owners' consent to proceed but the land was still owned by Aquia Harbour and they were still working through negotiations with them right now.

Robert Pitt stated he was wondering about a couple things that center on the aesthetics. He could not quibble with the need but he thought he could quibble with the how. He asked what a 20' by 20' structure ended up looking like and if there were renderings. If not, how could they determine whether it was acceptable or egregious. He asked about the plantings. He stated if they did not have approval to go ahead he could understand reluctance to hire architects. He stated without seeing the landscaping plan, even a rendering of it, it was difficult to understand the statement they had exceeded 50% and asked how much screening would that 50% offer. He had difficulty understanding why they needed barbed wire on top of the fence. If there was actually a federal regulation that required it he would go quietly. He would point out that there was no barbed wire around any of the adjacent towers carrying the same transmission lines. He stated he thought if they were worried about terrorist attacks you would have to be fairly stupid to attack a substation. Barbed wire was not something he wanted in his community unless it was absolutely necessary. He thought there was a discussion about the buffer. He stated if he was not mistaken, and he may have been, he thought he recalled Ms. Kirkman indicated that the buffer was actually reduced around Channel Cove. He did not think it was 35' or 30'. He stated it was difficult for him to assess anything but to stipulate the need. The question was what were they going to end up with because once construction started, once the permits were in hand, the game was over.

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

Ms. Kirkman asked if there was a process for the applicant to rebut.

Mr. Fields asked if the applicant wished to address any of the comments from the public hearing.

Ms. Frye stated one of the things she wanted to offer to Mr. Brigham was that what was helpful at Garrisonville was the ability to meet with adjacent landowners, look at the facility from their point of view, from their property line, and to look at how effective the screening would be. They would welcome the opportunity to do that, to meet with Mr. Brigham on his property in his perspective of what that facility would be and how effective the screening would be, what the mature vegetation was and how they could supplement that so that they would mitigate the visibility. She stated he was absolutely correct in that they could not hide a 90' tall structure but they could do a landscape plan that would include 10' shrubbery ultimate height, 20' trees ultimate height, and 50' trees ultimate height in a mixed landscape plan with evergreens at 50% that would be as effective as it could be to have a visual screen of the base of that equipment and that was the point he was trying to make. She stated Mr. Hawkins was correct in that there was a friendly condemnation going on where the property title had not transferred as of yet. They were in the process of working that out and there were easements being worked back and forth and they were thinking that would happen soon. As to Mr. Pitt's comments, it was hard to visualize if you did not have a landscaping plan in place. On the 20 x 20 structure it was just a plain flat square building that would house equipment. There was nothing tall or fancy about it. It was at the base of the facility and was for equipment control. She stated the whole purpose of doing the landscaping plan was to provide as effective screening as they could and that plan would be provided to the county. As to his property they would be glad to meet with him as well to coordinate the best planting and the best concentration or clustering of plants that would give the best screening they could from his property. She stated the barbed wire was essential. It was a safety measure for personal safety as well as protecting the facility. She stated she hoped that was responsive to the questions that were raised. They would welcome the opportunity to work closely with each of the individuals.

Mrs. Carlone stated normally they would not get into the landscaping until later, but to give them some assurance it was good to meet with them. They did have a schematic of the building which did help and hoped they had some type of schematic in scale for them when they meet.

Ms. Frye stated she believed it was included in the profile in the GDP.

Mrs. Carlone stated just for consideration when they do get to the landscaping around the structure itself and the fencing to use quick growing evergreens.

Ms. Frye stated that was where, in working with the County, the landscape plan reviewers at the County could help them with native plants that would establish quickly with the width and the height and ultimately that would help with accomplishing that screening.

Ms. Lamm stated they were welcoming the opportunity to discuss the details and work with the County on the screening, however, because this was sitting within the transmission right-of-way they were limited on the height by the existing transmission lines.

Ms. Kirkman asked them to explain why they were having to go through a condemnation procedure on this if it was a voluntary sale.

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Ms. Frye stated it was called a friendly condemnation.

Ms. Kirkman stated she did not care what it was called, it was a condemnation.

Ms. Frye stated it was by consent order and the reason was because the by-laws, the organizational documents of the Homeowner's Association, were not very clear about the authority of the Association to enter into a transaction to sell the open space area that this sat on.

Ms. Kirkman stated her understanding was that the majority of the members of the property owners association by vote could make that authorization. She asked if this had been put to a vote in front of the members of the property owners association.

Ms. Frye stated she did not know about the internal process but it was decided by the officers of the organization and she was assuming that they did go through the proper procedures to come to that decision that it was in everyone's best interest to do a Consent Order and have the Court handle the transfer. The funds had been paid into the Court and were there awaiting the final negotiations of the document.

Ms. Kirkman stated they said the barbed wire was a safety measure and asked if it was a regulatory requirement.

Ms. Frye stated yes it was required by the Federal regulations.

Ms. Kirkman asked if she could get a copy of those. She stated based on the contour lines it did look like it sat up on a knoll and asked if the building itself would be elevated from the street.

Ms. Frye stated she did not know but what they could do was a line of site profile from the road and that would answer that question and help with the screening objective.

Ms. Kirkman stated there was an encroachment into the landscape buffer and asked if they could redesign it so there was no encroachment into the landscape buffer.

Ms. Lamm stated it was about 5' and they could discuss it with engineering.

Ms. Frye stated she thought that was why it was worded as permitted.

Ms. Kirkman stated she did not ask about as permitted, she asked if it could be redesigned so that there was no encroachment in the buffer.

Ms. Lamm stated they could address that with their engineering group.

Mr. Mitchell stated he had heard some good comments and also comments from the representatives from Virginia Power that they were definitely willing to work with the people involved especially on line of site and things that affected their issues which he thought was a good faith effort. He stated he believed in power and he commended Virginia Power for the decision about putting the wires underground and making it a lot more aesthetically beautiful for the County. He made a motion for the Comprehensive Plan compliance.

Mr. Howard seconded.

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Ms. Kirkman made a substitute motion to defer this item to the December 3 work session in order to give the applicant time to work out the aesthetic concerns with the property owners that live nearby.

Mrs. Carlone seconded.

Mr. Fields stated he would support the substitute motion to give them a little time to work it out. He thought Dominion was acting in good faith and he was always concerned with simply a verbal agreement in an open discussion versus things that had actually been put into a document.

Mr. Rhodes asked staff if there was any information or indication as to a timeline sensitivity to this project and if they were aware of anything that four weeks would make a significant problem or issue.

Mr. Schultis deferred the details to the applicant. He was under the impression that the SCC, through their final order, had remanded this necessity and that they were moving on a timeline in order to complete this project and he knew the timeline was important to them with regard to specific dates.

Burch Lewis, Project Manager, stated in terms of the timeline, the original target date for this project was May of 2009 to support the loading needs of the Garrisonville area. They were not going to make that date because of the underground option and the time that it took to get additional right-of-ways and rights to do the underground. He stated the target date moved to the middle of December 2009 and they were taking steps to handle the summer load that would be coming up in the 2009 timeframe. They could not get through the winter as it would be a real risky situation in 2009 to 2010. He stated the Aquia Harbour terminal station was the critical path on the schedule and a delay in the approval process consequently would delay the site plan approval which would delay the grading which would delay the construction of the substation itself and it would put the December target date in jeopardy.

Mr. Rhodes asked if their concern was the power load draw that would occur during the 2009-2010 winter.

Mr. Lewis stated that was correct.

Mrs. Carlone stated she understood there was a problem with the property itself, the turnover, and asked if that was correct. They had alluded to the fact that there was something precluding an immediate action and asked if he could go over that very briefly.

Ms. Frye stated she was explaining that the property was being acquired through the Court process as opposed to just a direct purchase and sale. It was much more comfortable for the Association in knowing what their authority was and it was much more comfortable for the power company knowing they would get clear title to the property by going through the Court process.

Mrs. Carlone asked if there was still a timeline there that that needed to come through.

Ms. Frye stated that could happen any day. The Court had already entered the Consent Order so that part was there and the funds had been paid into the Court. What was happening right now was there were two easements that were being worked out between the company and the Homeowners Association so as soon as they were finalized then title could transfer. She stated that was in the process and could happen any day.

Mrs. Carlone asked in addition to the Court there were two easements or was that all part of the same package.

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Ms. Frye stated that was all part of the same package. Title would not transfer until those were worked out.

Ms. Kirkman asked if those easements had not been worked out.

Ms. Frye stated they were drafted and being negotiated but they had not been recorded. As soon as they have been recorded then title could transfer. She stated this was an application going forward under the consent, like any other owner's consent, for property that was being purchased.

Ms. Kirkman stated her understanding of how the property owners association worked when selling its property it would have to get the approval of its members first. Since they had not taken this to a vote she did not understand how they could authorize the application to go forward.

Ms. Frye stated she did not know if they did that but those questions were all being avoided because it was going through the Court process.

Ms. Kirkman stated her concern was that it was circumventing the input of the members of the property owners association.

Ms. Frye stated the Court was satisfied with the documentation that it received otherwise they would not have entered the consent order. She stated it had been reviewed legally.

Mr. Rhodes stated the efforts of Dominion when they worked on the Garrisonville substation were quite positive and quite significant in their efforts to address the concerns of the neighboring homeowners. He asked if Ms. Kirkman might consider modifying her substitute motion to be the next work session instead of two work sessions from now so they could address this again in two weeks instead of four weeks. He stated he was quite confident Dominion would get most of this settled in two weeks given their track record with what they did with the Garrisonville substation.

Ms. Kirkman stated she would be willing to accept that amendment because she did think they went out of their way to work with the adjacent property owners regarding the other substation. Part of her wondering about the elevation was that it did look like it was up on a knoll. Somebody suggested they bury the whole building, if they were able to, or maybe do like an English basement where half of the structure would be below ground. She stated she did want to see them get with the residents and if they thought two weeks was sufficient to do that she would be happy to accept that amendment.

Mrs. Carlone stated she accepted.

Mr. Fields stated the motion on the floor was a substitute motion to defer this for two weeks to the next work session to address the concerns of the residents that spoke there and the other residents. He appreciated everybody working together on this as this would change the landscape forever and you would only have one chance to get it right.

Mr. Mitchell stated he would support the motion.

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

Mr. Harvey stated for clarification for the public's benefit the next scheduled work session would be Wednesday, November 19, at 5:30.

Mr. Mitchell made a motion to defer the CUP to November 19, 2008.

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Mr. Rhodes seconded.

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

3. CUP2800469; Conditional Use Permit - Berea Market Union Bank and Trust - A request for a Conditional Use Permit to allow a drive-through facility within the Highway Corridor Overlay Zoning District for a bank, consisting of 1.55 acres, located on the north side of Warrenton Road directly across from Stafford Lakes Parkway on a portion of Assessor's Parcel 44-46A within the Hartwood Election District.

Jon Schultis presented the staff report. He showed an existing zoning map, a land use plan map and an aerial photograph, which was out of date, of the property in question. He stated the property was zoned B-1, Convenience Commercial and was part of an overall development – Berea Market Retail. The site plan was approved for infrastructure and pads to the east. He stated it included construction of a connector road between Route 17 and Fleet Road and also included a right-of-way dedication and road improvements. The proposal was to construct a 2,858 square foot bank with a drive-through with access to the connector road and a shared right-out egress to Route 17. It would also be connected to public water and sewer. He stated the use will generate 758 VPD which was identified through the ITE Trip Generation Manual. Because of this threshold it was not required to go to VDOT for an impact analysis. There were improvements proposed with the approved site plan which included an 8-lane upgrade to Route 17 which was currently under construction with turn lane upgrades, curb, gutter and sidewalk, and traffic signal modifications in order to accommodate this new site. He showed a rendering of the GDP and an architectural rendering of the bank. He stated there was 50' worth of stacking for each drive isle and it was his understanding that VDOT had reviewed this site and Clyde Hamerick had more or less blessed the entrances where they were. The proposed conditions, along with this conditional use permit, include access being limited to one entrance on private connector road and one shared right-out exit on Route 17. The building would be constructed in conformance with the architectural rendering provided. He stated there would be inter-parcel access to the west, and the drive-through lanes would be oriented to minimize headlight glare onto Route 17. Light fixtures would also be directed away from Route 17 and canopy lighting would be recessed in order to mitigate light pollution that may be garnered from that site. Loading spaces would be located outside of travel lanes and would also be screened from Route 17 and Fleet Road. Stacking lanes would not impede any traffic flow and a by-pass lane would be constructed at drive-through area. He stated staff believed the request, with the proposed conditions, met the standards for issuance of the permit and recommended approval of the application with the conditions specified in R08-508.

Mrs. Carlone stated on the lower right-hand side to the west, it had future inter-parcel connection and she was concerned the drive-throughs would be accessing that part. She asked if it was correct that the parcel should go across the property across the right-out. She stated there would be traffic on the future inter-parcel at a later date but her concern was going across where the cars would come out from the drive-throughs. She felt strongly there was a problem there as far as flow-through plus impeding the departure of the people using the drive-through and she thought that would need to be looked at.

Mr. Schultis stated because of the Highway Corridor Overlay District, an inter-parcel connection was required and this was where they provided it. If it did directly impede the traffic going through, something would have to be done.

Mrs. Carlone stated there needed to be a site change.

Mr. Schultis stated the applicant was present and could address that comment further.

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Mr. Howard asked if this was for the entire parcel that stretched from the street that connected Warrenton Road and Fleet Road or was the bank parcel itself 1½ acres. The CUP was coming in for the use of a drive-through and asked if it was solely for this applicant and this bank or for the entire parcel. He asked if someone was really asking for an additional drive-through on the parcel that it was not denoted what type of business would operate there.

Mr. Schultis stated this CUP was for one drive-through and it was project specific to the bank.

Ms. Kirkman asked what else would be going on the remainder of the parcel.

Mr. Schultis stated the other part was an approved site plan, approved in 2007, and it was Berea Market Retail and it was a strip retail center.

Ms. Kirkman stated she meant the .7795 area, right next to the access points to the bank.

Mr. Schultis deferred that question to the applicant.

Mr. Howard stated the reason he asked that question was on the CUP itself it indicated the parcel size was 1½ acres but he was indicating verbally it was half that size for the user specified on the GDP. That was why he asked the question if someone was trying to get a CUP for the entire 1½ acres so the second user would also have a drive-through by-right because the CUP was being requested for the full 1½ acres.

Mr. Schultis stated the language in the CUP authorized one drive-through for the bank so that would lead him to believe it was project specific.

Mr. Harvey stated condition 1 specified it allowed a drive-through associated with a bank in the Highway Corridor District. Technically, if they would need to have it flipped to the other vacant piece they could do that as long as there was one single bank with a drive-through.

Ms. Kirkman asked if they were proffering the GDP.

Mr. Harvey stated condition 2 spoke of the GDP.

Mr. Schultis stated he believed it was general conformance to the GDP.

Mr. Harvey stated it said access, general conformance and it referred to the building rendering on condition 3 but he did not believe that it specifically stated the entire site had to be in conformance with the GDP. It referred to the driveway locations and the building elevations.

Ms. Kirkman asked if the area that was across the road also a part of the same tax map number and asked if there was a site plan that showed the whole build-out of that entire parcel.

Mr. Schultis stated not including the bank. The Berea Market Retail included the strip retail and the lightly shaded gray future build-out which was also not included on the site plan. What was actually approved they could not see on the GDP. The site directly adjacent to the connector road would have to come in on a different site plan.

Ms. Kirkman stated this was all the same parcel and they were being presented a site plan for this parcel for the CUP and asked why they did not see everything that was going on this parcel.

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Mr. Schultis stated because the CUP was centralized specifically around the drive-through and the drive-through use and that was the bank.

Ms. Kirkman stated the CUP went with the parcel, not with a portion of the parcel.

Mr. Schultis stated he would have to get with the project manager and get back to her with the specifics.

Mr. Fields stated it did say “a drive-through” and “a bank” but they were absolutely right in that it said 44-46A. One could assume that at any point they were saying that of course they could not do another one but they could relocate this anywhere on 44-46A, at least it would seem to indicate that.

Mr. Howard stated he thought that was what they would be approving.

Ms. Kirkman stated it seemed to her when they would get any kind of application that they were suppose to show the entire parcel, not just a portion of the parcel, and they only had a portion of the parcel here.

Mr. Fields stated they were asking questions of staff regarding the CUP and asked to stay focused on that. He then asked if there were no more questions for staff, would the applicant come forward.

Dan Webb of Webb and Associates stated he was representing Union Bank & Trust. He stated the first concern was about the inter-parcel connection and they made that as a recommendation of staff. They would be more than willing, during the site plan process, to amend the location or work with staff to make sure that did not interfere with the drive-through. The reason they were applying for the CUP for the entire 1.5 acres was because the parcel had not been subdivided at that point. He stated it was the entire parcel but they would be willing to amend the conditions so that the site would only apply to the GDP as it was shown right now. He stated as far as the use of the .7795 acre piece, they were not sure what the piece was going to be at that time. He would anticipate it would be some sort of retail use but he was not sure.

Mr. Fields asked if Union Bank & Trust controlled the parcel.

Mr. Webb stated no.

Mr. Fields asked if they were only controlling this portion of tax map 44-46A, .7672 acres, at the easternmost end of parcel 44-46A.

Mr. Webb stated yes.

Mr. Fields asked if it was possible to state that in language specific enough about a portion of the tax map parcel so that it was legally binding on a parcel portion.

Ms. Roberts stated they could add that as a condition.

Ms. Kirkman asked if they could explain how, if the property had not been subdivided, they could control only a portion of the property.

Mr. Webb believed the bank would be leasing a portion of the property. He believed it was a land lease.

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Mrs. Carlone stated she would like to see a revised site plan to show a clear inter-parcel connector. She was concerned with the traffic flow. She stated she was not happy with the site plan.

Mr. Webb asked what portion of the site plan was she not happy about and if it was the inter-parcel connector to the adjacent parcel.

Mrs. Carlone stated yes, plus the portion towards Fleet Road and the traffic flow.

Mr. Webb stated in meeting with VDOT, they encouraged them to provide the access as far away from 17 as they could.

Mrs. Carlone stated she understood that but once it came into the parcel itself then to her there were some questions about traffic flow.

Mr. Fields stated everybody leaving a drive-through was distracted and there was an inter-parcel connection that had pass-through traffic coming around a blind turn directly in the path of all the people leaving the drive-through window. That would seem to be a recipe for a less than optimum situation. He stated they would like to see if there was any possible way of moving that inter-parcel connector back up more in a straight line where it came in from the west so that it would outflow to the east almost in a straight path.

Mr. Webb stated they could do that and work with staff. He asked if that was something they could work out on a site plan.

Mrs. Carlone stated she would like to see that as it was in the Hartwood District and she was not comfortable with accepting this

Mr. Webb stated the reason the located that was based on staff recommendation but they would be willing to work with the adjacent landowner to see if they had any plans for development so that the inter-parcel connector could be integrated.

Mrs. Carlone asked if he was talking about the people at 44-46F.

Mr. Webb stated they would try to coordinate with them but they have had no contact at this point. To him it was a site plan issue and something they could take care of at the site plan process. What they were hoping to do was to move directly in and get something submitted. He stated the bank would like to get moving just as quickly as they could. They had been working on this project for quite a few months.

Mr. Howard asked if they had met the parking requirements for the size of the facility.

Mr. Webb stated yes.

Mr. Howard asked by how many parking spaces.

Mr. Webb stated there were a total of 10 required and they were providing 24.

Mr. Howard asked about the 8 spaces on the east side of the building and stated it seemed dangerous to be backing out into the traffic.

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Mr. Webb stated personally he did not see a concern and that they would have to back into some sort of a drive isle. This was a small bank site and one pad site and he did not think they would see a lot of the cut-through traffic that they would see on the service road that had been constructed to connect Fleet to Route 17. He stated the bank felt as though they needed the number of spaces they provided in order to provide adequate parking for employees and patrons.

Mr. Harvey stated he may have a potential solution for some of the concerns about the inter-parcel connector. Section 28-59 talked about acceptable means of transportation access, shared driveways, internal inter-parcel connectors with interior service drives, as well as and/or access to secondary public streets. Fleet Road actually acted to a lot of degree as a parallel road to Route 17 or as a secondary street that would allow free flowing traffic to not necessarily impede Route 17. Technically that could meet one of the requirements of the code so it would not necessarily require an inter-parcel connector if they considered Fleet Road as a secondary street serving the same purpose.

Mr. Fields asked how they would make that determination.

Mrs. Carlone stated she used that as a cut-through many times and she would not consider it a secondary road.

Ms. Kirkman asked if they could move on to the public hearing.

Mr. Fields opened the public hearing.

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

Mrs. Carlone made a motion to defer to the next work session and to have this come back to discuss with the Young Moon people. If there was any possibility to come up with an idea of who would be in the second portion. She stated her recommendation would be to defer it to the next work session with a revised site plan.

Ms. Kirkman seconded. In addition to that, she had concerns about considering this without knowing the adjacent use. She would also like to point out that the Ownership Affidavit had not been correctly completed. They needed page 10 to be filled out in its entirety where it provided the property information regarding the parcel, the address and the owners.

Mr. Fields stated for clarification they needed the Ownership Affidavit and the primary question they were looking for was they wanted to see an alternative to the existing inter-parcel connection, and the tighter definition of what the CUP was applying to.

Mr. Howard stated so that they were not losing the opportunity if somebody else would come in and wanted a drive-through they would have to go through the CUP process as well.

Mr. Fields asked staff if they were clear on the issues of deferral.

Ms. Kirkman stated she was concerned about trying to make a decision on such a small parcel without knowing what the use of the adjacent parcel was.

The motion for deferral passed 6-1 (Mr. Mitchell opposed).

4. RC2800466; Reclassification - Grinnell Property - A proposed reclassification from A-2, Rural Residential to M-1, Light Industrial Zoning District to allow for an office and warehouse on Assessor's Parcel 36-29A consisting of 1.36 acres, located at the intersection of Warrenton Road across from Holly Corner Road within the Warrenton Election District. The Comprehensive Plan recommends the property for Light Industrial use. The Light Industrial designation would allow light industrial, light manufacturing and office uses. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the M-1 Zoning District.
5. RC2800372; Reclassification - Hills of Aquia Commercial - A proposed reclassification from R-1, Suburban Residential to B-2, Urban Commercial Zoning District to allow for commercial development on Assessor's Parcel 21Y-2A-F consisting of 3.19 acres, located at the southeastern intersection of Coachman Circle with Jefferson Davis Highway within the Aquia Election District. The Comprehensive Plan recommends the property for Urban Commercial and Resource Protection Area use. The Urban Commercial designation would allow development of commercial, retail and office uses. The Resource Protection Area is intended for the preservation of natural resources. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the B-2 Zoning District.

Mike Zuraf presented the staff report. He provided the map showing the zoning and land use plan for the property. He stated the site was undeveloped; a perennial stream ran along the south and east property line, discussed the Resource Protection Area and 100-yr floodplain, forested land cover over majority of the site and had steep slopes. He provided aerial and site photographs of the site. He stated the commercial development proposed commercial retail, office, bank with drive through or child care center uses envisioned. He stated the GDP Identified one commercial retail building (1 story, 8,710 sq ft total) oriented to Jefferson Davis Hwy and Coachman Circle, parking located around the front of the building, site constraints require a 22-foot high retaining wall and access would be limited to Coachman Circle. He stated specific uses or the GDP had not been proffered and the general site design principles and use restrictions had been proffered to allow flexibility. He showed the GDP and discussed transportation, environment, public facilities, utilities, fiscal impact and land use. He stated within transportation there would access and prior improvements, Transportation Plan recommendation and right of way dedication. He stated in the Transportation Impact Study the intersections were evaluated, there was acceptable Levels of Service except for Port Aquia Drive and US Route 1. He stated there were no additional improvements recommended and the Office of Transportation concurred with the findings. He discussed the environmental issues and stated the natural resources limit development potential, retaining walls were required to make site usable, proposed development avoids the natural resources, proffer requires a 10-foot setback for any retaining walls from the CRPA and stream restoration conducted as part of the adjacent subdivision development. He stated in public facilities and utilities the rezoning from R-1 to B-2 would reduce demand for most public facilities, the demand for fire and rescue would remain, applicant revised the proffer to require sprinkler systems (new proffer 15), public water and sewer lines are located within and adjacent to the site to serve the project. He stated the fiscal impacts were that the applicant projected \$36,500 in revenue to the county, \$26,000 – \$30,000 in sales tax revenue, \$10,500 in real estate tax revenue and the land currently assessed at \$4,800 with an annual real estate tax of \$40. He stated the proffers had been submitted by the applicant with new revision to add #15. He stated the proffers would prohibit more intense uses, limit access and dedicate adequate ROW, specify site design parameters to minimize visual impacts and ensure quality appearance and safety (building illustrations attached), ensure protection of natural resources during and after construction and require sprinkler systems. He provided proffered illustration of the project and stated staff recommended approval of the application. He stated the positive aspects outweighed the negative, the application was consistent with the Comprehensive Plan, was compatible with development pattern along Jefferson

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Davis Highway and the proffers would offset negative impacts. He stated the negative aspect was the project had limited development potential due to site constraints. He stated he would answer questions from the commission.

Mrs. Carlone asked to look at the proposed façade and stated the brick would be more attractive.

Mr. Zuraf stated the applicant provided four (4) photographs to show a variety of different facades. He stated the applicant add a note to state more brick would be used.

Mrs. Carlone stated that would be good because it would match the other portion of the building.

Mr. Di Peppe asked if there were photographs or illustrations of the twenty-two (22) foot wall.

Mr. Zuraf stated the applicant brought some examples of what that would look like.

Mr. Di Peppe stated this seemed to be a difficult terrain and the photographs show the building setting on flat land. He stated he wanted to see how the retaining wall would look and where it would be in relation to the development. He asked for a rendering showing the complex fit with the land.

Ms. Kirkman asked how the Commissioner of Revenue's office determined that this parcel was unusable with a value of \$4,800 and only paid forty (40) dollars a year in property taxes on it and the Commission had a plan on the parcel showing it was quite usable.

Mr. Zuraf stated he was not sure.

Mr. Fields stated it was either usable or not.

Ms. Kirkman asked the County Attorney if the Commission could consider the Commissioner of Revenues determination of this land as usable in the Commissions determination of the rezoning application.

Mrs. Roberts stated no, the Commissioner of Revenue would need to come before the Planning Commission to be more specific.

Ms. Kirkman stated the Commission would need clarification from the Commissioner of Revenue on that. Ms. Kirkman asked staff if the parcel was previously rezoned at some point.

Mr. Zuraf stated yes, it was all rezoned to R-1, and he believed it was a comprehensive rezoning of that area,

Mr. Harvey stated he believed it was part of the 1978 Comprehensive Rezoning.

Ms. Kirkman stated this was part of same general project for the residential Hills at Aquia, the project that dumped all the mud in Aquia Creek.

Mr. Zuraf stated this was a parcel that was cut out of Hills of Aquia.

Ms. Kirkman stated it was the project where the county paid tens of thousands of dollars for a study of the sedimentation of the creek and asked if they were talking about the same project.

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Mr. Zuraf stated this parcel was part of the parent property that was all part of Hills of Aquia.

John Fairbanks, Fairbanks and Franklin, stated his company prepared the Generalized Development Plan (GDP) for the project and represent Aquia Commercial LLC. He stated he would like to address the questions in the staff comments first. He stated there was a question about the amount of brick on the building and the proffers stated there would be seventy-five (75) percent brick on the building. The retaining wall on the site was illustrated as a twenty-two foot retaining wall, which was based on the development shown and that would be the highest the wall would be. He stated the wall tapered down on either side to where it was at a low point and tapered down to nothing on either side and in the center the maximum height would be twenty-two feet. He stated the retaining wall was needed on site to make the site developable. He stated it would require filling for the project and with the rolling terrain in Stafford County, it was very common to have retaining walls with a lot of the projects within the county. He stated it would allow for the expansion of the development foot print. He showed the commission several retaining walls around the county and provided the heights for the Commission. He stated there were several examples of retaining walls around the county that were used to expand the development footprint of any project. He stated it would allow for runoff to be contained on site, a fill slope was the alternative for a retaining wall and would produce more runoff and erosion.

Mr. Fields asked if the county Low Impact Development (LID) requirements obviate that regardless of the structure. He asked if the LID requirements in the code make either solution have a pre and post development hydrograph that was no impact to the resource area.

Mr. Fairbanks stated that was correct, the requirement to discharge from the site at a pre-development level. He stated there was more of a construction issue, during construction there would be more potential for erosion into Resource Protection Area (RPA).

Mr. Fields asked if he was referring to the erosion development stormwater process rather than the end result.

Mr. Fairbanks stated yes, the end result should be the same.

Ms. Kirkman asked where the stormwater would be discharged to.

Mr. Fairbanks stated the storm drainage had not been designed yet but anticipated potentially connecting to the storm sewer systems that were on Coachman Circle and Route 1, discharge at the base of the wall and have some mechanism to disperse the runoff, a level spreader or some other mechanism.

Ms. Kirkman asked if that was the base of the wall that was ten feet from the Critical Resource Protection Area (CRPA).

Mr. Fairbanks stated that was correct. He stated that could be a mechanism that was an infiltration trench with something that would disperse the water uniformly. He stated the development footprint would be in the range of just over one acre. He stated it would not be a significant amount of runoff and the applicant was aware that stormwater management controls would be required on the site underground.

Ms. Kirkman asked on the one acre how much of the site impervious area was.

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Mr. Fairbanks stated it was approximately seventy percent within the development footprint. He stated typically it would be higher on commercial sites; the B-2 zoning would allow up to seventy-five percent.

Mr. Di Peppe asked what the value of the project was at build out.

Mr. Fairbanks stated he would have to talk to the owner of the land to determine that.

Mr. Di Peppe asked how much it would cost to build the project.

Mr. Fairbanks stated he was not sure. He stated he represented the applicant; he worked with an engineering firm and did not do the financial analysis. He stated he could get that information for the Commission.

Mr. Di Peppe stated he would like to know the cost.

Ms. Kirkman asked what kind of machines would be used would be used to construct the twenty-two foot retaining wall.

Mr. Fairbanks stated the foundation on most of the walls built the foundation was only about two blocks below grade. He stated first a stone based would be put in place and would be roughly the width of the wall, which was a standard block, then go approximately two blocks below grade and build the wall up. He stated what was utilized was called a reinforced earth wall, generally they have geogrid, which was plastic rolls of grid laid back on the slope to reinforce the earth and as the wall would build up, they would fill behind the wall and build it up. He stated it would contain the runoff on site.

Ms. Kirkman asked which side the wall would be constructed from. She asked if it was from the back fill side or the front side.

Mr. Fairbanks stated at the base it could be at either side, but as it was worked up it would be constructed the development footprint side.

Mr. Di Peppe stated he was concerned in reviewing the current elevation and had reservation on voting for something without having a better picture of what the County was getting. He stated he would like to see an elevation from the front of the wall to see what it would look like. He would like to see the relationship of the wall the surrounding area and how the buildings fit in.

Mr. Fairbanks stated he would explain his knowledge of the site. He stated the intersection of Coachman Circle and US Route 1 that set up much higher than the site and would dip down to get into the site. He stated the building footprint was going to be roughly on grade. He stated from a screening stand point, the highest part of the wall in the middle would not be very visible from Route 1.

Ms. Kirkman stated none of the retaining wall would be visible from Route 1 because it would be filled behind it.

Mr. Fairbanks stated it would be visible because the rear tapered out toward Route 1 and would be seen while driving north on the Route 1.

Mr. Di Peppe stated he would then like to see rendering from the front and back. He stated he was concerned about a twenty-two foot wall.

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Mrs. Carlone stated the County was getting away from providing a building showing what it was going to be and providing a total cost. She stated the Commission needed the architecture, the building, the façade, materials and the proposed wall with one or two proposed facings.

Ms. Kirkman stated he had more questions for the applicant and asked if there was someone available to answer them.

Jervis Harriston, Silver Companies, stated he would answer any questions from the Commission.

Ms. Kirkman stated the Traffic Impact Analysis (TIA) stated it was based on Aquia Auto Mall Traffic Impact Study and asked when that was completed.

Mr. Harriston stated it was not just based on the Aquia Auto Mall Traffic Impact Study, he stated the applicants TIA study incorporated that information as well as the private school for the St. William of York Church, the hotel, 7-Eleven at Coachman Circle South, and all of the other traffic in that area.

Ms. Kirkman stated it said the trips were generated based on the Aquia Auto Mall Traffic Impact Study and asked how old the Aquia Auto Mall Traffic Impact Study was.

Mr. Harriston stated one to two years old.

Ms. Kirkman stated on the ownership affidavit, Aquia Commercial LLC was the owner and asked if that was correct.

Mr. Harriston stated yes.

Ms. Kirkman stated there was a President and CEO and asked if there were any members in the LLC other than these two people.

Mr. Harriston stated yes.

Ms. Kirkman confirmed that the sole membership was these two people.

Mr. Harriston stated yes, to his knowledge.

Ms. Kirkman asked when the environmental study was completed.

Mr. Harriston stated it was completed last year and there was some additional information generated as a result of questions through Amber Forestier over the last couple of months, which confirmed environmental components.

Ms. Kirkman asked if the Army Corps of Engineers (ACOE) confirmation on the depression being non-jurisdictional.

Mr. Harriston stated the applicant had received confirmation.

Ms. Kirkman stated the note said the ACOE would verify that the depression was non-jurisdictional, which seemed to mean that it was not verified.

Mr. Harriston stated he believed that was correct, the applicant worked with Williamsburg Environmental Group and they stated that was not a jurisdictional feature. He stated it was noted as a

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fact and did not believe it had been verified. He stated the applicant received an update from Williamsburg Environmental Group for the RPA locations and were consistent with what county staff had reviewed.

Mr. Fields opened the public hearing.

Scott Heller stated he saw the public hearing sign on a Sunday and while trying to exit Coachman Drive, the southbound Route 1 traffic was coming over the hill and was difficult to see on coming traffic. He stated the study said that traffic may not be impacted but may have not addressed safety. He stated heading North on Route 1 the retaining would be visible from Route 1. He stated the presentation was well done and was presented as a cash cow thing for the county. He stated he was concerned why the zoning would need to be changed from residential to commercial if the house in Aquia Hills were not selling well. He stated he did not think the county should piece mill the zoning to accommodate the developer. He stated why not just rezone the entire north side of Route 1 to make it Commercial. He stated the presentation said the slopes were man made and they may have been partially man made for the construction of Coachman Drive and retaining walls of thirty and forty feet high. He stated he bought in Port Aquia for the convenience since he was a commuter and behind his house was a twenty five foot retaining wall. He stated his yard was like a river when it rains. He stated he was shocked to see the hotel and car dealership being built and had he lived on the other side of Route 1 would have reconsidered the purchase of a home. He stated Route 1 South from four to seven in the evening was a parking lot because the light at Garrisonville backs up the traffic and would extend in some cases to the fire house. He stated he was concerned with the development of the other side of Route 1, since that was where he lived.

John Wasser stated he moved in six days ago and saw the public hearing sign and wanted to address his concerns. He stated at the south end of his subdivision, a car dealership and hotel were being constructed and was an eyesore. He stated the wooded area presented for development was nice and gave the residences a buffer from the constant noise and traffic from Route 1. He stated his concerned was how the development would affect the home prices, property values and attractiveness that Augustine Homes was trying to present in his neighborhood. He stated he commuted to Quantico everyday and traffic northbound in the morning was like a motor speedway and coming home at night on route 1 southbound traffic would back up to the fire station and sometime as far as Boswell Corner. He urged the Commission to take that into consideration and vote no.

Paul Ortiz stated he lived in Aquia Harbour for approximately thirty years and just retired from the military and bought a home in Aquia Hills. He stated many of the comments stated tonight were true and some of the information presented may not have been as accurate as portrayed. He stated there was a lot of information that needed to be updated or corrected. He stated in the design there were different pathways or road from Route 1, on Coachman there was more than one road that led to the Church. He stated there was another road that would lead to the car dealership, which was not on the plan. He stated the transportation study discussed had estimations for the two hundred plus residences in the subdivision or the car dealership traffic. He stated when he purchased his home he did a lot of homework and queried a lot of people regarding the subdivision to include Augustine Home, Envy Homes and the builder. He was told that the dealership and two story hotel would be put in only. He stated the retaining walls built in the Hills of Aquia subdivision leak and there were floods in the neighborhood when it rains. He stated he had concerns about traffic and everything stated regarding traffic was true. He stated he was concerned about the car dealership and the new Toyota Dealership, with cars on every each of the lot and the impacts on traffic. He stated he was concerned about the house he spent over \$600 thousand for; he was concerned about the property value and amazed by the dollar value and taxes listed because he was paying more in taxes for the last twenty years as a resident

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of Aquia Harbour. He stated it was all about the money. He stated there were more questions that needed to be asked before this was built. He stated he felt there would be more problems that the county would be responsible for in the future. He asked the Commission to please vote no.

Mr. Fairbanks stated in terms of the traffic, the applicant was proposing a small convenience center. He stated there were no accesses on Route 1 and no proposed additional entrances. He stated this was not a high traffic generator and excluded the uses that would generate high traffic or volume such as vehicle fuel sales and restaurants with drive through windows, which had much higher vehicular trips associated with them than what the applicant was proposing. He stated this was more of a convenience/retail center and potentially, in long term plans, once the volume increased on Route 1 and VDOT widened Route 1, the intersection would not have a traffic signal, which would mean there would not be full service access. He stated this would be a right in right out in the future based on separation of the existing signals on Route 1. He stated the base of the wall always wet and water would be surrounding them, in this case the wall would be constructed in the upland areas. He stated the wall would be outside the 100 year flood plain in upland areas that would remain dry and if the wall was constructed properly it would have a drainage wall behind it and would have outlet drains and the base of the wall.

Mr. Fields asked if Mr. Fairbanks engineering firm involved with any of the construction for the Hills of Aquia.

Mr. Fairbanks stated no.

Mr. Mitchell made a motion to defer the next work session and would give the Commission more time to get more information. Mr. Di Peppe seconded the motion.

Mr. Fields asked the Commission to go over what they need from staff for the next meeting.

Ms. Kirkman stated she would like to have the Commissioner of Revenue present to explain the assessment and what that would mean on this parcel. She stated she was extremely reluctant to support any application that would put a retaining wall this close to the RPA.

Mr. Fields stated he would like more background on standards for retaining walls and RPA placement.

Mr. Di Peppe stated he wanted to see illustration all the way around as if he were walking around the building to see what it would look like. He asked for the cost for the project build out. He wanted to ask how the county could be a multi million dollar project on a worthless piece of land.

Mr. Harvey stated this would be the fourth item for the work session for the next meeting, which might be a lot to handle in an hour and a half.

Mr. Fields asked if Mr. Mitchell wanted to push it back.

Mr. Mitchell stated he would like to try and fit it in and would defer the item if there was no time to discuss it.

Mr. Harvey stated there were two public hearings scheduled for the next meeting in the regular session.

Ms. Kirkman stated there were ordinances in ordinance committee that needed to be discussed also.

Mr. Di Peppe asked the applicant why there was no GDP proffered.

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Mr. Fairbanks stated the applicant's preference was that they could proffer a GDP if they had a known retailer with an interest in the site. He stated there was no prospective tenant for the site and that was the reason why the applicant restricted this to uses more desirable with low traffic impacts. He stated they would be unable to proffer a GDP because it would pin the applicant to a set square footage of the building and could potentially be a bank with a drive through and had less development footprint.

Mr. Di Peppe stated he was disinclined to vote for a project where the GDP was not proffered.

Mr. Fields stated he would like to encourage the applicant to look at the White Oak Plaza project as an example of where the Commission negotiated that difference between a non proffered GDP, but a very sophisticated set of design standards that made the project iron clad to be conformance with the character of the region. He stated he understood the Commission's concern and there was a way to split the difference so the end project was in agreement with land use for this area.

Mr. Fairbanks stated the applicant would be willing to work with staff.

Mrs. Carlone stated the commission was not asking the applicant to do a proffer based on potential tenants but the architecture itself could be proffered. He stated she would like to have a rendering of what the building would look like.

Ms. Kirkman asked the applicant to provide the perineal flow study to the Commission. She asked staff to review the original Hills of Aquia site plan to see what was designated in that plan for the area and who the engineer was on that project.

The motion to defer passed 7-0.

6. Amendment to Zoning Ordinance – Amendment to Section 28-25, Definitions of Specific Terms; Section 28-121, Purpose and Intent; Section 28-122, Certain Types Prohibited in all Districts; Section 28-123, Types Permitted in A-1 District, Section 28-124, Types Permitted in A-2 and R-1 Districts; Section 28-125, Types Permitted in R-2, R-3 and R-4 Districts; and Section 28-127, Types Permitted in RC, SC, B-3 and RBC Districts, of the Zoning Ordinance, pursuant to O08-69. The amendment modifies the above listed sections as follows:
- Defines Electronic Bulletin Board (EBB) signs as signs which present multiple views and objects that have realistic motion, high-resolution color images, complex visual arrangements, rich variation in color, and a vast amount of images, similar to a television screen or computer monitor wherein the image can be changed periodically by electronic signal and signs with multisided-vision signs; displaying device capable of presenting images sequentially by rotating multisided cylinders.
 - Defines Light Emitting Diode (LED) signs as signs which contain electronic components that light up when current is passed through a pin hole type component similar to a small light bulb. The surface mount component is similar to a chip resistor and lights one (1) primary color at one time usually containing a dark background.
 - Defines model home signs as a sign that identifies a dwelling as a model home.
 - Excludes signs erected and owned by the county, state or federal highway administration from Section 28-122.
 - Prohibits signs that flash, blink, flutter or rotate.
 - Prohibits EBB signs in all zoning districts.
 - Prohibits LED signs which alternate texts or copy less than five (5) seconds and

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- LED signs within 500 feet of a property with a historic structure or building.
- Prohibits general advertising signs in the A-1, Agricultural; A-2, Rural Residential; and R-1, Suburban Residential zoning districts.
- Requires model home signs to be located on the lot or premise on which the model home being advertised is located.

Jamie Stepowany presented the staff report. The Zoning Ordinance had limited regulations pertaining to electronic signs. VDOT controlled renovations to billboards. For VDOT to limit renovations to billboards, the Zoning Ordinance needed to be certified by VDOT in relation to area, space and lighting for signs. Ordinance O07-46 provided additional regulations for electronic signs and amended the Zoning Ordinance for VDOT certification and other necessary adjustments that were identified by staff. A public hearing for Ordinance O07-46 was held at the Board of Supervisors meeting on September 4, 2007, and was deferred to a subcommittee. On August 18, 2008, the Board approved Resolution R08-413 for the Planning Commission to hold a new public hearing and recommended O08-69 to pertain to electronic signs and amendments to the Zoning Ordinance to seek VDOT certification. As a result, a separate Ordinance, O08-79, was established to address the other adjustments that were identified by staff. He stated the time limit for a recommendation to the Board was December 2, 2008. He showed examples of the different types of signs. Staff requested the Planning Commission recommend approval for the proposed amendment with one amendment by adding "as defined in Section 28-25" to the provision that prohibits EBB signs. Ordinance O08-69 stipulated types of electronic signs that may be used, EBB & LED, and clarified when such signs may be prohibited. The proposed amendment also modified the sections needed for VDOT to certify the Zoning Ordinance in relation to the area, spacing and lighting for signs.

Mrs. Carlone asked if he got a chance to look at the sign she called about.

Mr. Stepowany stated two of the pictures were of that sign. What Mrs. Carlone was concerned about was not visible when he took the pictures. He stated he talked to the Zoning Inspector and he did see what her concerns were. The flashing and blinking had always been prohibited and that may be gotten to that particular property owner.

Mrs. Carlone stated she did check on the date that was approved also. She asked if that would not have still required approval to make the change over from just a solid wooden board with the name of the company.

Mr. Stepowany stated to get into more background when the issue came up about the billboards and what they presented to the Board actually was what if this type of technology became available for regular business signs, whether it was the freestanding piling sign or a sign on a building, and at the time there was questions as to why would staff and the Planning Commission be concerned about that and this was the example of it. When you start getting multi-colored signs you could start making your business sign as a type of EBB sign that could have multi-colored pictures on it which was why this ordinance was prepared, to address that type of technology for any type of sign. As long as they were within the required area of the sign, there was nothing limiting them from not using that type of technology right now.

Ms. Kirkman asked if this ordinance would limit them in the future.

Mr. Stepowany stated that was the direction they received from the Board, and Mr. Di Peppe was in the subcommittee, the LED type signs they were agreeable but it was the multi-color signs that they had concerns about and they agreed with the Planning Commission. He asked how they would

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separate the two, LED was just one color on a primarily dark background and EBB was two or more colors. With two or more colors you would get pictures.

Mr. Di Peppe stated in the subcommittee the issue came up that a lot of the gas station signs were LED where they could change that and they did not want to get into outlawing those, that was not the whole idea behind it. That was one of the concerns that was holding up this ordinance.

Mr. Stepowany stated the other concern which had been removed from there was they currently allowed LED signs as long as they had time and temperature. You could not have a gas station price sign with time and temperature. That was when they said to do something to allow LEDs except within a close proximity to an historic site and they could not change intervals faster than 5 seconds but how would they regulate the multi-color signs.

Ms. Carlone stated she was concerned if it was allowed to go beyond what the initial function of that business was. The weather was one thing and time was another and she noticed they added the time to it and asked if it could be something other than messages because they were also pricing cars.

Mr. Stepowany stated they sold cars on that property and one of the other amendments which he did not show in the PowerPoint presentation, was in the definition of general advertising sign they deleted the word "necessarily" available in the premise which meant if that sign was advertising anything other than what was sold on that property as a general advertising sign it was in violation. You could not have a general advertising sign with this modification advertising your property, any activity, product, service or commodity on that premise. If they were to advertise something other than what was on the property, it would be a general advertising sign and by this ordinance it would be prohibited.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Mr. Di Peppe made a motion to approve Ordinance O08-69 for the amendment.

Mrs. Carlone seconded.

Mr. Di Peppe stated they worked a long time on this and they had serious concerns about those big television screen signs and they would proliferate in the County. They met with Mr. Milde on this and he had great concerns about LED and they compromised and took those kinds of restrictions out but they needed to move forward or they were really going to look a lot differently than they did now.

Mr. Mitchell stated he was torn on this subject because there were a lot of little businesses out there that were struggling today. He did believe that a lot of the signs were obtrusive, some were obnoxious and some would take your eyes off the road, and all three were bad. He thought that even though the ordinance had a lot of merit he thought it infringed upon small business. A lot of them were just trying to snag the eye of the customer.

Mr. Howard stated he agreed somewhat with everyone. He thought there had been a tremendous amount of work put into this and he had some discussions with Mr. Stepowany as well and he thought the LED solution was a good solution. To have those two different types offered he thought made a lot of sense. The colored ones certainly looked great but they did distract you as you were driving and did become a safety issue and was surprised at how many they had in the County. He stated he did not think this ordinance would hurt business. He thought it was smart and would make sense from a safety

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prospective and most businesses could somehow figure out how to get a sign or what they would want to accomplish in their business through an LED version. He stated he would be supporting it.

The motion passed 6-1 (Mr. Mitchell opposed).

Ms. Kirkman stated in several presentations staff had references to 0.5 candle foot and she had no idea what that translated into. She asked staff if they could think of how to do a presentation for them on what that would translate into.

Mr. Stepowany stated they had talked to Deputy Hamilton, the CPTED Safety Inspector who was very knowledgeable of lights, and asked him where they could go to measure. He stated Deputy Hamilton said they could not measure inside and they would have to find a light outside that they could go to.

Mr. Rhodes asked what the parking lot lights were.

Mr. Stepowany stated he thought that was actually less than 0.5 as this was a very poorly lit parking lot. He stated he would be more than happy to get a site they could go to at night.

Mr. Fields stated he thought that was a good point and they needed to visualize what 0.5 was.

7. Amendment to Zoning Ordinance – Amendment to Section 28-25, Definitions of Specific Terms; Section 28-123, Types Permitted in A-1 Districts; Section 28-124, Types Permitted in A-2 and R-1 Districts; Section 28-125, Types Permitted in R-2, R-3 and R-4 Districts; Section 28-127, Types Permitted in RC, SC, B-3 and RBC Districts; and Section 28-136, Repair and Removal of Signs. Enact, Adopt and Ordain Section 28-138, Severability Clause; and Section 28-139, Substitution Clause, of the Zoning Ordinance, pursuant to O08-79. The amendment modifies the above listed sections as follows:

- Modifies the definition of subdivision sign to permit a subdivision sign for a section of the subdivision and delete regulations from the definition and adds the regulations into the specific sections where subdivision signs are permitted.
- Delete regulations from the definition of temporary event sign and adds the regulations into the specific sections where temporary event signs are permitted.
- Require any sign and supporting structures displayed within the County shall be maintained in good working order and repair, and shall be properly anchored so as to keep the sign in sound condition. All exposed surfaces shall be protected against deterioration by proper and periodic application of weather coating materials such as paint or other similar surface treatment. Reflective or fluorescent surface coating that creates a highly reflective surface shall not be used.
- Establish a severability clause in the event a part, section or subsection of the Zoning Ordinance is held invalid or unconstitutional by a valid judgment or decree of a court of competent jurisdiction, such judgment or decree shall not affect the validity of the remaining parts, sections or subsections of the Zoning Ordinance.
- Establish a substitution clause in the event a sign which complies with the Zoning Ordinance relating to location, area and spacing contains a commercial copy that does not pertain to the property or business in which the sign is located may substitute the copy with a noncommercial message.

Jamie Stepowany presented the staff report. He stated this was part two of the previous ordinance. On August 18, 2008, the Board approved R08-413 to the Planning Commission for a new public hearing

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and recommended O08-69 pertaining to electronic signs and amendments to the Zoning Ordinance to seek VDOT certification. A separate Ordinance, O08-79, addressed the other adjustments that had been identified by staff in the original preparation of O08-69. He stated the time limit for a recommendation to the Board was December 2, 2008. Other adjustments identified included CPTED recommending all sections of a subdivision to be identified and this Ordinance would amend the definition of subdivision sign to allow for sections of a subdivision to have an entrance sign. The definition of subdivision and temporary event signs had regulations that should be within Article VIII and this Ordinance would delete those regulations from the definition and add to Article VIII, Sec. 28-123, 124, 125, and 127. He stated another adjustment would provide better direction for the repair and maintenance of signs and as a result Section 28-136 was amended for signs to be maintained in good working order, properly anchored, protected against deterioration and prohibit highly reflective or fluorescent surface coatings as that could cause glare. It would establish a severability clause to prevent the whole Article, section or subsection of Article VIII from being held invalid or unconstitutional when a part or section is by a court of law and this Ordinance established Section 28-138 which was the Severability Clause. Also it would establish a substitution clause for when the content of a sign does not pertain to the business of the property as in a commercial sign yet the content could be switched to be non-commercial content therefore the sign would still meet the area, spacing and size requirements and this Ordinance established Section 28-139, the substitution clause. Staff request the Planning Commission recommend approval for the proposed amendment.

Mr. Howard asked if he had an example of a non-commercial sign.

Mr. Stepowany stated a non-commercial sign would be "vote".

Ms. Kirkman asked what if they sold message space.

Mr. Stepowany stated mainly what they were talking about for non-commercial was like one he saw, "vote November 4th".

Mr. Howard asked if that could be enforced.

Ms. Kirkman asked why they were making the distinction between commercial and non-commercial uses. She asked if these things were distracting or ugly or not.

Mr. Stepowany stated without referring to Ms. Roberts, he had dealt with this on previous issues when they had dealt with general advertising signs or outdoor advertising signs which were referred to as billboards where it had been deemed you could not prevent a sign from providing non-commercial print if the sign met all the area and space requirements of the sign. He stated if you had a sign that could be there because it met the sign requirements for the size but they did not want to advertise what the business was, that would become a general advertising sign or what they would refer to as a billboard. If they put up a non-commercial content like "go out and vote on November 4th" the structure of the sign would still be legal.

Ms. Kirkman asked if the problem was that they had restricted this by using the definition of general advertising signs.

Mr. Stepowany stated because of the content you could not tell them to take the sign down if they changed it to a non-commercial content.

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Ms. Roberts stated she thought what Mr. Stepowany was trying to verbalize was the First Amendment Rights and they could not restrict. Realistically she did not see a concern with Happy Birthday or Happy Anniversary because even if it was in violation, by the time they would get the notice out it would be gone.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Mr. Di Peppe made a motion to approve Ordinance O08-79.

Mrs. Carlone seconded.

The motion passed 6-1 (Mr. Mitchell opposed).

8. Amendment to Zoning Ordinance – Amendment to Section 28-25, Definitions of Specific Terms; and, Section 28-57, Flood Hazard Overlay District (FH), of the Zoning Ordinance pursuant to O08-80. The amendment adds the term regulatory flood to the definition of base flood/100-year flood and establishes definitions for below grade basement, freeboard and lowest floor. The amendment clarifies the boundaries of the floodplain as shown on the flood insurance rate map (FIRM). The FIRM map is on file with the Department of Code Administration and the Department of Planning and Zoning. The amendment clarifies that changes to the FIRM must be approved by the Federal Insurance Administration and not the Federal Emergency Management Agency. The amendment restricts below grade basements, where all sides of the basement are 100% below grade from being within a floodplain. The amendment requires that any modifications, alterations, repair, reconstruction, or improvement of any kind to a structure and/or use located in a floodplain area to an extent or amount of less than fifty (50) percent of its market value shall conform to the Virginia Uniform Statewide Building Code (VA USBC).

Jamie Stepowany presented the staff report. He stated if a property owner had a building within or near a floodplain and was subject to a mortgage, that property owner must have flood insurance with the National Flood Insurance Program (NFIP). Currently Stafford County has 433 policies, 416 of those policies were single-family detached dwellings. The Community Rating System (CRS) was a voluntary program for NFIP with objectives such as reducing flood losses, facilitating accurate insurance rating and promoting the awareness of flood insurance. He stated the jurisdiction would become a member of CRS. If the jurisdiction was a member of CRS then the property owners within that jurisdiction would receive a reduced floodplain insurance premium. For the jurisdiction to become a member of CRS, it must agree to regulate new developments in floodplains in accordance with NFIP minimum criteria. He stated currently there were over 1,080 jurisdictions nationally which were members of CRS with 19 jurisdictions in Virginia which were members of CRS. To become a member of CRS, the jurisdiction would submit an application to FEMA. Member classes would range from a Class 10 (with no discount) to Class 1 (with up to a 45% premium discount). He stated currently Stafford County was a Class 10 and upon becoming a member, the County would become a Class 9 and the 433 property owners would receive a 5% floodplain insurance premium reduction. Overall savings countywide based on a document provided would equal \$10,778.75 a year. The average savings per residential policy would equal \$24.10 a year and the average savings per nonresidential policy would equal \$51.12 a year. He stated DCR recommended the following amendments to the Zoning Ordinance in assisting Stafford County to become a member of CRS: 1) to include definitions from 44 CFR 59.1 & 44 CFR 60.3 of the Code of VA; 2) to modify the definition of

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“flood hazard district”; and 3) demonstrate the provisions for modifying, altering, repairing or reconstructing structures which would conform with the Virginia Uniform Statewide Building Code (VA USBC). He stated the Ordinance would amend Section 28-25 by establishing definitions for “below grade basement”, “freeboard”, and “lowest floor” and would add “regulatory flood” to the term “base flood/one-hundred-year flood”. It would also amend Section 28-57(f) to “Official flood insurance rate map (FIRM)” and would change FEMA to Federal Insurance Administration. He stated it would add any modification, repair or reconstruction shall conform to VA USBC and other various “house-keeping” amendments by adding the full name of specific departments. He stated upon approval of the proposed amendment, staff would apply with FEMA for CRS membership. The membership to CRS would allow Stafford County residents a 5 percent flood insurance premium reduction. He stated staff requests the Planning Commission recommend approval of the proposed ordinance.

Mr. Di Peppe stated he would like to remind the Commission they had the fellow from DCR in Richmond come advocate this to save money.

Ms. Kirkman asked how much it cost the County to apply for this membership.

Mr. Baral stated there was no fee to apply for this. All they would need to do would be document it, staff would have to do a lot of work. In terms of cost savings it would be \$10,000 a year. He stated the standing of the County would become very high and they would become more eligible to get state grants in becoming a CRS member.

Mr. Fields opened the public hearing.

With no one coming forward the public hearing was closed.

Mr. Di Peppe made a motion for approval of Ordinance O08-80. Mr. Mitchell seconded. The motion passed 7-0.

UNFINISHED BUSINESS:

9. 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) (History - Deferred at October 1, 2008 Regular Meeting to November 6, 2008 Work Session)**

Mr. Fields stated item 9 would be deferred to the December 17, 2008 Work Session.

10. 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) (History - Deferred at October 1, 2008 Regular Meeting to November 6, 2008 Work Session)**

Mr. Fields stated item 10 would be deferred to the December 17, 2008 Work Session.

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11. Adoption of the Comprehensive Plan – A proposal to adopt the Stafford County Comprehensive Plan in accordance with Section 15.2-2223 of the Code of Virginia (1950), as amended. The Comprehensive Plan serves as a framework to guide coordinated and harmonious development of the County, in accordance with present and probable future needs and resources, and best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities. The plan consists of background data; goals, objectives and policies; land use policies and map; the costs of growth and development; and data projections and subsequent needs of the County. This proposal would include adoption of a Land Use Plan map, dated September 24, 2008. The proposal would also repeal the current Land Use Plan component of the Comprehensive Plan, including the text dated February 2003, and Land Use Plan map dated February 13, 2003, last revised August 19, 2008. **(History – Deferred at October 15, 2008 Regular Meeting to November 6, 2008 Work Session)**

Mr. Fields stated the Commission was requesting more work on the Comprehensive Plan.

Ms. Kirkman stated at this point the Commission has added four reviews to the November 19, 2008 work Session and asked if the Commission could consider not adding anything else to the November 19, 2008 Work Session and requested to move it to the first meeting in December to take care of the Ordinances that had been piling up. She stated she was concerned that the Commission would not be able to get to all of the items at the next meeting.

Mr. Fields asked Mr. Harvey to summarize the items the Commission needed to hear at the November 19, 2008 work session.

Mr. Harvey stated the Commission had the Comprehensive Plan, Dominion Virginia Power Aquia Harbour Substation, Berea Market Union Bank and Trust and Hills of Aquia Commercial.

Ms. Kirkman stated there were also a number of ordinances that the Commission had not gotten to.

Mr. Di Peppe stated there were very important ordinance that the Commission had been putting off.

Mr. Fields asked how the public hearing looked for the November 19, 2008 regular meeting.

Mr. Harvey stated there were two (2) public hearings for the November 19, 2008 regular meeting so far.

Mr. Fields stated it was reasonable to assume that between the afternoon and the evening, the Commission should be able to address the work session items and ordinances finished.

Ms. Kirkman stated she was requesting that as the Commission goes into the next meeting, that the Commission hold the December 3, 2008 work session open to complete the work on the Comprehensive Plan and unfinished ordinance.

Mr. Fields agreed.

Mr. Rhodes stated on page 19 of the Comprehensive Plan, Policy 1.4.5, he highlighted the portion that said “spot safety improvements shall be the priority for road improvements outside of the USA, road projects to increase volume or capacity shall not be funded until all Transportation needs within the USA had been met”. He stated as he mentioned before, he was not sure one would define at what point that all other transportation needs were met. He stated he was concerned that whenever a needed and

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critical safety improvement, it could not be said that it would not increase the volume or capacity of a road. He stated he had significant trouble with the critical safety of a road. He stated all the other policies under objective 1.4 would continue to discourage growth in the agricultural area outside of the USA and would recommend the Commission remove policy 1.4.5, because it could restrict the county from other critically needed purposes, it confused the process and methodology and the logic for setting up future plans.

Mr. Fields stated in the same spirit that the Commission brought forward revisions this time; he asked Mr. Rhodes if he would like to suggest alternative language to be discussed the next work session.

Mr. Rhodes stated he would suggest removing policy 1.4.5 because if it was needed for a road improvement in an area, it should not be restricted. He stated there would be no way to definitively say that all transportation needs were met in the USA and other critical safety improvements could also increase volume and capacity. He did not feel this would be needed in the Comprehensive Plan and would suggest the language be eliminated all together. He stated the roads were such a significant issue in the county and did not feel comfortable with the policy in the Comprehensive Plan at all.

Mr. Fields stated he felt Mr. Rhodes points were well taken but his concern was not having a statement, at least to the intent that the Commission did not want to assume that improving capacity in agricultural areas was a logical thing. He stated he thought the logic was sound and did not want to improve the capacity in the rural areas when there were unmet needs in the USA.

Mr. Rhodes stated in all of the rural areas in the county, the roads were so poor that any improvement increases capacity.

Mr. Fields stated this would need to be reviewed so the language and methodology was there so the spirit of not improving rural roads simply for volume and capacity was kept in tact as a goal of the Comprehensive Plan.

Mr. Rhodes stated that may be to improve rural roads for volume and capacity. He stated that the roads where high schools were built and where kids driving regularly deserved to have greater volume and capacity capability on them. He stated those roads were already over utilized and the language was inconsistent with all of the things the Commission tries to do in the county, especially for the kids.

Mr. Di Peppe asked if staff would review the wording and come up with wording that could be closer to Mr. Rhodes suggestion and the problems identified.

Mr. Howard stated Mr. Rhodes raised two great points. He stated some of the rural roads were unforgiving and if you take your eyes off the road while driving on those roads, you would be putting yourself in great danger. He stated there were reasons why the words "shall" should be replaced with "should" or "may" to be used in those circumstances because it would allow for a correction on a safety issue. He stated recognizing this should be a guide but with that terminology, it would be a requirement.

Mr. Di Peppe asked if Mr. Rhodes and Mr. Zuraf could work together to come up with some languages to suggest to keep the policy in the plan.

Mr. Fields stated that was why there was a Transportation Committee and suggested taking this to the Transportation Committee for further discussion.

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Mr. Rhodes stated there was a bond referendum that was focusing on some of the roads. He stated the County was a terrible setup for disaster and catastrophes on the roads and it was the good and appropriate efforts of the county to try and fix some the roads. He stated to go against that in the Comprehensive Plan and how to the guide the way the county goes was inconsistent.

Mr. Di Peppe stated he support Mr. Rhodes on his concerns.

Ms. Kirkman stated she would be opposed to eliminating the policy concept; the priority outside the USA needs to be safety improvements rather than projects that would increase volume or capacity because it would lead to more development outside of the USA, which was what the county was trying to avoid. She stated would be willing to consider that made it clear that this was not meant to prohibit safety improvements that might also lead to capacity change. She stated on the other hand, she was not willing to give the policy notion and the priority needed to be funding improvements inside the USA and safety improvements outside the USA.

Mr. Rhodes asked how to define funding improvements and safety improvements.

Mr. Fields stated he would like to have this issue go to Transportation Committee. He stated this would need to be worked out in Committee and it may be that the committee would need to be specific of how this would apply to that.

Mr. Harvey stated there was another item that was deferred at work session because Mr. Howard was not present. He stated staff would be happy to meet with Mr. Howard to explain the discussion about the Lake Arrowhead Commercial Area.

Mr. Fields stated that this issue was deferred because it was in the Rockhill District and Mr. Howard was absent.

Mr. Howard stated Mr. Zuraf gave him a brief explanation and would need to be caught up.

Mr. Fields move the remainder of the Ordinance Committee items to the November 19, 2008 work session.

Mr. Di Peppe stated there were some important Ordinances that the Commission needed to move forward with.

Mr. Fields stated he would like the Ordinances that were discussed today cleared by the next meeting.

NEW BUSINESS

12. SUB2600305-Southgate, Section 2 - A preliminary subdivision plan with 22 duplex units on 11 lots, zoned R-1, Suburban Residential, pursuant to the previously approved Cluster Concept Plan, consisting of 10.81 acres located on the west side of Jefferson Davis Highway approximately 1,500 feet south of Edward E. Drew Middle School on Assessor's Parcels 45-163 and 45-163A within the Hartwood Election District. **(Time Limit: February 4, 2009)**

Mr. Fields stated item 12 was deferred to the December 3, 2008 work session.

MINUTES

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey stated the Board of Supervisors met on November 5, 2008 and approved two (2) of the three (3) tower CUP's application and deferred the Thorny Point application to look at the tower in the near by vicinity to see whether it was suitable. He stated the Board also initiated proffer amendments and a CUP amendment for the Hospital, as the Commission may recall, there was a Condition of the Use Permit as well as a proffer with the Zoning of property that they would have two (2) lanes of a four (4) lane access road built between Courthouse Road and Route 1 at the time the Hospital would go in for an Occupancy Permit. He stated it appeared that the Hospital accelerated the project and would like to open the first week in February. However, given the weather they were uncertain as to whether they would be able to complete the road within that timeframe. He stated the hospital was asking for an extension to the end of April. The Board initiated that request and asked the Commission to have a recommendation to the Board by the end of the year. He stated the Board could potentially have their public hearing in January and keep the opening of the hospital on track. He stated staff would suggest the Commission schedule this item for the December 3, 2008 meeting and in the event of deferral, the Commission would have the second meeting in December to finish discussions.

Ms. Kirkman asked why the Board was initiating the request rather than the hospital.

Mr. Harvey stated there was not a detailed explanation.

Ms. Kirkman asked if that meant the county would not get the fees on this project to cover staff costs.

Mr. Harvey stated correct.

Mr. Di Peppe stated this was a big sticking point in the hospital getting their rezoning. He stated the Commission told the hospital they would have the road opened by time the hospital opened or the Commission would vote no. He stated the applicants said they agreed to those terms and to come back now and say it would not be completed until April. He stated this was a safety issue and he was appalled at the request because that was the major point in the approval of the rezoning.

Mrs. Carlone stated she was also appalled that the county would waive the fees after the situation the county was already in.

Mr. Harvey stated the Board referred to the Commission a zoning text amendment to allow clubs, lodges and fraternal organizations as a by right use in a B-1, Convenience Commercial, Zoning District.

Ms. Kirkman asked what project that was being done for.

Mr. Harvey stated there was a club or lodge that purchased some property in the B-1, Convenience Commercial Zoning District and this was not currently permitted in the B-1, Convenience Commercial Zoning District.

Mr. Fields asked if any member of the Board of Supervisors a member of that club.

Mr. Harvey stated he did not know.

Ms. Kirkman asked what that club was.

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Mr. Harvey stated he believed it was a Masonic Lodge. He stated for the next Planning Commission meeting, he had discussions with Mr. de Lamorton and he planned to have a discussion at the Transportation Committee meeting about the 2018 Transportation model run and also further discussion of TIA regulations. He asked if it would be appropriate to place on the November 19, 2008 regular meeting agenda in addition to the two (2) public hearings.

Mr. Fields stated that was fine.

Ms. Kirkman stated she was concerned with the time for the next meeting since the Commission had many work session items and may roll into the regular session.

Mr. Fields asked if there was a timeframe on that item.

Mr. Harvey stated no. He stated it could be scheduled for December 3, 2008.

Mr. Fields stated that would be better.

COUNTY ATTORNEY'S REPORT

No Report

SECRETARY'S REPORT

No Report

STANDING COMMITTEE REPORTS

Mr. Di Peppe stated there used to be an Ordinance requesting at the time when a rezoning came before the Commission, there were proffers made and those proffers were changed at the Board level. He stated an applicant would have had to come back to the Commission for approval and that was changed. He stated he would like to see work to go back to the original way the Commission did things, otherwise, promises were made on the Commission level to obtain votes for projects, then when they get to the Board level they were pulled. He stated it diminished the power, standing and integrity of the Commission and the Commission should not stand for it. He asked if that could be heard at the December 3, 2008 meeting.

Mr. Fields stated that could be added.

Ms. Kirkman asked if Mr. Di Peppe wanted the request to be in Ordinance form.

Mr. Di Peppe stated he thought the ordinance would need to be repealed.

Mr. Stepowany stated he would meet with Mr. Harvey to discuss the Ordinance.

Ms. Kirkman stated she thought Hanover County had wording in their Ordinance similar to this and it would need to be stated in the Ordinance that was the process. She stated not only would the Ordinance need to be repealed but there would need to be an addition of language as well.

Mr. Harvey stated staff would check into the legal requirements.

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Mr. Rhodes stated next Tuesday the Country would be observing Veteran's Day and in the life of our nation there were over 40 million people that wore uniforms in defense of our Nation. He stated there were 2.3 million veterans in the Nation currently and given that we were a nation with people in harms way everyday, given that our nation was blessed to be able to have peaceful transference of powers, we need to reinforce the fact that while it was a day off, we should remember the significance of the day and who it was to be remembered.

SPECIAL COMMITTEE REPORTS

No Report

CHAIRMAN'S REPORT

None

ADJOURNMENT

With no further business the meeting was adjourned at 10:54 p.m.

Peter Fields, Chairman
Planning Commission