

**SCANNER OPERATOR'S
CERTIFICATE OF AUTHENTICITY**

THIS IS TO CERTIFY THAT THE FOLLOWING ELECTRONIC RECORDS ARE TRUE AND ACCURATE REPRODUCTIONS OF THE ORIGINAL RECORDS OF: JAMES CITY COUNTY RECORDS MANAGEMENT DEPARTMENT AND WERE SCANNED IN THE REGULAR COURSE OF BUSINESS ON THE DATE LISTED; AND PURSUANT TO ESTABLISHED GUIDELINES BY THE LIBRARY OF VIRGINIA AND ARCHIVES; AND THAT WHEN SCANNED THE RECORDS WERE IN THE CUSTODY OF THE INDIVIDUAL LISTED BELOW

CASE NUMBER: 06042008PLC

DATE SCANNED: August 8, 2008

SCANNER OPERATOR: Jill Andrews

LOCATION: WILLIAMSBURG, VA.

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FOURTH DAY OF JUNE, TWO-THOUSAND AND EIGHT, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

George Billups
Reese Peck
Jack Fraley
Tony Obadal
Rich Krapf
Chris Henderson
Joe Poole III

Staff Present:

Allen Murphy, Principal Planner/Zoning Administrator
Adam Kinsman, Deputy County Attorney
David German, Senior Planner
Jason Purse, Senior Planner
Mike Woolson, Senior Watershed Planner
Scott Thomas, Environmental Director
Ellen Cook, Senior Planner
Leanne Reidenbach, Senior Planner
Terry Costello, Development Management Assistant

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

Mr. Robert Richardson of 2786 Lake Powell Road asked to reserve his comments for later when Mr. Henderson is present.

Mr. Fraley postponed the public comment period to later in the meeting when Mr. Henderson is present.

3. MINUTES

A. MAY 7, 2008 Regular Meeting

Mr. Fraley asked if there were any additions or corrections to the minutes.

Mr. Poole made a motion to approve the minutes.

Mr. Billups seconded the motion.

In a unanimous voice the minutes were approved (6-0, Mr. Henderson absent momentarily).

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee

Mr. Krapf stated that the DRC met on May 28th at 4 p.m. to discuss three projects. The first case was C-0030-2008, a conceptual plan to determine general consistency with zoning and ordinance requirements, the Master Plan, and other applicable County policies. Mr. Krapf stated that recently amended proffers to the Stonehouse Development requires the Director of Planning and the DRC to review plans for the Tracts/Land Bays at a conceptual plan level. The DRC accepted the conceptual plan and agency comments by a 3-0 vote.

The next two cases, SP-0131-2007 and SP-0127-2007, were for two separate 120 foot “mono-pine” style cellular communication facilities within the Kingsmill Development. These cases were brought before the DCR because Section 24-122(d) of the Zoning Ordinance specifies that the Planning Director will determine whether the proposed towers are camouflaged and three letters of appeal contesting this decision were submitted to staff. According to the Ordinance, appeals of this nature go to the DRC for resolution but not the Planning Commission. Mr. Krapf stated that by a vote of 3-0, the case was deferred to a special meeting to be held on June 18th. This was done in order to allow the applicant to respond to additional DRC information requests.

Mr. Fraley asked for approval of the DRC report that was given by Mr. Krapf.

Mr. Henderson made a motion to approve the DRC report.

Mr. Poole seconded the motion.

In a unanimous voice the minutes were approved (7-0).

B. Policy Committee

Mr. Peck stated that the Policy Committee met on May 15th and May 22nd to discuss two agenda items. The first item was staff’s proposed work plan to revise the CIP process, which the Committee will be meeting to further discuss on June 5, 2008. Mr. Peck stated that the second item for discussion were the uses more appropriately deemed “by-right” uses in the Zoning Ordinance. He stated this item will be coming forward to the Commissioners tonight as an initiating resolution and discussion during the public hearing portion of the meeting.

Mr. Obadal initiated discussion concerning staff’s review of the current uses in the different zoning districts. He stated he felt the importance of the SUP process was to individualize each request by placing conditions upon the request. He stated that each item listed in the staff report had conditions placed on them, and felt that it would be a mistake to label these items as a generally permitted use.

Mr. Fraley stated that this will be addressed later in the meeting during staff’ presentation.

C. Comprehensive Plan Update

Mr. Krapf stated that the May Citizen Participation Team (CPT) meetings concentrated on

feedback from the Community Conversation meetings that were held in April. Citizen comments were analyzed from all four meetings as well as those submitted by email, through listening stations, and the County website. He stated the CPT reviewed a database that will assist in categorizing comments in preparation for the second round of conversations. Mr. Krapf stated the CPT is ranking “hot topics” that have been gathered from citizen comments and surveys conducted last fall. Topics include workforce/affordable housing, population diversity, speed of growth, loss of farmland, water, bikeways, public transportation, congestion and open space preservation. He stated a new initiative being discussed was to hold citizen forums during the July CPT meetings. He also stated information obtained during these forums would be forwarded to the Steering Committee.

5. PLANNING COMMISSION CONSIDERATIONS

A. Initiating Resolution – Special Use Permit Uses

Mr. Purse stated that staff has undertaken a study of potential changes to what uses are permitted or specially permitted uses in various business/industrial districts in the county. Staff believes that certain SUP uses are similar enough in their impacts to currently permitted uses that they should be allowed without having to receive a special use permit. Staff recommends the Planning Commission adopt the attached resolution to initiate consideration of this amendment to the Zoning Ordinance, and to refer this matter to the Policy Committee.

Mr. Obadal stated he did not want this matter to be considered and he did not want staff to review any of these changes to the Ordinance. He would like to postpone this until further discussions can be scheduled with staff.

Mr. Murphy stated staff would be interested in the Commission’s position on moving forward with considerations of the amendments considering the investment that has been made so far with the Policy Committee. He stated that if the majority of the Commission wishes not to consider it, the matter will be tabled.

Mr. Peck stated that it was his understanding that this matter was initiated from the Business Climate Task Force which the Board of Supervisors has adopted and supported. He stated that the indentified agencies were to pursue these recommendations. He stated that it was his understanding that is why staff initiated this hearing to involve the public in this process. Mr. Peck felt that this needs to move on, involve the public and then make a determination at that time.

Mr. Obadal made a motion to deny this consideration.

Mr. Billups seconded the motion.

Mr. Billups asked what the reasoning for changing the Ordinance was.

Mr. Fraley answered that the Business Climate Task Force recommended that the County review its business and commercial ordinances for the purpose of assessing all special use

permits to determine if these uses could be deemed generally permitted. He stated the Board of Supervisors adopted the report from the Business Climate Task Force and the recommendations that were included. He further stated that the Board of Supervisors is expecting this to move forward.

Mr. Henderson stated that the purpose of reviewing these uses was to align the current uses in the Ordinance with the current practices. He stated that this comparison included other jurisdictions such as York County and the City of Williamsburg. He also stated that these changes were not to be controversial ones.

Mr. Obadal stated that he felt the report from the Business Climate Task Force favored growth. He stated he felt any changes that are made to the Ordinance should be done after the update to the Comprehensive Plan. He did not want to rush into any changes. This will allow the Planning Commission to get some idea of what the community wishes the development to be.

Mr. Krapf stated this initiating resolution opens the public hearing on this issue. He felt that opening the public hearing might provide a better consensus as the Comprehensive Plan revision and the public hearings themselves. However, he felt it was important to move cautiously.

Mr. Porter spoke as a member of the Business Climate Task Force. He does not view their report as a pro growth/no growth report. He said that the purpose of the report was to attract businesses to the community and to generate new revenues. Mr. Porter stated the purpose of the initiating resolution was to start discussions on the uses and special uses allowed in the various districts. He stated that some of these uses have not been revisited since the Ordinance was written in 1969.

Mr. Poole stated he agreed with moving forward with the initiating resolution but had some reservations about removing some special use conditions.

Mr. Billups asked how this resolution will be included in the Comprehensive Plan update.

Mr. Fraley stated that during one update in the past, once it was completed the uses and ordinances were reviewed by citizen committees. These committees compared this to the Comprehensive Plan, and made recommendations for changes. He stated that after the last update in 2003, this type of review was not done. Mr. Fraley stated that passing this initiating resolution will open the public hearing and allow for comment.

In a roll call vote the motion was denied. (1-6) AYE: Obadal; NAY: Peck, Poole, Henderson, Billups, Krapf, Fraley.

Mr. Henderson made a motion to approve the initiating resolution.

Mr. Krapf seconded the motion.

In a roll call vote the resolution was approved. (5-2) AYE: Peck, Poole, Henderson, Krapf,

Fraley; NAY: Billups, Obadal.

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period being that Mr. Henderson was now present.

Mr. Robert Richardson, 2786 Lake Powell Road, wanted the record to show that Mr. Henderson is in attendance. Mr. Richardson respectfully requested that Mr. Henderson relinquish his position on the Planning Commission. He stated that Mr. Henderson helped raise \$17,500 in last minute contributions for the campaigns, along with \$5,000 of his own money, for the three republican members of the Board of Supervisors. He also stated subsequently, these three members of the Board appointed Mr. Henderson to the Planning Commission, with the remaining two members of the Board opposed. Mr. Richardson felt that this is unethical on Mr. Henderson's part, as well as the Board members who appointed him. Mr. Richardson felt that this casts a deep shadow on Mr. Henderson's ability to function as a Planning Commissioner. He also felt that this casts a shadow on the members of the Board of Supervisors who accepted his contributions, and then appointed him to the Planning Commission. Mr. Richardson feels that Mr. Henderson cannot be trusted to do the work of the County. Mr. Richardson requested that Mr. Henderson relinquish his position at this meeting and to refrain from any future involvement in James City County commissions, boards, committees or government positions.

6. PUBLIC HEARINGS

A. SUP-0007-2008 David Nice Contractor's Office and Shed

Mr. Murphy's stated staff's concurrence with the applicant's request for a deferral to the July 2, 2008 Planning Commission meeting.

Mr. Fraley asked if there was a time frame on the deferral.

Mr. Murphy stated there is no time frame.

Mr. Fraley continued the public hearing.

B. SUP-0009-2008 Kingsway Church Greenwood Christian Academy Expansion

Mr. Murphy's stated staff's concurrence with the applicant's request for a deferral to the July 2, 2008 Planning Commission meeting.

Mr. Fraley opened the public hearing and asked for public comment.

Ms. Joanne Spangler, of 3923 Matthews Circle, stated she is a teacher at Greenwood Christian Academy. She spoke in favor of the expansion and asked the Planning Commission to approve the application due to the large number of students requesting admission. She stated the school's students are well rounded, above average academic participants in the community. She stated these students are civically minded, patriotic, and are giving back in many service

projects. Ms. Spangler stated there is a small student/teacher ratio so that the focus is on the individual student. She gave examples of how the low ratio has benefitted the students.

Mr. Fraley continued the public hearing.

C. Z-0008-2007 / MP-0006-2007 Ford's Colony Section 37

Mr. Henderson wanted to address comments that have been made in regards to the Ford's Colony Section 37, CCRC case. He stated that it is important that the public have confidence in our process and the ability of each Planning Commissioner to evaluate each and every project on its own merit. Mr. Henderson stated following last month's meeting he requested a conflict of interest opinion letter from the Commonwealth Attorney's office in this matter. He stated that the letter clearly states that he has not conflict of interest in this matter.

Mr. Obadal stated he would like to see the letter that Mr. Henderson was referring to.

Mr. Kinsman will provide Mr. Obadal with a copy.

Mr. David German stated that Mr. Vernon Geddy has applied on behalf of Realtec, Inc. for a rezoning of the 180.79 acre property located at 3889 news Road, to allow for the construction of a Continuing Care Retirement Community (CCRC) to be known as the Village at Ford's Colony. The applicant was seeking to amend the existing Master Plan for Ford's Colony to include the proposed CCRC property as Section 37 of Ford's Colony, and to rezone the property from R-8, Rural Residential to R-4, Residential Planning Community, with Proffers.

Mr. German stated this proposal includes 38 independent living townhouse units, 558 additional independent living units, 83 assisted living units, and 60 skilled nursing beds. This makes a total net reduction of 205 beds and units from the previous application that was heard at the May 7, 2008 Planning Commission meeting. The property is located in the Gordon Creek Agricultural and Forestal District (AFD). The AFD Advisory Committee met to consider the applicant's petition to withdraw the property from the AFD for the purpose of development. By a vote of 4-2, the Committee voted to recommend approval of the withdrawal to the Planning Commission and Board of Supervisors. Staff found that the project meets the Zoning Ordinance and Comprehensive Plan requirements for density, that the project provides unusual environmental protections and economic benefit to James City County, and that it is generally compatible with surrounding land uses. Staff recommended that the Planning Commission recommend approval of this application to the Board of Supervisors.

Mr. Obadal spoke about a letter he received from Ms. Sara Kadec on behalf of the James City County Citizens Coalition. He said the letter stated that the Coalition did not have sufficient time to form a consensus on this project. Mr. Obadal referred to the Virginia Code with regards to the filing notice requirements, and stated it was required that two public notices be published. He verified with Mr. German that this was done.

Mr. Kinsman stated that the County fulfills all of the advertising requirements and goes beyond what is required. He stated that the County posts signs, and sends out mailings to

adjacent property owners concerning upcoming cases.

Mr. Obadal stated there is a requirement that the public hearing be held no less than five days and no more than 21 days from the last public advertisement.

Mr. Kinsman stated that the hearing took place in December, seven days after the last advertisement, and has remained open since that date.

Mr. Billups questioned whether this is an amendment to a master plan. He felt that this was a separate project on its own, and was not a continuation of the Ford's Colony subdivision.

Mr. Murphy stated that the case before the Commission tonight is an application to rezone the subject property to R-4 and to amend the existing proffers to bring the property under the same master plan.

Mr. Billups asked if the Ford's Colony Homeowner's Association was in agreement with adding this property to the master plan.

Mr. Murphy reiterated that the question of a proper application was addressed at the last Planning Commission meeting. He stated that the staff position and the position of the County Attorney is that this case constitutes a proper application to expand the master plan for Ford's Colony.

Mr. Kinsman confirmed that the question of a proper application has been addressed and readdressed and it has been decided that the application was properly accepted.

Mr. Obadal asked about the owners of the property. He noted that it was mentioned that when the applicant made the presentation at the May Planning Commission meeting, there were two owners listed. Mr. Obadal stated that when he questioned the number of owners, he was told it was a contingency ownership. He was told that the Richmond Company, who was listed as the second owner, would become an owner once the rezoning application was approved. Mr. Obadal asked who the owner in the application was.

Mr. Drew Mulhare of Realtec, Inc. spoke, stating that the plan has undergone some revisions since the last meeting and the environmental protections are greater than those in the original application.

Mr. Geddy spoke on behalf of the applicant, Realtec. He addressed Mr. Obadal's question by stating that Realtec is the current owner of the property. He further stated that another entity may be involved in the future, but Realtec had signed the application as the owner. The property is 180 acres and is surrounded by R-4 developments. He stated the goal was to continue and to build on the Ford's Colony lifestyle, and to provide for the comprehensive life care needs of an aging population. Mr. Geddy stated that the applicant has taken all concerns from the Commission, and the public, into consideration when making this revision. He stated the revised proposal includes 596 independent living units, 83 skilled living units, and 60 skilled nursing beds. He stated that this is a reduction of 22% from the original plan. Mr. Geddy mentioned that

there was a new proffer added that was for two additional living beds for the Auxiliary Grant Program run by the James City County Department of Social Services. He also stated that Realtec is the first and only participant in this program in the County.

Mr. Geddy indicated on the revised plans how larger buildings have been moved toward the center of the development and away from the roads. He showed where some of the buildings have been reduced in size and in height. He stated there was a proffer to limit the height of the building closest to Monticello Woods and a proffer to enclose the mechanical equipment for that building. He noted the increased buffered areas and the increased open space. Mr. Geddy listed the proffer changes which included the lower density, traffic signal at Powhatan Secondary, green roofs on warehouse buildings, and a better-defined recreation proffer. He stated he felt the application was consistent with the Comprehensive Plan and the R-4 Ordinance. Mr. Geddy stated that the stand alone density for the project is less than Chambrel and Patriot's Colony. He further stated that the reduction in density leads to a 27% reduction in potential vehicular trip generation. Mr. Geddy stated that the projected net positive fiscal impact to James City County at build out would be \$1,000,000 and that the project would generate additional one time positive net revenues of \$3,000,000 during its initial construction.

Mr. Henderson asked if the two beds under the Auxiliary Grant Program were included in the number listed for assisted living beds, or were they in-addition-to this number.

Mr. Geddy answered there were to be added, so that the total for assisted living nursing beds would be 85.

Mr. Poole asked what would be the staffing requirements would be with the revised number of residential units in this proposal.

Mr. Geddy answered that it would be approximately 245 full time positions.

Mr. Krapf asked Mr. Geddy to explain the 22% reduction in units versus the 27% reduction in trip generation.

Mr. Geddy stated that there was a reduction in the different types of units. These different types of units generate different volumes of traffic.

Mr. Billups asked Mr. Geddy if he anticipated many residents from Ford's Colony making the transition to the CCRC.

Mr. Geddy stated they hoped so.

Mr. Billups asked if there were any affordable homes for those who presently live in Ford's Colony.

Mr. Mulhare answered that the average size of an independent living unit is 1400 square feet. There are some as small as 900 square feet that are more affordable than the larger units. Mr. Mulhare stated that until this project is rezoned and registered with the Commonwealth of

Virginia, they are not permitted to discuss resident membership fees and costs.

Mr. Fraley asked about other screening measures in addition to the evergreen tree screen behind Building P.

Mr. Geddy stated they would be willing to look into other measures.

Mr. Obadal asked about the proffer concerning the commercial use.

Mr. Geddy clarified by stating that the proffer was written to include uses such as banking, retail, and other services so that it was clear that these were intended to be used by the residents of the CCRC.

Mr. Obadal asked about the secondary exit out of the complex and if this exit runs through the property.

Mr. Geddy showed the property boundaries and where the primary and secondary entrances / exits were to be located.

Mr. Obadal asked if the secondary entrance / exit was approved by VDOT.

Mr. Geddy stated it has been approved for emergency use only. He stated to expand that use would require further approval from VDOT and the installation of turn lanes.

Mr. Obadal expressed his concerns over this exit and the need for Emergency Services to be able to get into this facility, and the need to evacuate people in the case of an emergency.

Mr. Obadal asked if the streets within the complex will meet current VDOT standards.

Mr. Geddy stated they will meet VDOT standards.

Mr. Billups asked how this project will connect with the master plan.

Mr. Geddy stated that this property will become Section 37 of Ford's Colony.

Mr. Billups asked how the original Ford's Colony master plan fit into this project.

Mr. Geddy stated that if this application is approved then this section will be shown on the Ford's Colony master plan. He further stated that an agreement has been reached with the Ford's Colony Homeowner's Association that this will not be a part of the Association.

Mr. Obadal asked about the ownership and if it would change with the approval of this application.

Mr. Geddy stated that with this approval the property will be transferred to a partnership between Realtec and Windsor Healthcare.

Mr. Obadal stated the reason for his question was that Section 24-286 requires same ownership. He felt that maintaining a single ownership was important to ensuring consistent policy, given the area of Ford's Colony.

Ms. Diana Hutchens, the Director of Social Services, addressed the proffer of the two Auxiliary Grant beds. She stated this program is designed to assist low income residents of the County who otherwise could not afford this type of care. She explained that the resident's income would be put toward the cost, and that the grant would match up to \$1075. Ms. Hutchens stated that currently 34 residents are in this program but only two of them were able to stay in the County. She further stated that this proffer offers inclusiveness which is one of the County's goals.

Ms. Louise Pearson, 4400 Chickasaw Court, spoke on behalf of the Powhatan Secondary Homeowners Board. She stated that Board commends Realtec for the changes in the plan. She further stated that the Board has decided not to oppose the plan that was presented to them. Ms. Pearson stated that there is still concern over the traffic in the News Road corridor and the impact of future development in that area.

Mr. Richard Wandtke, 4048 Ambassador Circle, stated he is the Chairman of the Advisory Board for the Monticello Woods Homeowner's Association. He stated that since the last Planning Commission meeting Realtec has met with the homeowners twice. He also stated that Realtec has addressed the Monticello Woods homeowners' concerns. Mr. Wandtke stated that they do request some additional rapid growth evergreen trees for an additional visual buffer. He also requested that HVAC equipment be installed in such a way as to minimize noise and visibility. He also requested that outside lighting be limited so as to provide a safe environment and not give an unnecessary brightness to the sky above the development or shine light into neighboring parcels. Mr. Wandtke also wanted to make sure that the largest building nearest their subdivision remains below the tree line. He wanted to emphasize that proffers need to be monitored and enforced.

Mr. Paul Spitalnik, 112 Mahogany Run, stated he is a resident of Ford's Colony. He stated that his background is in healthcare and that he has been long-involved with these types of facilities. He stated that the staff that will support this facility is not age restricted and this will affect school capacity. Mr. Spitalnik stated that the state and federal government require a staffing plan before opening. He felt that staffing requirements would be enormous. He also stated he felt that there may be more than 240 employees working at this facility. Mr. Spitalnik estimated that it would take a 60% ratio of residents to staff to accommodate this type of facility. He asked if anyone has looked into the availability of physicians or the other skilled professionals needed to staff a facility of this size within the County. He asked the Planning Commission to postpone their decision until Realtec presents a staffing plan.

Mr. Dale Merriss, 104 Inverness, stated he felt this was a better plan than what was reviewed last month but still had concerns with the density. He felt that if this plan is approved there may be unintended consequences, the main one being a loss of confidence by the public in the Planning Commission by the public as protectors of the Comprehensive Plan. Mr. Merriss

felt that a more appropriate application would be a rezoning to R-5. He does not feel that this property should be added to the Ford's Colony master plan. He felt that Section 24-283 should be applied in this situation.

Mr. George Spalthoff, 152 Western Gales, stated he is a resident of Ford's Colony. He expressed his concerns about the traffic on News Road. He felt that the proffers should include substantial improvements to the culverts on News Road. Mr. Spalthoff would like to see a traffic study done after each phase of construction. He feels this study should include the effects of the CCRC and other development that affects the News Road corridor. He would also like to see News Road standardized to where all sections have the same width to make the road safer.

Ms. Kensett Teller, 126 Lake Drive, spoke as a resident of James City County. She spoke about the history of growth in the County. She felt that in order to preserve the quality of life, any additions to the development in the County need to be examined closely. Ms. Teller feels the density is too much for this site. She does not believe that this application demonstrates a public benefit, and an approval of this project should not be based solely on the potential for positive tax revenue generation. Ms. Teller feels that there has not been enough time to study the cumulative impact that this project will have on the community. She feels that this project does not protect the health and welfare of the community and does not show the extraordinary public benefit needed to qualify for a rezoning.

Mr. Gary Krull, 104 Stoweflake, stated he is a resident of Ford's Colony. He stated that he was in favor of the plan before the Planning Commission. He felt that the list presented by the applicant consists of top quality builders, developers and health care professionals. Mr. Krull feels that this facility will be needed in the future for James City County. He asked the Planning Commission to approve the rezoning.

Mr. Bill Geib, 104 Alwoodley, stated he is a resident of Ford's Colony. He asked the Planning Commission to consider citizens' concerns about the density and the effect on the Powhatan Creek watershed. He stated the concerns of Monticello Woods and Powhatan Secondary residents have been discussed but there is still opposition to this application from residents in Ford's Colony. He suggested the Planning Commission ensure that onsite infiltration systems work as designed, allow for the construction of a turn lane on News Road, and retain the original cash proffer for improvements to News Road. He also suggested the Planning Commission recommend to the Board of Supervisors to prioritize the improvements to News Road in the Six Year Secondary Road plan.

Ms. Fran Dunleavy, 108 Worksop, commended Realtec for the changes to the CCRC plan. She still has issues with the proposed density of the CCRC in comparison to the surrounding developments in the area. Ms. Dunleavy does not believe this property should be added to the Ford's Colony master plan. She asked how an amendment to a master plan can be approved when it is unclear if the application was made in accordance with the Ordinance. She said that she wrote to the Zoning Administrator on two occasions but received no reply. She did, however, receive a response from the County Attorney's office. Ms. Dunleavy asked the Planning Commission for an explanation from the County Attorney's office regarding the legality of the acceptance of the application. She asked if Realtec, as the developer, not the

owner, would be able to continue to add property to the Ford's Colony master plan. She stated that maybe the law (allowing additions to existing master plans) needs to be changed.

Ms. Ann Hewitt, 147 Raleigh St, spoke on behalf of the Friends of the Powhatan Creek Watershed. She thanked Mr. Mulhare for meeting with her organization. She stated that it is their opinion that this plan destroys too much of one of the last contiguous forests in the Powhatan Creek Watershed. Ms. Hewitt stated that her organization has accepted that the infiltration systems on the plan are sufficient to control flooding. She stated that they still have concerns with the amount of impervious cover and that there was an end date for the stream monitoring plan. She would like to see a proffer that extends the monitoring to include a number of years after the project is totally completed. She stated that her organization still felt that the plan does not protect the natural resources in the area. Ms. Hewitt respectfully requested that the Planning Commission deny this application and request a resubmittal and to allow citizens more time to evaluate all its complexities.

Mr. Gregory DeBlase, 104 Old Cart Road, stated he is a resident of Powhatan Secondary. He expressed concerns over the impact of this and other projects on infrastructure. He expressed his concerns over the traffic on News Road. Mr. DeBlase felt that the cash revenue will not be enough with regards to schools, and that traffic that will be negatively impacted.

Mr. Anthony DeRose stated he is a resident of Ford's Colony. He felt that most comments were general in nature, and that they were not based on facts and statistics. He stated that the Ford's and Mr. Mulhare are very reputable and that what they have presented is what they will build, if the application is granted approval. He supports the application.

Mr. Fraley closed the public hearing.

Mr. Poole stated he was appreciative of the improved resubmittal. He appreciated the meetings that the applicant had set up with all the concerned groups and parties involved. Mr. Poole feels that this is too much building for this site, even though it has significant positive environmental protections. He feels that this is a good proposal but in a wrong location. He feels that the Comprehensive Plan does not permit this use. Mr. Poole made a motion to deny the application.

Mr. Krapf shares some of Mr. Poole's reservations. He did however mention all of the positives in this proposal, including the green building and green roof techniques proposed. He feels that 61% of the property remaining as open space is a positive. Mr. Krapf stated that this will provide a different revenue stream for the County. He did have concerns with the density, and about traffic impacts when adjacent properties come under development in the future. He urged that this area be addressed during the Comprehensive Plan update. Mr. Krapf feels that the advantages outweigh the disadvantages and he supports this application.

Mr. Peck thanked the applicant for working with the Homeowner's associations in the Berkeley district. He expressed his reservation about how the application was brought forward. He stated there was an option to bring a case before the Board of Zoning Appeals for those who disagree with the County's position and that was not done. Mr. Peck stated the rules for

evaluating some of these projects may need to be addressed. He is in favor of this project but also has concerns with the density.

Mr. Obadal stated he remains very strongly opposed to this project. He had difficulties when he tried to do measurements on News Road. He has many concerns with additional traffic on News Road. Mr. Obadal expressed concerns over density and would like to see better flood control on News Road.

Mr. Billups stated that he was disappointed in the way this plan was presented by staff. He stated that in his opinion this proposal is not consistent with the Comprehensive Plan. He stated that there are three major farms on this road. He felt that if this proposal is approved, it may encourage other proposals similar to this one. Mr. Billups felt that this proposal should be put on hold until the update of the Comprehensive Plan is completed. He also had concerns about the units approved in the County but not yet built. He also expressed concerns about the impact of the workforce needed to staff this development. Mr. Billups does not see a public good with this proposal.

Mr. Henderson wanted to commend the applicant for bringing forward what is in his opinion, an extraordinary application. He stated it has environmental protections with all of the proffers involved. He felt that the project does serve a public benefit. Mr. Henderson feels that this is a continuum of the lifestyle that is in Ford's Colony and that it will be embraced by the residents there and other County residents as well. He felt that the reputation of Ford's Colony and Mr. Mulhare are worthy of the County's support. He believes that this project could be a model for similar future projects. Mr. Henderson stated that Thomas Nelson Community College will have a program in the area where professionals can be trained for this facility. He stated that in his opinion more skilled workers moving to the area are an additional bonus. He thanked staff for all of their hard work on this project.

Mr. Fraley expressed his concerns over the traffic on News Road. He stated that the applicant has conformed to the process. He also stated that there are no appeals before the Board of Zoning Appeals. Mr. Fraley stated he would have preferred that this proposal be a standalone project, rather than an amendment to the Ford's Colony master plan, and that the proposed zoning should have been R-5 instead of R-4. He stated that, in this district, nursing homes, rest homes and hospitals and other similar uses are allowed as a specially permitted use. He stated that the proposal contains unusual environmental protection measures. Mr. Fraley stated that this plan had the most creative environmental designs that have ever been submitted to James City County. He stated that the amount of open space proffered is a very important component of this project. He also felt that the new revenue stream generated by this project was very important. Mr. Fraley also believed that this project will attract skilled-labor workers. He mentioned the agreement with the Ford's Colony Homeowners' Association and that they do not oppose this rezoning. He also stated that there were letters from the Homeowner's Associations from Springhill, Powhatan Secondary, and Monticello Woods stating they do not oppose this application. Mr. Fraley also stated that DRC approval is needed at the site plan phase which is a meeting that is open for public comment. He stated the specifics of what the Comprehensive Plan recommends for low density residential areas. He stated that this proposal is within the

range identified by the Comprehensive Plan. Mr. Fraley feels that this proposal is a good use of the property because the impacts will be much less than a comparable R-4 residential development. He stated that this proposal offers many public benefits and that he will support its approval.

Mr. Billups seconded the motion.

In a roll call vote the motion was not approved. (3-4) AYE: Poole, Billups, Obadal; NAY: Peck, Henderson, Krapf, and Fraley.

Mr. Henderson made a motion to approve the application.

Mr. Krapf seconded the motion.

In a roll call vote the application was approved. (4-3) AYE: Peck, Henderson, Krapf, Fraley; NAY: Poole, Billups, Obadal.

D. SUP-0011-2008 Williamsburg Dog

Ms. Leanne Reidenbach stated that this case is an application for a special use permit for an 8500 square foot dog day care center. She stated that the indoor area would be 5000 square feet with the outdoor area being approximately 3500 square feet. She stated the daycare would house between 30 – 40 dogs in an existing building that is zoned B-1 General Business. Ms. Reidenbach stated that the daycare would be open from 7am until 6pm indoors, and outside the building between 9am and 5pm. The property is located in the John Tyler Commercial Center at 3317 Venture Lane. The site is deemed Mixed Use by the Comprehensive Plan and is in the Five Forks area. Ms. Reidenbach stated that the property is bordered by two residential areas, Baron Woods and Brandon Woods. She stated that several petitions in support of and in opposition to have been received. Ms. Reidenbach listed several of the conditions that staff suggested to minimize the potential impacts of this use to the surrounding neighborhoods. She stated staff believed the proposal was generally consistent with the Comprehensive Plan and with the Primary Principles for the Five Forks Area. Staff recommended that the Planning Commission recommend approval to the Board of Supervisors with conditions.

Mr. Krapf asked if there was a regulation that states how many square feet of space are required per number of dogs.

Ms. Reidenbach stated she consulted with the Commissioner of Revenue's office and the County's Animal Control Division and they were not aware of any requirements of square footage.

Mr. Henderson asked about decibel studies.

Ms. Reidenbach explained that staff has a decibel meter that can be used to measure sound. She visited several kennels in the area and performed sound measures at the Godspeed Animal Hospital, which is attached to the St. Francis Pet Resort that has a daycare facility. She

stated that at the fence of the outdoor play area the barking sounds measured 85 decibels. Ms. Reidenbach stated that 50 decibels is the sound level in a quiet home or office, and 65 decibels is the sound of passing traffic. She stated that at about 150 feet from the fence the barking sounds registered 65 decibels and was difficult to measure beyond the sound of passing traffic on Ironbound Road. She also noted that it was difficult to get the dogs to begin barking at first and that barking was sporadic throughout the test.

Mr. Henderson asked if staff considered placing a decibel limit as a condition at the property line or at the residential property line. He stated that the primary concern generated by the public is the level of noise coming from the facility.

Ms. Reidenbach stated that staff did not consider a decibel limit but that enforcement of a limit might be difficult. She said it would probably have to be done on a complaint basis.

Mr. Henderson asked if there were cases where sunset clauses were placed on special use permits where controversial uses exist.

Mr. Murphy answered there has been sunset clauses for some child daycare centers in the interior of residential subdivisions.

Mr. Kinsman stated that typically sunset clauses were used for temporary uses, such as borrow pits, or where uses might change on a year to year basis. He stated that there are some concerns as to whether a sunset clause is legal in general. Mr. Kinsman stated he would not recommend a sunset clause in this case.

Mr. Obadal asked about the exterior surface of the building.

Ms. Reidenbach stated it looked like a general warehouse that would be metal, but that the applicant may be able to respond more accurately.

Mr. Poole asked about other uses in the commercial park, especially outside activities.

Ms. Reidenbach stated there is some outdoor storage of equipment.

Mr. Obadal asked how far this site was from a residential area.

Ms. Reidenbach showed where it was 100 feet from a residence in Baron Woods, and 380 feet to the closed residence in Brandon Woods.

Mr. Kinsman addressed Mr. Krapf's concerns of space limitations. He stated there are some provisions in the County Code pertaining to proper care of animals that would apply here. It is very general in nature and does not address square feet.

Mr. Obadal asked if there were any environmental concerns in the area that is to be hosed down where the dogs are outside, specifically addressing runoff.

Ms. Reidenbach stated that there are conditions attached to the application that address these concerns, such as berming in addition to diverting the downspouts on the roof, and that the Environmental Division was satisfied with these measures.

Mr. Obadal asked about the runoff from the animal waste.

Mr. Thomas stated that there is a condition that the area stays maintained and that waste is scooped up so that it does not become a problem. He stated that prior to site plan approval, the applicant would have to demonstrate that the discharge in the outdoor area has been minimized to the extent that it is practical.

Mr. Peck asked if this application was approved and noise did become an issue, what recourse citizens would have.

Mr. Kinsman stated that if it was determined that one of the conditions, such as noise, was not followed, then the special use permit could be revoked, taking away permission for operation of this use.

Mr. Peck asked what the condition was on noise.

Ms. Reidenbach answered that the conditions to mitigate noise included solid fencing around the property, limitations as to when dogs are allowed in the exercise areas, and that in rooms where dogs are kept, windows and doors should remain shut to minimize noise.

Mr. Kinsman also stated that there is a tendency to stay away from setting a decibel level as a condition. He stated it would be difficult to enforce since it is a “catch it while it’s happening” type situation.

Mr. Fraley opened the public hearing.

Ms. Renee DiBiaso showed pictures of what they envision the dog daycare would be like. She stated that they did not plan to hose down the outside area and that pet waste would be disposed of properly. She stated that they have been looking for a couple of years for a place to start their business. Ms. DiBiaso stated they do reserve the right to refuse certain dogs based on temperament and sociability. She stated they would have a screening process. She stated that her husband met with the neighbors in Baron Woods and they have their support in this venture.

Mr. Matthew DiBiaso stated that staff recommended wood fencing in the entire back yard. He wanted to change to make the solid fencing just on the side facing Brandon Woods. He felt that with the entire backyard with wooden fence the sound might bounce off the wood. He proposed to use the existing chain link fence with cloth screening on the other sides.

Mr. Poole asked about the option of having the entire facility indoors.

Ms. DiBiaso stated it is rare, and they felt dogs need to be outside for part of the day.

Mr. DiBiaso stated that they do not feel that there would be a lot of barking. They felt dogs bark for a reason; possibly they are under a tense environment or need to get out. They do feel like the outdoor area is essential to their operations.

Mr. Krapf asked about the change in fencing. He asked for a condition that if there were a number of complaints about noise, that the remainder of the area has the solid wood fence installed.

The DiBiasos agreed.

Mr. Henderson asked if there were certain breeds that they would consider not acceptable for their facility.

Mr. DiBiaso stated the screening process would be done to determine if the dog has any aggression.

Mr. Henderson asked if they would agree to not allow breeds that were known to be aggressive.

The DiBiasos agreed.

Mr. James Riley, who was representing the Brandon Woods Home Owner's Association, spoke in opposition to this application. He stated that the majority of residents in this neighborhood are retirees. He stated they are concerned with noise, insects, and environmental issues. Mr. Riley felt that property values would decrease as would the quality of life. He stated that the majority of the retirees are home the majority of the day. Mr. Riley stated that they respectfully request that the Planning Commission deny this request.

Mr. Max Burry, 3408 Avery Circle, lives in Brandon Woods. He has been a resident of Brandon Woods for eight years. He felt that this use in the area would cause a noise problem, and decrease their quality of life if approved. He asked the Planning Commission to think seriously about a use like this in the Five Forks area.

Mr. Fred White of 3504 Brentmoor, lives in Brandon Woods. He expressed his concerns over this use in the Five Forks area. He felt that this use would adversely affect their property values and gave an example of a dog facility in Newport News and the noise he has heard.

Ms. Mary Cornell, 3312 Chelsea Landing, also lives in Brandon Woods. She expressed her concerns over the number of dogs that will be at the facility. She stated her concerns over the traffic on Route 5 of people coming in and out of the daycare facility.

Ms. Pat Walsh, 3405 Avery Circle, stated she is a member of the Board of Directors for the Brandon Woods Association. She stated the board members met with the applicants. She expressed concerns that the applicants have not run a facility like this before. Ms. Walsh expressed concerns over the noise issue. She mentioned a petition in favor of this proposal from Baron Woods. She said she could not find all of the addresses of the individuals who signed the

petition. Ms. Walsh stated several signatures listed on the petition were not close to this property.

Mr. Bill Presspest, of Sommerset Lane, lives in the Villages of Westminster. He mentioned the facility that was previously referred to by another citizen that was in another locality. He stated the dogs barked there because they were caged in that facility with no walking area.

Mr. Dale Weapon, 3701 Kensington, lives in Brandon Woods. He questioned what the business plan was for this proposal. He stated that there are sound absorbent materials that could probably be used for the outside fence. He expressed his concerns that the applicant did not know what breeds they would allow in their facility and what breeds would not be allowed.

Mr. Fraley closed the public hearing.

Mr. Fraley stated he visited the Pet Resort near Greensprings. He stated that when walking around the perimeter, he could hear barking approximately 300 feet away. He did express some concerns about the noise to the nearby residential areas.

Mr. Poole agreed with Mr. Fraley and further stated his concerns that he would feel more comfortable if the applicant had a history with this type of business in order to get the reactions of nearby businesses and residents to its operation. He also was concerned with the enforcement of a noise problem if the noise became an issue to nearby residents.

Mr. Krapf felt that most of the issues could be mitigated except for the noise. He looked at the permitted uses in this zoning district, which is B-1. When reviewing these uses and comparing it to this use, some were similar. Particularly, veterinary hospitals were permitted, which could have outdoor exercise areas by-right. Mr. Krapf felt that the criteria of the applicants not having previous experience in this area are not subject to discussion with regards to approving this application as they are not ordinance requirements. He felt that the screening processes are in place to screen out certain potential aggressive dogs, and stated that not all the dogs would be outside at one time. He stated that he felt there was sufficient space between this facility and the nearby residential areas.

Mr. Billups expressed concerns with the recourse available to citizens that have noise concerns. He cannot support this application unless there is some relief to citizens who might have problems with the noise.

Mr. Kinsman stated there was a condition in the application with regard to noise and the times that dogs are allowed in the outside area. He expressed his concerns about setting something up for complaints.

Mr. Peck stated that the request came up during the discussions of the Policy Committee on the B-1 ordinance changes. It was their decision to suggest making this use a special use permit so that conditions could be placed upon any applications. He also expressed concerns about what recourse citizens have concerning the noise issue.

Mr. Henderson stated all of the other issues can be addressed except the noise. He stated that there are standards where noise can be monitored through establishing decibel levels. He stated there could be a provision where the applicant could provide noise assessments.

Mr. Obadal expressed his concerns over the applicant's lack of experience in this area of business. He felt that the citizens had valid concerns over the noise of the animals.

Mr. Billups made a motion to deny this application.

Mr. Poole seconded the motion.

In a roll call vote the application was denied. (5-2) AYE: Peck, Poole, Billups, Obadal, Fraley; NAY: Henderson, Krapf.

E. Z-0001-2008 / MP-0001-2008 / SUP-0006-2008 St. Olaf's Catholic Church Expansion

Ms. Cook stated that Ms. Sara Silveria, of AES Consulting Engineers, has applied to expand the existing St. Olaf Catholic Church located at 104 Norge Lane. The current application proposes to accomplish several things. First, to eliminate the proffers which were put in place during the 1994 rezoning; the proffered items would now be covered by SUP conditions or eliminated. Second, to obtain a SUP which would allow for a 27,625 square foot expansion, which is needed to accommodate the church's growing congregation. Currently, a 2,601 square foot parish office and a 5,214 square foot worship building are in place on the site. Third, to obtain a height limitation waiver, to be acted upon by the Board of Supervisors. Finally, to vacate the existing conservation easement on the property, also to be acted upon by the Board of Supervisors.

Ms. Cook stated the church parcel is designated Low Density Residential. Churches are among the recommended uses in this land use designation. Other uses in the vicinity include churches, commercial shops, medical offices, agricultural uses, and residential: staff believes that the expanded church would remain compatible with the general character of the area. Overall, Staff finds the proposal to be consistent with the surrounding zoning and development and, with the following conditions, consistent with the Comprehensive Plan. Staff recommends approval of this application.

Mr. Billups asked if this was a one or two story addition.

Ms. Cook was not sure of the specifics of the building but the architect was present to answer any questions.

Mr. Billups asked if the applicant addressed stormwater runoff with regards to impervious cover and if the entrance on Norge Lane will be widened to accommodate the new flow of traffic.

Ms. Cook stated the entrance was being re-designed but she would defer to the applicant as to the specifics.

Mr. Billups asked if there was any impact on the residential lots in the area.

Ms. Cook stated there will be some buffering, an evergreen screen, and they would need to meet landscape ordinance standards for other portions of the site.

Mr. Billups asked about specific buffering that would camouflage the parking lot from Route 60.

Ms. Cook stated that there was not special use permit condition language that addressed these areas of the site currently, that landscaping in that area would be in accordance with the Zoning Ordinance.

Mr. Billups asked about the height of the cross and whether it could be reduced.

Ms. Cook deferred to the applicant.

Mr. Fraley asked if the applicant could present a landscaping master plan for the Commission to review.

Ms. Cook said it could be written as a condition of the special use permit.

Mr. Fraley opened the public hearing.

Mr. Geddy made a presentation on behalf of the applicant St. Olaf's Catholic Church. He showed pictures and diagrams of the proposed expansion. He also stated that there is an attempt to meet the parking needs, which is more than what is in the Ordinance. Mr. Geddy stated they believe it is consistent with the master plan and the surrounding uses. He requested that the Planning Commission recommend approval to the Board of Supervisors.

Mr. Krapf expressed his concerns about the width of the buffer between the parking lot and the residential areas. He stated the applicant is proposing 300 parking spaces as opposed to the ordinance requirement of 190. He asked if some of the parking could be reduced and the buffering increased.

Mr. Geddy stated the applicant wanted to keep the 300 spaces.

Mr. Krapf asked if the applicant would agree to a binding landscape master plan that would go before the DRC.

Mr. Geddy stated that would be agreeable.

Mr. Fraley asked if the building expansion would come before the DRC.

Mr. Murphy stated that there is no requirement for this to come before the DRC. He further stated that having a condition that the landscape plan come before the DRC would be acceptable. He did ask that staff and the applicant would like to know if the Commissioners had certain areas they wanted emphasized.

Mr. Krapf wanted to make sure there was adequate buffering and screening for residents on Norge Lane.

Mr. Murphy asked about the depth of the buffer. He stated if the Commissioners felt that the depth should be deeper and/or wider, then that should be made a condition of the special use permit.

Mr. Krapf asked the applicant to explain from an engineering standpoint the problems with making the buffer wider.

Mr. Rich Costello addressed this question. He stated that the islands need to remain due to the storm water criteria that needed to be addressed. If the buffer was increased, the parking would need to go to diagonal parking. Mr. Costello stated the parking will be phased in. He stated that one way aisles would be confusing to people. He also stated that this parking will not be enough 100% of the time; overflow parking will still be needed.

Mr. Henderson asked if the owner who is impacted by the 15 foot buffer is a member, or has he stated any concerns to the applicants.

Mr. Costello stated that the church has contacted the residents and no one has made suggestions.

Mr. Henderson suggested maybe purchasing additional property to increase the buffer.

Mr. Costello said the church can speak with the property owner if need be.

Mr. Krapf asked how Mr. Henderson's suggestion be incorporated into this application.

Mr. Murphy stated that a condition could be added to the special use permit that the church would solicit agreements with the adjoining property owners.

Mr. Kinsman did not recommend a condition that imposes something on an adjacent property owner.

Mr. Krapf stated some concerns with the parking spaces and recommended a larger buffering area.

Mr. Costello was not aware of any issues that adjacent property owners had.

Mr. Obadal asked about the use of pervious concrete in the parking lot.

Mr. Costello said the cost would be a factor. He stated the islands that are on the plan make stormwater work better if the area gets clogged. He stated that if pervious concrete gets clogged it would be difficult to correct. It is important to maintain it in order to be effective.

Mr. Obadal asked how the figure of 300 parking spaces was determined.

Mr. Costello stated counts of cars and parishioners were taken over the course of three months. He stated it was assumed that two parishioners are in one car.

Mr. Billups asked what the average size of a cross on a church is.

The applicant's architect stated that the size of the cross was determined by the size of the building so that they are proportional.

Mr. Fraley opened the public hearing.

Mr. Ray Rebello, 206 John Pott Drive, stated he is a member of St. Olaf's Catholic Church. He stated the history of the expansion of the church. He stated that because of the large retirement population of the membership, he feels that the proposed plan will not accommodate this number. Mr. Rebello stated there is no current design available for parishioners to view. He does not feel that this proposal is practical.

Mr. John Collagon stated he is on the finance counsel at St. Olaf's Catholic Church. He stated that surveys have been done and there has been some discussion about relocating to another site. He mentioned that the Church has a capital campaign. He stated that the pastor makes the financial decisions for the church. Mr. Collagon would like the Planning Commission to recommend approval to the Board of Supervisors.

Mr. Cox stated he is the business manager of St. Olaf's Catholic Church. He stated that at the largest mass on Sunday, the count was 350 – 400 individuals. He stated that 2.1 was the average that was determined per car. He stated there is still parking on the grass and along the road.

Mr. Fraley closed the public hearing.

Mr. Henderson stated he believes it is a good thing that a church needs to expand and that is a positive thing for the community. He supports the application.

Mr. Krapf supports the application with the addition of requiring a landscape master plan to be reviewed by the DRC. Mr. Krapf made a motion to approve with this condition.

Mr. Obadal supported the application.

Mr. Poole seconded the motion.

Mr. Fraley asked Planning Commissioners to send requests to Ms. Cook what they would

like addressed on the landscape master plan.

In a roll call vote the application was approved. (7-0) AYE: Peck, Poole, Henderson, Billups, Krapf, Obadal, Fraley.

F. SUP-0005-2008 Cingular Tower at the Longhill Road Recreation Center

Mr. Purse stated that Ms. Lisa Murphy has applied for a Special Use Permit to allow for construction of a 135' WCF tower, replacing one of the existing light poles serving a soccer field at the Recreation Center on Longhill Road. The parcel is 22.563 acres and is zoned PL, Public Land. The property is located at 5301 Longhill Road.

Antennas are currently located on the water tank across the street from the Recreation Center, but the tank is going to be deconstructed in July of this year. The water tank will not be replaced as it is no longer necessary due to recent construction of other tanks. The tower will continue to provide athletic field lighting at their current height, but the pole will be taller and have antennas placed at 135', with a three foot lightning rod (for a total of 138'). The current light pole is 62' in height.

Staff finds the proposal, with the attached conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. While the tower will have a visual impact on surrounding areas, staff believes that it has a lesser impact than the existing water tank which houses WCF antennas.

Staff recommends the Planning Commission recommend approval of the special use permit application for the Cingular tower at the Longhill Road Recreation Center with the attached conditions to the Board of Supervisors.

Mr. Henderson asked Mr. Purse to point out the houses that are impacted by this tower.

Mr. Purse pointed out the three homes that would be affected and the additional screenings that will be in that area.

Mr. Henderson asked if there was any opportunity for co-location.

Mr. Purse stated that there is a second antenna that will be placed below the Cingular one.

Mr. Obadal asked about the break in tree line along Longhill Road and asked if it can be filled in with additional trees.

Ms. Lisa Murphy spoke on behalf of New Cingular Wireless. She stated this is an unusual application in that AT&T and Sprint have provided service in the area with antennas on the water tower. Both companies are working together with co-locating. She stated that this was a collaborative effort with staff, County Attorney's Office and both companies. The visual impact of the poles will not change. She showed where trees were added to buffer any potential

impacts. She stated that if the two residences affected would like, the applicant is willing to landscape up to their fencing.

Mr. Obadal asked if the applicant was willing to put some trees into the break in the tree line.

Ms. Murphy said they would be willing to do that, but the only constraint might be Parks and Recreation since it is their property.

Mr. Murphy would want to confer with Parks and Recreation that adding more landscaping will not interfere with their operations.

Ms. Murphy pointed out the conditions of the fencing. She asked since the site plan has already been submitted if the condition could read "board on board or vinyl coated fencing."

Mr. Henderson made a motion to approve the application with the revised condition requested by Ms. Murphy.

Mr. Poole seconded the motion.

In a roll call vote the application was approved. (7-0) AYE: Peck, Poole, Henderson, Billups, Krapf, Obadal, Fraley.

G. ZO-0002-2008 Special Use Permit Use List Amendments

Due to the concerns of some of the Planning Commissioners, Mr. Fraley recommended referring this matter to the Policy Committee or scheduling a work session to discuss it.

Mr. Peck stated that two Policy Committee meetings were held on this topic and he would prefer a work session.

The Planning Commissioners agreed to a work session.

Mr. Fraley opened the public hearing and continued the case to the next Planning Commission meeting.

Mr. Rinaldi, of the Economic Development Authority (EDA), stated the EDA supported these changes to the special use permit lists.

Mr. Fraley stated that at a work session there is no public hearing.

6. PLANNING DIRECTOR'S REPORT

Mr. Murphy stated he had nothing to add.

7. COMMISSION DISCUSSION AND REQUESTS

Mr. Peck stated he would like procedures and ordinances reviewed especially when it

comes to evaluating cases such as the CCRC.

Mr. Murphy stated that he will take it under advisement. Several comments that were made earlier made reference to the Comprehensive Plan. He suggested the Planning Commission consider this to be part of a larger discussion under the Comprehensive Plan update.

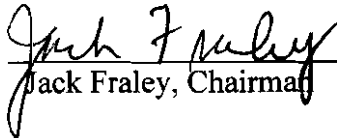
Mr. Peck would like to see at a minimum something in writing from staff what the alternatives are to solve this problem, specifically what they would like in the Comprehensive Plan.

Mr. Murphy stated that staff could provide some guidance.

Mr. Henderson made a motion for the meeting to be adjourned.

Mr. Krapf seconded the motion.

The meeting was adjourned at 12:49 a.m.



Jack Fraley, Chairman

O. Marvin Sowers Jr., Secretary