

TOWN OF HERNDON, VIRGINIA
PLANNING COMMISSION PUBLIC HEARING MINUTES

NOVEMBER 1, 2010

The Planning Commission met on Monday, November 1, 2010, in the Ingram Council Chambers located at 765 Lynn Street, Herndon, Virginia. Chairman Robert P. Burk called the meeting to order at 7:00 p.m.

ROLL CALL:

Chairman Burk asked the Recording Secretary to call the roll.

Ms. Tappan called the roll, as follows:

Commissioner Bettard:	Absent
Commissioner Burke	Present
Commissioner East:	Present
Commissioner Jonas:	Absent
Vice Chairman LeReche:	Present
Commissioner Moses:	Present
Chairman Burk:	Present

Ms. Tappan turned the meeting over to Chairman Burk, who noted that a quorum was present.

Staff Present:

Mark R. Holland, Zoning Administrator
 Dana E. Heiberg, Senior Planner
 Patsy Tappan, Recording Secretary
 Richard B. Kaufman, Town Attorney

APPROVAL OF MINUTES:

Chairman Burk presented the minutes from the public hearing of October 4, 2010, and the work session of October 18, 2010, for review and approval.

MOTION: Commissioner East moved approval of the minutes from the public hearing of October 4, 2010, as submitted.

Vice Chairman LeReche seconded the motion. The motion carried unanimously, 5-0.

MOTION: Commissioner Burke moved approval of the minutes from the work session of October 18, 2010, as submitted.

Commissioner Moses seconded the motion. The motion carried, 3-0-2 (Vice Chairman LeReche and Commissioner East abstained).

APPROVAL OF AGENDA:

Chairman Burk suggested that the agenda move forward as presented.

COMMISSIONERS' COMMENTS:

There were no Commissioners' comments.

STAFF COMMENTS:

Dana Heiberg, Senior Planner advised the Commission that on Monday, November 7, 2010, a community workshop to discuss the Metrorail Station Area Plan

would be held at the Herndon Senior Center at 873 Grace Street. Mr. Heiberg stated that they were expecting a good turnout for this meeting and they hoped to receive community input for the proposed station and its surrounding area. He encouraged all Herndon residents to attend the workshop.

Chairman Burk added that this would be an open meeting so all residents were welcome.

CITIZENS' COMMENTS:

There were no citizens' comments.

PUBLIC HEARING ITEMS:

1. **COMPREHENSIVE PLAN AMENDMENT, CPA #10-01, DOWNTOWN MASTER PLAN.** Amend the Town of Herndon 2030 Comprehensive Plan adopted August 12, 2008, to incorporate by reference a Downtown Master Plan. The plan amendment will also make minor changes to the appropriate plan text (mainly Chapter III: Land Use Plan) in order to reference a master plan. The Downtown Master Plan includes a map of specific planned land use and related information. The general purpose of the plan amendment is to carry out the vision, goals and objectives of the 2030 Comprehensive Plan to encourage a vital downtown with a mix of land uses. The master plan depicts residential, commercial and public uses and parking facilities to support these uses; the plan displays the approximate height and level of density on each block of a core downtown area. The area is similar or equal to areas displayed as Sectors 1, 2 and 3 in the 2030 Comprehensive Plan. 16 block areas are affected; they are located in the center of the Town of Herndon in the general area of Elden Street, Center Street, Vine Street, Lynn Street, Station Street, Spring Street, Pine Street, Monroe Street, Jefferson Street, Jackson Street, Van Buren Street and the Washington and Old Dominion Railroad Regional Park. Downtown Master Plan maps and related information are posted on the Town of Herndon website at www.herndon-va.gov (click on Planning and Zoning and follow links). A descriptive summary of the proposed action is to update plan text and maps to reflect changed conditions and to incorporate land use policy based on the results of a major community planning process. *Continued from the public hearing of October 4, 2010.*

STAFF COMMENTS:

Dana E. Heiberg, Senior Planner, presented the staff memoranda dated October 13, 2010 and October 28, 2010, both of which are on file in the Department of Community Development.

Staff recommended deferral of CPA #10-01 until the public hearing of December 6, 2010.

QUESTIONS FOR STAFF:

There were no questions for staff.

CITIZENS' COMMENTS:

Les Zidel of 1458 Kingsvale Circle noted that they met with the County Arts Committee on October 25, 2010. He explained that the Committee was set up by the Deputy County Executive, who they met with about three weeks ago, and he had recommended that they make a presentation to the full Arts Committee, which is made up of members from different art organizations throughout Fairfax County, as well as university representatives, etc. The PowerPoint presentation was created for that purpose after the Foundation for the Arts met with the Planning Commission. He stated that they had not included new information in the PowerPoint presentation, but they had presented it in a different way, which he hoped would be helpful for the Commissioners. Mr. Zidel offered to schedule time for the Planning Commission to see the formal presentation, or if

PLANNING COMMISSION PUBLIC HEARING MINUTES – NOVEMBER 1, 2010

the Commissioners would prefer to see the slides on their own, he would make hard copies of the slides available to them. He added that the meeting with the Arts Committee went very well; they received many positive comments and suggestions from the group, and everyone was extremely supportive of the concept.

Commissioner East asked if Mr. Zidel was planning to make his slide presentation at the work session.

Mr. Zidel responded that he would be happy to accommodate the Planning Commissioners in whatever way they felt would be appropriate. He stated that since the presentation would take about 30 minutes, he did not feel it would be appropriate to try to make the presentation during the public hearing, but he would be happy to make it part of the next work session.

Chairman Burk responded that during his discussion with staff, it was decided that they would provide each Commissioner with a copy of the slides, so they could review them on their own.

Richard Downer of 44354 Oakmont Manor Square, Ashburn, Virginia, stated that he supported Les as a Board member and presenter at the meetings that were discussed. He stated that during the series of meetings, he had been encouraged with the response to their different approach for how to build and pay for an Arts Center. He explained that two years ago, Fairfax County created a Master Plan for the arts, and they had decided not to use the same route as some of their friends in Maryland, where you build a great big facility and then try to pay for it later. They found, in Maryland, that building a facility was one thing, but paying for it was quite a different thing. Fairfax County had come upon the idea of actually having regional centers throughout the County, playing on the fact that George Mason has an excellent facility that can be used for large events, but what were needed were five or six regional facilities. It turned out that what they presented to Fairfax County falls right in line with what the County planned on doing, and that is why Dave Mulcaney, Fairfax County Executive, asked them to make their presentation to the Arts Committee. Mr. Downer stated that he and his fellow Foundation for the Arts members believe that one of the regional arts centers should be in Herndon. He stated that they are very supportive and the concept seems to be what Fairfax County is looking for. Mr. Downer added that they had asked the County if they had any suggestions or criticisms to let them know. Hopefully, this could be a model for other centers to follow this approach in other parts of Fairfax County. Mr. Downer distributed an announcement for an art show by a historical military artist and asked the Commissioners to try to attend.

Ruth Robertson of 602 Third Street stated, "I've been a resident of Herndon since 1973, and it's only been recently that I've felt compelled to become a little bit more involved in the Town. I've supported myself solely as a fine artist since 1998. I've worked as an artist since 1973. I've become a listed artist with works in museums. I've been nominated for three Whitney Biennials. I've been invited to two Florence, Italy Bienales. I've been represented by galleries worldwide and have been involved in studios in Washington, D.C., Arlington County, owned a gallery, been a juror for the Northern Virginia Fine Arts Festival and a curator for the former Museum of Contemporary Art in Washington, D.C. I've had a relationship with D.C.A.C., a small gallery space and theater in Adams Morgan, and the Shakespeare Theater from its days at the Folger to its current home at the Harmon Center. Every non-profit that I've ever been involved with has sustained itself through memberships, donations, fundraisers and grants. On Wednesday, October 28th, it was my privilege to meet with Les Zidel for a tour of ArtSpace. Les has worked with dedication and determination to create a place for art in the Town of Herndon. The space is beautiful and well appointed. Mr. Zidel is a man with vision and integrity who clearly has a passion for the arts, and I commend him for that. However, there are some issues I see with approving zoning for a new, bigger ArtSpace as part of the Downtown Revitalization Plan. ArtSpace needs to sustain itself without any funding from the Town. I also happen to live in the Town and be a taxpayer as well as an artist. ArtSpace needs to pay commercial rates for rent. The Town cannot afford to subsidize rental rates for a facility that is not critical to the Downtown's development, but rather an amenity, that at this point serves only a small group of Town

residents. Before the Town commits to a zoning plan that includes this type of building structure, I believe the Council for the Arts needs to offer evidence of financial sustainability of ArtSpace, by submitting to the Town documentation that shows the following (and I've worked with non-profits): They need to display a sell through rate for the art that they show (just because you are a non-profit does not mean that you don't make money); they need to hire a grant writer; they need to prove or show that they have gotten grants and what the amounts of the grants are for; they need to have membership drives with at least three tiers of membership (artist, patron and corporate sponsors); they need a Board of Directors that has officers from major corporations (Microsoft, Oracle); because at the end of every year, those large companies have to give away money and you want them to give it to your non-profit, so you want those people on your Board of Directors. If ArtSpace can't offer proof of financial sustainability, the Town might find itself with a huge, large, white elephant with absolutely no return on any investment. This space is supposed to have commercial spaces contained within it. What kinds of commercial spaces would these be? Herndon needs shops and commercial galleries that are not controlled by a small group of people; new businesses that would draw people into the Town in the evening hours; businesses that will make people want to move here and make people see Herndon as a vibrant place with lots of things to do. Could this parcel be better developed by a commercial developer? With Metro coming, it might be more prudent, speaking as a taxpayer, for the Town to take the wait and see attitude towards the parcel ArtSpace wants to build on. It may better serve the Town as a mixed-use development that includes condos, lofts, shops and other commercial venues that will, in the long run, provide a more sustainable, steadier and greater income for the Town. I would propose that the Council of the Arts be given a 24 month period to show the financial viability of ArtSpace and the current Industrial Strength Theater without any subsidy from the Town. This is possible...I know...I've done it with non-profits. The zoning for the building of this complex, right now, is kind of premature. I would request the Planning Commission wait to see what the financial sustainability of ArtSpace is in its current incarnation, before allowing a portion of the Downtown to be dedicated to an unproven entity. As much as I love the arts, I believe this parcel could be better utilized by the Town with a project that would compliment the historic neighborhood across the street. An arts district in Herndon could be a huge boon to the Town, but not at the cost of taxpayers. It starts by asking the property owners of unused store fronts and office spaces to at least allow artists from all over the D.C. Metropolitan/Baltimore areas to hang work in the windows, or even to allow artists to use the spaces for one night a month for a gallery walk. This has been done in New York; it's been done in Baltimore; it's been done in every area of Washington, D.C. that has been gentrified. It's a boon to the business owner because it makes that space look livable, usable, viable, and they end up getting renters, which would be very good for the Town. With the success of this kind of gorilla art events, more businesses might be attracted to these empty spaces. You'll find with the gentrification in D.C. and in Arlington County, developers would be much more anxious to build here. Thank you very much for your time."

Chairman Burk closed the public hearing.

COMMENTS FROM THE COMMISSION:

MOTION: Commissioner East moved to recommend continuance of the public hearing and deferral of CPA #10-01, Downtown Master Plan until the public hearing of December 6, 2010.

Commissioner LeReche seconded the motion.

Chairman Burk called for a vote on the motion. The motion carried unanimously, 5-0.

Commissioner East noted that part of the reason for deferral of CPA #10-01 was because of the financial gap analysis that Mr. Heiberg had talked about, which would be presented at the work session on November 15, 2010. He suggested that for any residents who were interested in the Downtown and how it would be paid for, that would be a key meeting to attend. He reiterated that the Planning Commission was charged with

analyzing the financial alternatives for the public improvements to the Downtown, and that was what they had been waiting for.

Vice Chairman LeReche added that he appreciated the testimony given by the citizens. He stated that they were getting history and thought provoking ideas from the public testimony. He feels Herndon is fortunate to have such a vast ocean of talent in its residents that could be combined to realize some of these successes, either the arts center or something else. With people like these supporting these projects, he felt that they would feed off of themselves, which is what art does in a Town like this.

2. ZONING ORDINANCE TEXT AMENDMENT, ZOTA #10-04. Summary of Proposed Action: Consideration of an amendment to the Zoning Ordinance (2007), Herndon Town Code (2000), as amended, to amend §§ 78-401.13. Commercial utilities use category; 78-400(b), Table of principal permitted and allowed uses; 78-402.3, Permitted and allowed accessory uses and 78-701, Definitions to permit and define land-based telecommunications facilities within all zoning districts on property owned and operated by a public entity or governmental authority by special exception. Applicant: Frank W. Stearns; Donohue & Stearns, PLC.

STAFF COMMENTS:

Mark R. Holland, Zoning Administrator, presented the staff report dated September 18, 2010, which is on file in the Department of Community Development.

Staff recommended approval of ZOTA #10-04 as submitted.

QUESTIONS FOR STAFF:

Commissioner Burke asked if staff's recommendation was not based on any assessment of health risks associated with these towers.

Mr. Holland responded, "That is correct."

Vice Chairman LeReche asked if staff could indicate the existing towers in the Town of Herndon, or if all of the towers were currently located on water towers.

Mr. Holland responded that some of the towers were co-located on office buildings within the Town, and most of those antennas were typically along the O&LI zoning district along the Herndon Parkway between Elden Street and Van Buren Street. He added that there were a few antennas on the water tower at Spring Knoll, a few on the tower at Alabama Drive, and some on Third Street.

Chairman Burk asked if these towers needed to be placed on property under government authority, if there would be any jurisdiction on Post Office property.

Mr. Holland responded that the Post Office, since it is federally owned, could place a monopole on their site without any permission from the Town.

Chairman Burk asked if this ability was in effect all along.

Mr. Holland responded that it was his understanding that the Post Office could place one of these towers on their property without any approvals from the Town.

Commissioner Moses asked if poles could be placed on Fire Station or Herndon High School property.

Mr. Holland responded that since the high school was not actually located in the Town, they would have to go through Fairfax County. If the Fire Station wanted to do a co-location, it would have to be approved by the Town.

Commissioner Moses asked if there were benefits other than financial, such as providing internet services to the entity.

Mr. Holland responded that there were cases where services had been provided by these companies for the towers, but he could not say if the Herndon cases had utilized this type of arrangement. He deferred to the applicant for more information, but stated that his recommendation was not based on any sort of monetary component.

COMMENTS FROM THE APPLICANT:

Frank Stearns of Donohoe & Stearns stated that he was an attorney representing the applicant. He introduced Len Forkas of Milestone Communications. Mr. Stearns stated, "We are not seeking approval of any specific site, since each site would have to be considered on its own merits for the Special Exception. We are asking for the Town to give us the opportunity to do that. It is estimated that 25% of the populous has no wire line into their homes, just wireless devices. Each family now has multiple devices, plus the style of the devices are what they call Smartphones, which have data downloads, and all of these things are putting high demand on the spectrum. Briefly, the way that the wireless system works is that each cell site uses its own spectrum and it can handle a certain number of calls at a moment, and when it becomes overloaded, then calls are dropped or don't go through. When a cell becomes saturated, they have to make smaller cells and that's what we're seeing now and they have to move into residential neighborhoods. It's a challenge to providers to find places to locate these facilities, because the base station consists of the antennas, which have to be at a certain height, and they have to be in a certain location to work within the network or the system won't work. What we're trying to do here, is to provide a system where we can bring service to parts of the Town who currently don't have tall structures existing. As staff pointed out, the O&LI district is mostly or entirely along the Dulles Toll Road at the southern part of the Town. The rest of the Town is kind of out of reach, except if there happens to be a water tank close by, and there are only two in Town or some other tall structure. That's why we are here tonight, to see if we can get the Ordinance amended so the Town can consider where these facilities should be located. We think public space is a good place to locate it, for two reasons: 1) you have the Special Exception protection that they have to go through; and 2) the public entity is the landlord and it can control the use through the lease as well as through the Special Exception. There's really two ways to control it when it's on public land, plus it's a good synergy between the two uses. It not only provides income and other services, but it just works well if you are going to have a utility somewhere, to have it on public land seems to be the best place to locate it." Mr. Stearns introduced Matt Butcher who is an expert of RF emissions, with a company called Safe Site, which Fairfax County hired to actually check the readings of emissions at the schools where these facilities are located to make sure they are operating well within the FCC guidelines.

Len Forkas of Milestone Communications presented his PowerPoint presentation which is on file in the Department of Community Development.

QUESTIONS FOR THE APPLICANT:

Vice Chairman LeReche asked if there had been a study conducted to determine where in the Town of Herndon these towers could be located to optimize the coverage.

Mr. Forkas responded, "Not to my knowledge, no. We've been approached by AT&T with respect to Herndon Middle School and so, we are responding to AT&T's request to evaluate the Middle School and the reason that we're here tonight, obviously, is because there is great interest in locating infrastructure on the ball fields...by replacing one of the ball field lights, potentially, or placing a tower near the ball field lights at the Middle School. That's the nature of the interest, so far, but I can tell you that in my experience in building towers in Fairfax County, Prince William County, and Montgomery County, that there is a significant amount of sites we will be after if you choose to go forward and amend the plan to facilitate government land for this type of infrastructure. There will be more inquiries on Herndon properties."

Vice Chairman LeReche stated, "I guess I would be more comfortable if I saw where these potential sites were. You were saying that they are all public and they are all going to be on light stanchions covering ball fields. If you're comfortable with that and it's going to work, that makes this an easier decision. If these things start popping up everywhere, I'd be a bit concerned about that. How often do these pole locations change, or are they advanced or added to in a given region?"

Mr. Forkas responded, "Well, I know that once a facility is approved and constructed, that site then becomes part of a network of lots of sites for a particular carrier. As I said, there are seven different wireless companies that provide service throughout the region and the networks for each of those seven companies are different. It also depends which company has capital to deploy and enhance service and that varies greatly. For example, right now, AT&T and T-Mobile are very busy building out their networks, but Sprint and Cricket are doing very little right now. A new company called LightSquared is deploying a network, and Clearwire is at the tail end of deploying their network. Depending upon the date, the time, the temperature, the wind, and each company has a different plan as to how they are going about providing better coverage and better service. It's a very organic process, but again, I think that the carriers always work within the constraints that exist and the approval process in the government. For example, what's happened in Herndon, the carriers have been focused on the sites that they can build along the perimeter and in the industrial locations, along the W&OD Trail and places where they can physically go forward. There are many sites in Herndon that are not getting adequate coverage; or the quality of coverage will decline over time because the infrastructure can't physically get closer to them. That's why your consideration of allowing for alternative sites with appropriate designs would go a long way to helping the wireless carriers provide enhanced service over the next several years."

Vice Chairman LeReche responded, "Yes, you've said that before about the growth, but I was looking for how often the sites have to be adjusted in order to meet this growth? I guess that's a nebulous or unanswerable question."

Mr. Forkas responded, "What I can say is that as the technology of the antennas changes...like for example, when I showed you the slide of WiMax and LTE the two different networks, right now, Verizon and AT&T, for example, are changing out all of their antennas to allow for their 4G networks. On the rooftops and towers that they have today, where they have leases in place, they are in the process of exchanging those antennas to the newer antennas and equipment that will facilitate the next generation network. They are constantly trying to update and upgrade the sites that they have today to be able to handle more capacity and to be able to handle the next generation of technology. It still means that they have gaps that they can't cover."

Vice Chairman LeReche asked, "In your diagram, in the splitting of the cells, you showed multiple towers. Is there technology available that is directional so that the single tower looks more like a pie and you are taking segments of that compass point for each of these services?"

Mr. Forkas responded, "You know...well, for example, one person asked me...and I'm not sure if this is going to answer your question. One person asked me, why can't the carriers just increase the power?"

Vice Chairman LeReche asked, "I'm talking about directional. In your diagram, you show one tower radiating the signal. Is there technology where you can aim it, so that you have multiple feeds?"

Mr. Stearns responded, "The spectrum is not a directional usage. It's access to the radio waves that are required. Just by directing it, you're not going to increase the capacity."

Vice Chairman LeReche stated, "O.K. You answered my question. Technically, there is not an option."

Mr. Stearns responded, "No, to increase the capacity, you have to increase the area covered."

Vice Chairman LeReche asked, "You mentioned the leases with the public. How often are these leases looked over, negotiated, and how often are the sites tested as far as the levels? Once these towers are in place, I imagine you maintain them, but who would take them down in the event that they need to be taken down?"

Mr. Forkas responded, "We maintain them and they are not needed anymore, we take them down and replace them back with a light structure. That's part of the lease agreement I have with Fairfax County government."

Vice Chairman LeReche asked, "Is there an escrow for that?"

Mr. Forkas responded, "There's no escrow for it, but we have...but that's effectively part of the contract. So, there's no escrow for it. The other question you asked was related to how often the sites are tested and your renewal process with the public. We test them annually, but we also test them every time we add a new carrier, so whenever new radio frequencies are added by leasing space, we have the data to show what the new amount of radio frequency is. Regarding the lease terms, we have a revenue share, so we share revenue with the school. So, we need as much term on that lease as we give to the wireless carriers, and they need a 10 year initial term and up to four or five year renewals. Our leases go for 30 years in order to be able to match what the carriers demand from us."

Vice Chairman LeReche asked, "Finally, on the equipment you show that it was plugged into an antenna. That has to be ground mounted, or can it be within a building or can it be underground?"

Mr. Forkas responded, "It can't be underground. It can be within a building or it can be in a Subzero sized refrigerator type cabinet on the ground or it can be inside a shelter building that has heating and cooling. It just depends...each carrier has different criteria for the radio equipment. It can't go underground. It has to be above ground. It can be in the building, but it has to be within 100 feet of the tower. It could be on the roof of a building, as well, yes, sir. As long as you are 100 feet from the point where the wire leaves the building to where it touches the tower."

Commissioner East asked, "You put a pole up and how many companies can you lease your pole to?"

Mr. Forkas responded, "We design enough steel and enough concrete in the ground for five wireless carriers."

Commissioner East asked, "So, you can carry five and there are two that get left out?"

Mr. Forkas responded, "That's correct."

Commissioner East stated, "I'm fascinated by your business model, and if you covered this at the work session, my apologies. Why do you find it advantageous to place your facilities on public land versus approaching private landowners, entrepreneurs, commercial buildings and so on?"

Mr. Forkas responded, "Well, our model is based on public and the reason for that is that there is great efficiency associated with having a relationship with a property owner that has more than one site. There is a lot of energy and effort that goes into negotiating the first lease for the use of the land to build the infrastructure, so there is a great economy of scale. Second is, when I have a relationship with a landowner that has multiple sites, there is an opportunity to get attention from different wireless carriers, because we have a network of locations in a particular geographic area. For example, if I go to AT&T and say I have 25 park sites in Prince William County, they sometimes have the ability to be able to respond much quicker as to whether or not one of those sites

would be of interest to them. They also have the ability to shift and bend their network to take advantage of some of these sites, because in many instances, the park sites in Prince William are the only possible locations within miles of the area they are trying to cover. The government, intrinsically, has land in places of very low density of which there are no other options for them to deploy. Having a relationship with government, with these sites in very hard to reach areas, is very advantageous. It also gives me the ability to have uniform pricing on all the locations. Because I speak the language of the carrier as well as the language of government, I can act as kind of a bridge to be able to facilitate the use of land for this type of infrastructure, in a way that blends in with the environment by selecting the right style and the right type of stealth design to mitigate the visual impact from the community. Sometimes it's more visually impacted and sometimes not. We have a very iterative process with the community where we engage the community and the neighbors: We do photo simulations; we build a website; we have photographs of what it will look like; we have a website that shows the areas of coverage and the needs; and communication through Facebook and other blogs where people can communicate their concerns, either positive or negative. We have a uniform process that we go through on all of our sites. For some governments, that gives great comfort knowing that they have one company that manages the whole process from end to end on their land and is able to field questions from the seven different companies that have an interest in locating on their property."

Commissioner East asked, "So in the areas where there's sparse coverage, what you're saying is that the optimal option is government property over private property, not because there is more government owned property, but because it's optimally located? I'm thinking Prince William County now, there's all sorts of open space there that probably begs for this kind of coverage and Prince William probably owns most of the land and it's not in the hands of private landowners. That's why you want to go to the County?"

Mr. Forkas responded, "Yeah, or in many instances, the land that's open is owned for single-family homes and it's not allowable in that particular zone. Whereas, the parkland might be more amenable to it...I think the other thing is that there are lots of other locations in these residential communities, (churches, swim clubs, there are VFW halls) and they are sometimes the only other options, as well. If you compare that to a school or a park, all things being equal, they are all choices. Depending upon the design of the network, having the government sites available to the wireless carriers for infrastructure, puts them on equal footing with the other property owners. Also, depending on the design of the network, it may be the optimal location to serve the most number of customers without having to build a second pole somewhere else nearby."

Commissioner East asked, "I would suspect that private landowners and private businesses would drive a harder price bargain with you than governments, is that correct?"

Mr. Forkas responded, "You know, it just depends. I think that the government has to be market oriented, as well. I think that the value of the lease, to the carrier, on a private site or public site, at least in my experience, and I've been doing business in this area for 10 years, is pretty comparable. I think that some governments have some policies that make it easier or have a shorter timeframe than on private sites; because they feel that the government sites are larger and are more able to absorb the visual impact associated with the infrastructure. Each jurisdiction has a different way of looking at it, but I do know that in times of economic hardship for governments, this is a very positive economic proposal that also solves a visual problem and a coverage problem, both for the consumers as well as the private sector, who both want the networks to be more robust."

Commissioner East stated, "I can see the efficacy of your proposal in places like Bready Park and Haley Smith Park, and in the schools where there are existing light towers. I suspect, however, that if you tried to put something in Runnymede Park, you might get some push back because it's a nature preserve. If you tried to put something in the golf course, you'd get a lot of push back, because there are already enough trees out there and we hit them all the time."

Mr. Stearns stated, "Let me just add to what Len said. Government property tends to be larger parcels than the private sector, and indeed the problem is the reverse. When we first got the law changed in Fairfax County, to direct us to public land for this public/private partnership, there was a lot of fear by the providers that the government would gouge them. The government decides where you go, and if the government puts you on government land, then they thought they would gouge in terms of demanding a higher price. We had a very long talk with the General Services Administrator, who guaranteed everyone that that was not the case...they just didn't want to be the patsy...the cheapest game on the block. So, in negotiating prices, there's a comparison between what the relative going rate in that area for facilities and the government tries to set its price close to that. It is an arm's length transaction, but there's a great deal of watchful eyes on both sides to make sure the prices are fair."

Commissioner Moses asked, "The Town has these power lines running right down the center to town, why can't they be utilized for this?"

Mr. Stearns responded, "Yes, they've been looked at, but they're owned by the Northern Virginia Regional Park Authority. They've been looked at numerous times, but the amount of land at the bottom isn't really enough room for the equipment (in most places). Access is a major problem because you have to go through private landowners' property to get access to the site in many cases. Each tower has problems with it that makes this not a good alternative. It would also not really cover to the north and east, because there would still be large residential areas away from the W&OD that wouldn't be reached. They are certainly looked at. We've been in constant contact with the NVRPA throughout the area."

Commissioner Moses asked, "So it's not an interference problem?"

Mr. Stearns responded, "They will locate on power lines and have in many areas, but when they can get the land at the base and the access."

Commissioner Burke asked, "Let's assume you are able to get fairly optimal usage of governmental land in the Town? That wouldn't be enough, eventually, given the forecast of capacity, bandwidth needs, the future 4G and WiMax?"

Mr. Forkas responded, "That's really hard to say. I looked at the plan with the locations of the government sites, but, ultimately, it's really at the discretion of the carriers. Each carrier has its own propagation pattern, and can direct the signal to different sectors, as was mentioned earlier. In terms of what's optimal and possible, I know that the wireless carriers are constantly trying to improve the speed of their networks, and improve the quality, and the only way they can do that is by getting closer to their customers. I really can't guess as to whether or not there will be holes in the network going forward if all the sites are used, but it's a dynamic model and I would just be speculating."

Commissioner Burke stated, "I certainly understand that. That's a difficult question. The clear impression I came away with from your presentation is there is no bounds to be foreseeable for usage or for speed. It strikes me if, in fact, that is the case, that one can't make a reasonable estimate for the need of towers going into the future."

Mr. Forkas responded, "It took about 10 years to build about 250,000 towers in the United States. It's going to take the same amount, or potentially less time, to build the next million towers or base station sites that are going to be needed. The amount of new infrastructure that's going to be needed to be able to keep pace with the consumers is so significantly above what exists today, it's really just going to depend on the environment and the growth of the technology. I can say with reasonable certainty, that when the infrastructure gets closer to the consumers, it creates a more robust user experience. In places where it can't physically be located near the consumers, then they won't have the same options."

Commissioner Burke stated, "Then more users who want more speed and a more robust experience, which propagates more users."

Mr. Forkas responded, "You know it's interesting that the CEO of American Tower was quoted at a conference a couple of weeks ago, and he said that the difference between the networks today and the 4G networks is going to be very similar to the experience of dial-up versus having broadband. Once you start to use the 4G network, it will feel like the difference between dial-up and broadband."

Commissioner Burke asked, "Here's where I'm going with this, do you foresee a time when the use of towers on government property will be almost an afterthought for this process because demand will get so large that you'll have to go to private property owners, even individual private property owners?"

Mr. Stearns responded, "Well, if that time comes, then the Ordinance would have to be amended again."

Commissioner Burke stated, "I am trying to get to the significance of this decision for the future. A major part of your presentation was the need for these towers and this infrastructure...if this is only a way stop to a much greater need for towers in other locations, it seems to me to bear on the importance on the decision that we are making today. If it is the final stop, that's a different question."

Mr. Stearns responded, "I would say that it was not the final stop, but I don't have a crystal ball. It might very well be that all the government property, if it is utilized, will provide the sufficient network for the Town of Herndon. The way that the providers learn about where they need facilities, considering how sophisticated they are, it comes from customer complaints. Their customers tell them about dropping calls, or not getting service. They then send out technicians who run tests and they figure out where they need to go to fill those gaps or shrink the cell to provide better service. If I were a betting man, I would bet that there will be a need for sites other than on government land, but why don't we try it first and see if we can service it. If we can't, we'll have to come back to this body and the Town Council and say how we can go about taking the next step. It's not really a way stop, it's a step along the way."

Commissioner Burke stated, "It's a creation of further demand which is likely to propagate the need for towers in locations that are less palatable for us right now."

Mr. Stearns responded, "Well, the presence of these facilities is not creating the demand, they are responding to the demand. Providers don't make money building towers, they make money providing service. If they could provide the service through satellites or through some other system, they would provide it that way. Right now, the only way the system works efficiently is with base stations and the reuse of frequencies in small discrete areas. That's what is driving it. It's the demand. It is not creating the demand and then responding to it, it is responding to the demand that they are getting."

Commissioner Burke asked, "Let me analogize this to building roads...there's a theory that the more roads you build, the more traffic congestion you create. I'm not saying that I necessarily ascribe to that, but we are certainly familiar with that in this area."

Mr. Stearns responded, "I see your point, but I don't think it's analogous. I think it's a different situation. If people were clamoring for more food, then there would be more restaurants. If people were clamoring for more athletic events, then there would be more sports stadiums. You don't build it and they will come, you build it because you are responding to the demand."

Commissioner Burke stated, "I would agree, but a particular significance for this body, just as a final word, is knowing whether this is an interim decision, which will eventually propagate more of the same elsewhere in the Town."

Mr. Stearns responded, "I would say it is an interim decision, but I would not say it is a propagator of further use."

Commissioner Burke stated, “I understand that is unanswerable, also, but I think it should be raised anyway.”

Chairman Burk asked, “Is Herndon underserved now?”

Mr. Stearns responded, “Just from the fact that the providers that I work for are looking for sites in the area, I would say yes. I do have Mr. Butcher here if you have questions about health risks. I know you’re not supposed to take health into context, but I prefer people to be comfortable with the idea that this is a safe technology, so if you have questions regarding health, we can certainly try to answer them.”

Mr. Forkas concluded by stating, “Ultimately, the actual style and design of the infrastructure is of paramount importance. Equally, is the style and design within the environment in which it is placed. So, the notion of building infrastructure on other private sites, for example versus public sites, to me what’s most relevant is how it blends in and how well it integrates with the fabric of the existing community. The visual impact is of paramount importance to providing the service. The notion of just facilitating in some future world, this infrastructure to pop up in every man’s backyard, would be a visual blight. The whole concept of our model and the models of the carriers is to mitigate the visual blight as much as possible, by having access to the types of sites that allow us to do that in the best way. The government sites, park sites and school sites that have large land with infrastructure existing (such as tall light poles or woods) sometimes are the best way to mitigate the visual impact of the infrastructure.”

CITIZENS’ COMMENTS:

There were no other citizens’ comments.

COMMENTS FROM THE COMMISSION:

Vice Chairman LeReche asked staff if the proposed modifications on Page 4 were talking about the changes that would affect freestanding commercial communication towers, which they were talking about with the applicant.

Mr. Holland responded, “Yes.”

Vice Chairman LeReche asked if there was a reason why Special Exceptions would be required for all zoning areas except for Planned Development, such as residential areas like Hunters Creek.

Mr. Holland responded, “It would require an amendment to the Zoning Map to allow those within those zoning districts.”

Vice Chairman LeReche asked if the “A” stood for “allowed” or “amended.”

Mr. Holland responded, “It stands for amended.”

MOTION: Commissioner East moved to recommend approval of ZOTA #10-04 as recommended by town staff.

Commissioner Moses seconded the motion.

Commissioner East commented, “I’m a little dubious about why entrepreneurs pick government over their fellow private entrepreneurs, but I think this is one that we’ll just have to watch and see how it develops over time. I suspect that they’ll go their existing contract agreements with Fairfax Public Schools before they come to the Town. As one of those 25% of the public that doesn’t have a landline anymore, and was one of the people who demands greater connectivity with my cell phone because of that, and I’m sensitive to the actual explosion of cell use. Sometimes I’m oversensitive to it. you haven’t lived until you’ve ridden a commuter bus to West Falls Church from the Herndon Monroe Park and Ride, with about half a dozen cell phones and half a dozen different languages going at once. I think this is an important step for the development of this

PLANNING COMMISSION PUBLIC HEARING MINUTES – NOVEMBER 1, 2010

infrastructure, not just in the community, but in the region, as well. I do so with caution to the applicant that anything proposed outside of existing site where there is height domination such as a public school or park; I think they'll be examined quite closely, such as Runnymede Park or the golf course."

Commissioner Burke commented, "I have no problem supporting this, primarily because we can judge individual issues on a case by case basis. I think that's the most significant thing here. I'd also like to say that some of the questions tonight from my colleagues have been very well taken, because I think part of our job here is to start building a knowledge base for this issue, which is most certainly coming down the road at some point as a very significant issue."

Chairman Burk commented, "I, too, am in favor of the recommendation. Whether or not we approve this, really means whether or not the people of Herndon are going to be served well. We're not going to change the technology with one 4-square mile town. I think it's very reasonable and the fact that we are going to look at each case and go through the hearing process, all we are doing now is allowing that process to start. I think it was a very fascinating discussion."

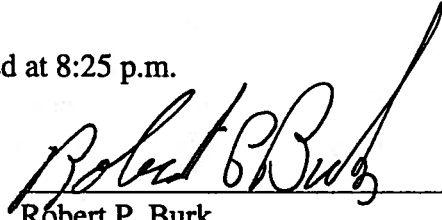
Chairman Burk called for a vote on the motion. The motion carried unanimously, 5-0.

Commissioner East moved to adjourn.

Vice Chairman LeReche seconded the motion.

Chairman Burk called for a vote on the motion. The motion carried unanimously, 5-0.

The Planning Commission adjourned at 8:25 p.m.


 Robert P. Burk
 Chairman, Planning Commission


 Patsy Tappan, Recording Secretary

Minutes Approved: 12/06/2010