

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico County,  
2 held in the Glen Echo Building, adjacent to the Eastern Government Center at 3810  
3 Nine Mile Road, beginning at 9:00 a.m. Wednesday, December 17, 2008.  
4

Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson (Varina)  
Mrs. Bonnie-Leigh Jones, Vice Chairperson (Tuckahoe)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)  
Mr. Tommy Branin (Three Chopt)  
Mr. R. Joseph Emerson, Jr., Director of Planning, Secretary  
Mr. Richard W. Glover (Brookland)  
Board of Supervisors Representative

Others Present: Mr. David D. O'Kelly, Assistant Director of Planning  
Ms. Leslie A. News, CLA, Principal Planner  
Mr. Kevin D. Wilhite, C.P.C., AICP, County Planner  
Mr. Michael F. Kennedy, County Planner  
Ms. Christina L. Goggin, AICP, County Planner  
Mr. Tony Greulich, C.P.C., County Planner  
Mr. Matt Ward, County Planner  
Mr. Gregory Garrison, County Planner  
Mr. Lee Pambid, C.P.C., County Planner  
Mrs. Aimee Berndt, County Planner  
Mr. Jonathan W. Steele, G.I.S. Manager  
Mr. Mike Jennings, Traffic Engineer  
Mr. Tommy Catlett, Traffic Engineer  
Ms. Kim Vann, Police Division  
Ms. Holly Zinn, Recording Secretary

5  
6 **Mr. Richard W. Glover, the Board of Supervisors representative, abstains from**  
7 **voting on all cases unless otherwise noted.**

8  
9 Mr. Jernigan - I'd like to bring the meeting to order, please. Good morning  
10 ladies and gentlemen. On behalf of the Planning staff and the Planning Commission,  
11 we'd like to welcome you to our December 17, 2008 public hearing for subdivisions and  
12 plans of development. With that, I'll turn the meeting over to Mr. Emerson, our  
13 secretary.  
14

15 Mr. Emerson - Thank you, Mr. Chairman. The first item on your agenda  
16 today is requests for deferrals and withdrawals. Those will be presented by Ms. Leslie  
17 News.  
18

19 Mr. Jernigan - Good morning, Ms. News.  
20

21 Ms. News - Good morning, Mr. Chairman, members of the Commission.  
22 We have two requests for deferrals and withdrawals this morning. The first is on page 6



48 **PLAN OF DEVELOPMENT** *(Deferred from the September 24, 2008 Meeting)*  
49

POD-41-07 **Bay Design Group, P.C. for Pouncey Place, LLC:**  
Pouncey Place Phase I – Request for approval of a plan of development, as required  
Twin Hickory Lake Dr. and by Chapter 24, Section 24-106 of the Henrico County  
Pouncey Tract Rd. Code, to construct a shopping center with two, one-story  
(POD-57-86 Rev.) buildings for a total of 27,630 sq. feet. The 5.25-acre site  
is part of a 10.10-acre parcel and is located on the  
southeast corner of Pouncey Tract Road (State Route  
271) and Twin Hickory Lake Drive on parcel 740-765-  
2150. The zoning is B-2C, Business District (Conditional)  
and WBSO, West Broad Street Overlay District. County  
water and sewer. **(Three Chopt)**

50  
51 Mr. Jernigan - Is there any opposition to deferral of POD-41-07, Pouncey  
52 Place Phase 1? There is no opposition.  
53

54 Mr. Branin - Mr. Chairman, I'd like to move that POD-41-07, Pouncey  
55 Place Phase 1, be deferred to the March 25, 2009 meeting per the applicant's request.  
56

57 Mrs. Jones - Second.  
58

59 Mr. Jernigan - Motion by Mr. Branin, seconded by Mrs. Jones. All in favor  
60 say aye. All opposed say no. The ayes have it; the motion passes.  
61

62 At the request of the applicant, the Planning Commission deferred POD-41-07, Pouncey  
63 Place Phase 1, to its March 25, 2009 meeting.  
64

65 Ms. News - Those are all the requests that the staff is aware of.  
66

67 Mr. Jernigan - Okay. Thank you, Ms. News. Before we go any farther, I'd  
68 like to welcome Mr. Glover, our sitting member from the Board of Supervisors. Good  
69 morning, Mr. Glover.  
70

71 Mr. Glover - Good morning.  
72

73 Mr. Jernigan - Glad to have you with us.  
74

75 Mr. Glover - Merry Christmas.  
76

77 Mr. Jernigan - Same to you, sir. Okay, you may proceed.  
78

79 Mr. Emerson - Mr. Chairman, if there are no deferrals to be brought forward  
80 by the Planning Commission, that takes us to the expedited agenda which is also being  
81 presented by Ms. Leslie News.  
82

83 Ms. News - Sir, there are two items on our expedited agenda this  
84 morning. The first item is on page 4 of your agenda and is located in the Fairfield  
85 District. This is a transfer of approval for POD-95-74, Golden Goat (formerly Pizza Hut).  
86 Staff recommends approval.

87

88 **TRANSFER OF APPROVAL**

89

POD-95-74 Golden Goat (Formerly Pizza Hut) - 5210 Chamberlayne Road	<b>J. Sutera for Commonwealth Estate Acquisitions, Inc.:</b> Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Paresh D. Patel to Commonwealth Estate Acquisitions, Inc. The 0.45-acre site is located on the west line of Chamberlayne Road (U.S. Route 301), approximately 250 feet north of the intersection with Azalea Avenue, on parcel 786-744-8366. The zoning is B-3, Business District. County water and sewer. <b>(Fairfield)</b>
--	---

90

91 Mr. Jernigan - Is there any opposition to POD-85-74, Golden Goat (formerly  
92 Pizza Hut)? There is no opposition, Mr. Archer.

93

94 Mr. Archer - Mr. Chairman, I move for approval of POD-85-74, Golden  
95 Goat (formerly Pizza Hut), subject to staff's recommendation.

96

97 Mr. Vanarsdall - Second.

98

99 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall. All in  
100 favor say aye. All opposed say no. The ayes have it; the motion passes.

101

102 The Planning Commission approved the transfer of approval request for POD-85-74,  
103 Golden Goat (formerly Pizza Hut) from Paresh D. Patel to Commonwealth Estate  
104 Acquisitions, Incorporated, subject to the standard and added conditions previously  
105 approved.

106

107 Ms. News - The next item is on page 12 of your agenda and is located in  
108 the Varina District. This is POD-74-08, Roma Henrico Retail Center on Williamsburg  
109 Road. Staff recommends approval.

110

111 **PLAN OF DEVELOPMENT**

112

POD-74-08 **Timmons Group for Mannino, LLC:** Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story 7,467 square foot retail building. The 0.94-acre site is located on the south line of E. Williamsburg Road (U.S. Route 60), approximately 500 feet east of Raines Avenue, on parcel 828-715-6950. The zoning is B-1, Business District and ASO, Airport Safety Overly District. County water and sewer. **(Varina)**

113

114 Mr. Jernigan - Is there any opposition to POD-74-08, Roma Henrico Retail  
115 Center? There is no opposition. With that, I will move for approval of POD-74-08,  
116 Roma Henrico Retail Center, subject to the annotations on the plans, standard  
117 conditions for developments of this type, and the following additional conditions #29  
118 through 36.

119

120 Mr. Vanarsdall - Second.

121

122 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall. All in  
123 favor say aye. All opposed say no. The ayes have it; the motion passes.

124

125 The Planning Commission approved POD-74-08, Roma Henrico Retail Center, subject  
126 to the annotations on the plans, the standard conditions attached to these minutes for  
127 developments of this type, and the following additional conditions:

128

129 29. The right-of-way for widening of Williamsburg Road (U.S. Route 60) as shown on  
130 approved plans shall be dedicated to the County prior to any occupancy permits  
131 being issued. The right-of-way dedication plat and any other required information  
132 shall be submitted to the County Real Property Agent at least sixty (60) days  
133 prior to requesting occupancy permits.

134 30. The entrances and drainage facilities on Williamsburg Road U.S. Route 60) shall  
135 be approved by the Virginia Department of Transportation and the County.

136 31. A notice of completion form, certifying that the requirements of the Virginia  
137 Department of Transportation entrances permit have been completed, shall be  
138 submitted to the Department of Planning prior to any occupancy permits being  
139 issued.

140 32. A concrete sidewalk meeting VDOT standards shall be provided along the south  
141 side of Williamsburg Road (U.S. Route 60).

142 33. Outside storage shall not be permitted.

143 34. The certification of building permits, occupancy permits and change of  
144 occupancy permits for individual units shall be based on the number of parking  
145 spaces required for the proposed uses and the amount of parking available  
146 according to approved plans.

147 35. Approval of the construction plans by the Department of Public Works does not  
148 establish the curb and gutter elevations along the Virginia Department of  
149 Transportation maintained right-of-way. The elevations will be set by the  
150 contractor and approved by the Virginia Department of Transportation.

151 36. The location of all existing and proposed utility and mechanical equipment  
152 (including HVAC units, electric meters, junctions and accessory boxes,  
153 transformers, and generators) shall be identified on the landscape plan. All  
154 building mounted equipment shall be painted to match the building, and all  
155 equipment shall be screened by such measures as determined appropriate by  
156 the Director of Planning or the Planning Commission at the time of plan approval.

157  
158 Mr. Branin - May I ask a question?

159  
160 Mr. Jernigan - Yes, sir.

161  
162 Mr. Branin - I think I may have a deferral.

163  
164 Mr. Jernigan - Okay.

165  
166 Mr. Branin - I want to check. Mr. Wilhite, Tyler Building-Koger Office  
167 Center, have we gotten anywhere with them? Did they request a deferral?

168  
169 Mr. Wilhite - [Off mike.] We did not get a request from them. We've been  
170 trying to contact them but have not been able to reach them.

171  
172 Mr. Branin - Okay. Then, Mr. Chairman, may I make a deferral?

173  
174 Mr. Jernigan - Yes, sir, you may.

175  
176 **TRANSFER OF APPROVAL** (*Deferred from the November 19, 2008 Meeting*)

177  
178  
179 **POD-98-73** **John J. Hanky, Jr. for 900 East Marshall Street**  
Tyler Building-Koger **Associates, LP:** Request for transfer of approval as  
Office Center - required by Chapter 24, Section 24-106 of the Henrico  
Santa Rosa Rd. County Code from Tyler Investments, LLC to 900 East  
Marshall Street Associates, LP. The 2.02-acre site is  
located along the east line of Santa Rosa Road,  
approximately 200 feet south of Discovery Drive, on parcel  
758-744-8860. The zoning is O-2, Office District. County  
water and sewer. **(Three Chopt)**

180  
181 Mr. Branin - Mr. Chairman, I'd like to move for deferral of POD-98-73,  
Tyler Building-Koger Office Center.

182  
183 Mr. Jernigan - What page are we on?

184 Mr. Branin - That's page 3.  
185  
186 Mr. Vanarsdall - Second.  
187  
188 Mr. Emerson - Do we have a date for the deferral?  
189  
190 Mr. Branin - I'd like to take it out to February. I don't know what the  
191 February date would be.  
192  
193 Mr. Emerson - What's that date, Ms. News?  
194  
195 Mr. Vanarsdall - I already seconded it, Mr. Chairman, if you want to call for a  
196 vote.  
197  
198 Mr. Jernigan - As soon as we get a date, Mr. Vanarsdall.  
199  
200 Ms. News - That would be February 25<sup>th</sup>.  
201  
202 Mr. Branin - Okay. Mr. Chairman, I would like to move for deferral of  
203 POD-98-73, Tyler Building-Koger Office Center, to the February 25, 2009 meeting.  
204  
205 Mr. Vanarsdall - Second.  
206  
207 Mr. Jernigan - First of all, is there any opposition to deferral of POD-98-73,  
208 Tyler Building-Koger Office Center? There is no opposition. We have a motion by Mr.  
209 Branin, seconded by Mr. Vanarsdall. All in favor say aye. All opposed say no. The  
210 ayes have it; the motion passes.  
211  
212 At the request of the Commission, the Planning Commission deferred POD-98-73, Tyler  
213 Building-Koger Office Center, to its February 25, 2009 meeting.  
214  
215 Mr. Jernigan - Thank you, Ms. News.  
216  
217 Mr. Emerson - Mr. Chairman, if there are no other items to be brought by  
218 the Commission, that takes us to Subdivision Extensions of Conditional Approval to be  
219 presented by Mr. Lee Pambid.  
220

221 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**  
 222  
 223 **FOR INFORMATIONAL PURPOSES ONLY**  
 224

Subdivision	Original No. of Lots	Remaining Lots	Previous Extensions	Magisterial District	Recommended Extension
Michael's Way (Oct. 2005 Plan)	18	18	2	Fairfield	12/16/09
Turner Woods, Sec. C (Dec. 2005 Plan)	5	5	2	Varina	12/16/09
SUB-63-06 Wilton Parkway (Dec. 2006 Plan)	0	0	1	Varina	12/16/09
SUB-60-07 Winfrey Meadows (Nov. 2007 Plan)	4	1	0	Brookland	12/16/09

225  
 226 Mr. Jernigan - Good morning, Mr. Pambid.  
 227  
 228 Mr. Pambid - Good morning, Mr. Chairman and members of the  
 229 Commission.  
 230  
 231 Mr. Jernigan - You may proceed.  
 232  
 233 Mr. Pambid - Are there any questions regarding the subdivision  
 234 extensions?  
 235  
 236 Mr. Jernigan - Any questions regarding subdivisions for Mr. Pambid? That  
 237 was short. Thank you, sir.  
 238  
 239 Mr. Emerson - Mr. Chairman, that takes us to cases to be heard, which I  
 240 believe now number seven.

241  
 242 **TRANSFER OF APPROVAL**  
 243

POD-93-93  
 Virginia Home for Boys and Girls Parking Lot – (Formerly West Tower Cinemas Parking Lot Addition) – 2587 Homeview Dr.

**Christopher Schultz for Virginia Home for Boys and Girls:** Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Village Green Associates and Coastal American Corporation to Virginia Home for Boys and Girls. The 5.34-acre site is located on the west and east lines of Homeview Drive, approximately 900 feet north of W. Broad Street (U.S. Route 250), on parcel 759-757-9050. The zoning is R-6C, General Residence District (Conditional). County water and sewer. **(Brookland)**

244  
245 Mr. Jernigan - Is there any opposition to transfer of approval POD-93-93,  
246 Virginia Home for Boys and Girls Parking Lot – (Formerly West Tower Cinemas Parking  
247 Lot Addition)? There is no opposition. Good morning, Ms. Berndt.

248  
249 Ms. Berndt - Good morning. The subject property was originally built as  
250 overflow parking for West Tower Cinema. The current owner, the Virginia Home for  
251 Boys and Girls, has purchased the property as it is adjacent to their existing operation.  
252 There are no immediate plans for use of this lot.

253  
254 Prior to applying for the transfer of approval, concerns regarding the functionality of the  
255 parking lot lighting and graffiti on the perimeter wall were addressed through the  
256 County's Department of Community Maintenance. At the time of Planning staff's  
257 inspection for this approval, no remaining deficiencies were identified. However, it has  
258 come to the attention of staff that the poles at the entrances of the parking lots are in  
259 need of scraping and repainting. These poles function to hold the chains that block  
260 traffic from entering the lots when they are not in use. The lots are currently chained.  
261 The applicant has indicated that arrangements have already been made to have the  
262 poles scraped and repainted. The items shall be addressed no later than January 30,  
263 2009.

264  
265 The applicant agrees to be responsible for the continued maintenance of the parking  
266 lots and agrees to the continued compliance with the conditions of the original approval.  
267 Staff recommends approval of this transfer request with the added condition #1, which  
268 shall read as follows, "The deficiency, which includes repainting of all entrance posts,  
269 shall be corrected by January 30, 2009."

270  
271 The applicant's representative, Judy Klass, is here to answer any questions you may  
272 have of her, and I'm happy to answer any questions. Thank you.

273  
274 Mr. Jernigan - Are there any questions for Ms. Berndt from the  
275 Commission? Mr. Vanarsdall, do you want to hear from anybody?

276  
277 Mr. Vanarsdall - No, I don't need to hear from anyone.

278  
279 Mr. Jernigan - Okay. Are you ready to make a motion?

280  
281 Mr. Vanarsdall - The parking lot is in good shape except for the entrance  
282 posts. I'm glad that the Boys Home is taking it over because they've always needed  
283 that parking and always wanted it. This was overflow that the cinema did not need.  
284 With that, I recommend approval of transfer of approval POD-93-93, Virginia Home for  
285 Boys and Girls Parking Lot – (Formerly West Tower Cinemas Parking Lot Addition), with  
286 the added condition, and on the addendum it states the rezoning that it involved.

287  
288 Mr. Archer - Second, Mr. Chairman.

289

290 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Archer. All in  
291 favor say aye. All opposed say no. The ayes have it; the motion passes.

292  
293 The Planning Commission approved the transfer of approval request for POD-93-93,  
294 Virginia Home for Boys and Girls Parking Lot – (Formerly West Tower Cinemas Parking  
295 Lot Addition), from Village Green Associates and Coastal American Corporation to  
296 Virginia Home for Boys and Girls, subject to the standard and added conditions  
297 previously approved and the following additional condition:

298  
299 1. The deficiency, which includes repainting of all entrance posts, shall be corrected  
300 by January 30, 2009.

301  
302 **ALTERNATIVE FENCE HEIGHT PLAN - RESIDENCE**

303  
304 V-288 **Lee Brown for Ruth H. Henley:** Request for approval of  
305 Henley Residence – 1204 an alternative fence height plan, as required by Chapter  
306 Bentbrook Drive 24, Sections 24-95(l)(7)b and 24-106.2 of the Henrico  
307 County Code, to allow fences exceeding a height of 42  
308 inches in a front yard. The 0.4-acre site is located along  
309 the north line of Bentbrook Drive, approximately 325 feet  
310 west of Gilchrist Avenue, on parcel 803-706-1023. The  
311 zoning is R-3, One Family Residence District. **(Varina)**

312  
313 Mr. Jernigan - Is there any opposition to alternative fence height plan V-  
314 288, Henley Residence? There is no opposition. Good morning, Mr. Wilhite.

315  
316 Mr. Wilhite - Good morning. Thank you, Mr. Chairman. This case stems  
317 from a complaint that was filed with our Community Maintenance Department. There is  
318 court action pending on this case before the General District Court. This revolves  
319 around three fences located in the front yard of the property at 1204 Bentbrook Drive.

320  
321 These fences are all six-foot wood board fences. They're raised a few inches above the  
322 height of the ground. There are three locations in the front yard. The first photo shows  
323 the one at the southwest corner of the property. This actually sits behind the brick wall  
324 that you see roughly about a foot to two feet. It runs partially along the front property line  
325 and then turns and runs along the side property line.

326  
327 The second fence you can see in this photograph is a six-foot board fence located in the  
328 front of the trees in the front yard. It runs part of the length of the width of the front yard.  
329 You can see the fence a little bit better in this photograph. That's looking back towards  
330 the first fence that I showed you in the photo.

331  
332 The third fence is the fence located where the cursor is. This is on the side of the  
333 driveway. It's also a six-foot board fence. You can see it from another angle here.  
334 That's looking along the street back towards the west. That's the third fence I pointed  
335 out here.

328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373

The County has recently amended the fence ordinance that pertains to fences in the front yard. “In a residential district, a fence, wall, or hedge may not exceed a height of three feet, six inches in a front yard or seven feet in the side or rear yard, except as follows.” It goes on to say, “The Planning Commission, pursuant to the review and approval of a landscape plan, shall permit an alternative fence height exceeding three feet six inches, but not exceeding seven feet, in the front yard or along the front lot line, provided the design does not adversely affect: 1) the health, safety, and/or welfare of persons residing on or working on the premises; 2) the visibility or value of abutting and/or adjacent properties; 3) the adequate supply of light and air to adjoining property; 4) traffic or pedestrian safety; and 5) adequate site distance as provided in subparagraph three of this subsection.”

I’ve had the Traffic Engineer visit the site. He’s taken a look at the fences, and he has deemed that there are no sight distance problems created by the fences; however, staff is of the opinion that this violates standard #2 dealing with adversely affecting the visibility or value of abutting and/or adjacent properties. We have made some suggestions and forwarded them to the applicant that we feel could be made to the fence. Staff may be able to support it if these changes were made. They were dealing with the creation of a scalloped top appearance on the fence, the use of decorative fence post tops, a limitation of fence post heights, and the use of a uniform color scheme. We also recommended that some landscaping be planted along the fences to try to negate the negative impacts on surrounding properties.

As I mentioned, staff is not in a position to recommend approval of the fence height request. We have tried contacting the owner on numerous occasions and haven’t received a response back from them.

I’ll be happy to answer any questions that you have.

Mr. Jernigan - Are there any questions for Mr. Wilhite from the Commission? You’ve tried many times to get with the applicant.

Mr. Wilhite - We’ve sent a formal notice letter and sent the comments to that address. I’ve tried calling her twice and have left her a message. I have not received a response either time.

Mr. Jernigan - Okay. Is Lee Brown in the auditorium? Is Ms. Henley? So, nobody’s here representing this case. Thank you, Mr. Wilhite.

There is not much I can say about this. I can’t approve this. This is beyond the realm. I’ve been out there. To me, it’s a detriment to the neighborhood.

Let me check. Sir, your name’s not Lee Brown, is it? Okay, thank you. I just wanted to make sure I have everybody covered.

374 I'm going to recommend denial on this, and this is going to have to come down. I would  
375 have liked for her to have been here, or somebody, to give me the reasoning why they  
376 have to have this much fencing, but nobody's been able to explain it. I knew they were  
377 doing some construction in the front at the beginning, and they wanted to hide that, but  
378 that's long gone.

379  
380 Mr. Branin - Mr. Chairman?

381  
382 Mr. Jernigan - Yes, sir.

383  
384 Mr. Branin - You're denying the fence height. Are you going to request  
385 removal, or just reduction in height? What is the authority we have with that?

386  
387 Mr. Jernigan - I think by Code they could cut it to 42 inches, and have those  
388 fences in the front. You could count the number of fences in there—there are six. If  
389 you look at the chart of how many difference pieces of fencing there are—I don't think if  
390 they cut it to 42 they're going to leave it up. We can't require them to remove it, but we  
391 can require them to bring it to 42 inches.

392  
393 Mr. Branin - Okay.

394  
395 Mr. Emerson - This is an ongoing case with Community Maintenance.  
396 They've been working on this for quite some time.

397  
398 Mr. Jernigan - It has the brick wall around the perimeter.

399  
400 Mr. Branin - A nice brick wall. The brick wall is nice.

401  
402 Mr. Jernigan - Yes, that's in the right-of-way.

403  
404 Mr. Branin - The wall is in the right-of-way?

405  
406 Mr. Jernigan - It's in the right-of-way.

407  
408 Mr. Emerson - Yes, the wall is in the right-of-way.

409  
410 Mr. Jernigan - We're all right with that. I just can't support the rest of this.

411  
412 Mr. Archer - Mr. Chairman, before you go on with that, the reduction  
413 includes the portions of the brick wall?

414  
415 Mr. Jernigan - No. The corners are too high. I don't really have a problem  
416 with that unless Community Maintenance does, or unless the complainant does. The  
417 corners do fall out of code.

418  
419 Mr. Emerson - Are you speaking to the posts in the brick wall?

420  
 421 Mr. Jernigan - Yes.  
 422  
 423 Mr. Emerson - We've chosen not to pursue the pillars.  
 424  
 425 Mr. Jernigan - Mainly, what I'm talking about is the board fencing.  
 426  
 427 Mr. Emerson - None of the brick structure is in question with this request.  
 428  
 429 Mr. Archer - Okay.  
 430  
 431 Mr. Jernigan - My motion is that on this case, alternative fence height plan  
 432 V-288, Henley Residence, is that they are to either remove all the board fencing or cut it  
 433 to County Code, which is 42 inches. That's all the fencing that's in the front yard.  
 434  
 435 Mr. Branin - Second.  
 436  
 437 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Branin. All in favor  
 438 say aye. All opposed say no. The ayes have it; the motion is denied.  
 439  
 440 The Planning Commission denied alternative fence height plan V-288, Henley  
 441 Residence based on the determination that the fence design adversely affects the value  
 442 of abutting and/or adjacent properties.  
 443

444 **PLAN OF DEVELOPMENT AND TRANSITIONAL BUFFER DEVIATION**

445 *(Deferred from the November 19, 2008 Meeting)*  
 446

POD-56-08 **Potts, Minter & Associates, P.C. for Commonwealth**  
 Mayland Medical Center – **Foundation for Cancer Research and Tropoli, Inc.:**  
 Mayland Ct. Request for approval of a plan of development and  
 transitional buffer deviation, as required by Chapter 24,  
 Sections 24-106 and 24-106.2 of the Henrico County  
 Code, to construct two, one-story office buildings, and one,  
 two-story office building, totaling 40,056 square feet. The  
 transitional buffer deviation request is to reduce the width  
 of the transitional buffer along the southeast and part of  
 the northeast property lines. The 3.60-acre site is located  
 along the east line of Mayland Ct., approximately 375 feet  
 south of Mayland Dr. on parcel 752-757-8824. The zoning  
 is M-1C, Light Industrial District. (Conditional) County  
 water and sewer. **(Three Chopt)**

447  
 448 Mr. Jernigan - Is there any opposition to POD-56-08, Mayland Medical  
 449 Center? There is no opposition. Mr. Wilhite, you may proceed.  
 450

451 Mr. Wilhite - Thank you. Since your November meeting, we have had a  
452 neighborhood meeting concerning this case. The primary issue at that meeting had to  
453 do with the treatment of the buffer that is the subject of the deviation request. What's  
454 required by ordinance here is a 50-foot transitional buffer. It does allow you to reduce  
455 that to 30 feet with a 10-foot high wall. There is a proffer from a zoning case back in the  
456 early eighties that also required a 50-foot buffer, but it also allowed an alternative of a  
457 30-foot natural buffer, plus a 7-foot fence. This is what the applicant originally  
458 requested the deviation to.

459  
460 After meeting and talking with the neighbors, what has occurred is  
461 that the request would be a reduction to a 30-foot natural buffer. The fence, however,  
462 would become a white vinyl fence, eight feet high including the lattice top, with the  
463 finished side facing out, and the fence extended to the property lines, and hopefully  
464 connecting with the fence on the adjacent property here, as long as permission is  
465 granted by that property owner.

466  
467 Staff can support this request for a change. There are some additional conditions on  
468 page 1 of your addendum. The applicant is also in agreement to allow limitation of  
469 construction activity on the site and trash pickup. That would be limited to the hours of 7  
470 a.m. to 7 p.m. Monday through Saturday, and no activity on Sunday. With these  
471 conditions as stated, staff is in a position to recommend approval of the site plan,  
472 provided you approve the transitional buffer deviation.

473  
474 Mr. Jernigan - Are there any questions for Mr. Wilhite from the  
475 Commission? All right, Mr. Branin.

476  
477 Mr. Branin - I don't need to hear a presentation from the applicant, but I  
478 wanted to ask a question of the applicant's representative. Not you, Mr. Theobald.

479  
480 Mr. Jernigan - You have to come down to the podium, ma'am.

481  
482 Mr. Branin - Come on, you've been through this process before.

483  
484 Ms. Toy - Hello.

485  
486 Mr. Jernigan - Would you state your name for the record, please?

487  
488 Ms. Toy - Cheryle Toy.

489  
490 Mr. Branin - Okay. Ms. Toy, in our neighborhood meeting, you had  
491 talked to the adjacent neighbors in regards to some vegetation that had been removed  
492 that doesn't even pertain to this piece of property, which was done when the road was  
493 put in. Have you had a chance to address—

494  
495 Ms. Toy - I went out to the property, and the area where she was  
496 talking about was actually a sanitary sewer easement that runs adjacent to Mr.

497 Stanley's property. So, we're not allowed to put any plant material in that 16 feet.  
498 However, I have offered that if the buffer area on the property next to it isn't 30 feet,  
499 then we can maybe supplement some trees in some of that buffer for her.

500

501 Mr. Branin - Okay.

502

503 Ms. Toy - I'm just waiting to hear back from her. I didn't hear back  
504 from her yet.

505

506 Mr. Branin - Okay. In the neighborhood meeting, when promises are  
507 made, I'm going follow up.

508

509 Ms. Toy - I went out there and measured, and the entire 16 feet of that  
510 sanitary sewer is the only cleared area between Mr. Stanley's property and the trees  
511 again. So, I'm not allowed to put any trees right there. I am still trying to help her in the  
512 buffer area since it's the wintertime and she can see through the trees, to put some  
513 green arborvitaes or something in there for her. So, I'm still working with her, and we're  
514 going to do something. We just can't put it exactly in that same area.

515

516 Mr. Branin - Okay. Thank you, ma'am. For the Commission's sake, Ms.  
517 Toy has worked with the adjacent property owner, Mr. Stanley, and with the road that  
518 went in. At the neighborhood meeting when some issues came up regarding some  
519 vegetation that was removed, now we know it's right-of-way, but we weren't sure why.  
520 She said they would be taking care of it right away.

521

522 Okay. I appreciate the work that Mr. Stanley has done in meeting the conditions that the  
523 neighborhood worked with him on. I have no further questions, so I'd like to make my  
524 motion.

525

526 Mr. Jernigan - Go ahead.

527

528 Mr. Branin - Mr. Chairman, I'd like to move that POD-56-08, Mayland  
529 Medical Center, be approved subject to the annotations on the plan, standard conditions  
530 for developments of this type, and the following additional conditions 9 and 11  
531 amended, and 29 through 35.

532

533 Mr. Vanarsdall - Second.

534

535 Mr. Jernigan - Thirty-four and thirty-five have changed. So, 34 and 35  
536 amended on the addendum. Okay.

537

538 Motion by Mr. Branin, seconded by Mr. Vanarsdall. All in favor say aye. All opposed  
539 say no. The ayes have it; the motion passes.

540

541 The Planning Commission approved POD-56-08, Mayland Medical Center, subject to  
542 the annotations on the plans, the standard conditions attached to these minutes for  
543 developments of this type, and the following additional conditions:  
544

- 545 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Department of  
546 Planning for review and Planning Commission approval prior to the issuance of  
547 any occupancy permits.
- 548 11. **AMENDED** - Prior to the approval of an electrical permit application and  
549 installation of the site lighting equipment, a plan including depictions of light  
550 spread and intensity diagrams, and fixture specifications and mounting height  
551 details shall be submitted for Department of Planning review and Planning  
552 Commission approval.
- 553 29. Outside storage shall not be permitted.
- 554 30. The proffers approved as a part of zoning case C-7C-81 shall be incorporated in  
555 this approval.
- 556 31. The existing 20-foot permanent drainage easement in conflict with the northern  
557 building footprint shall be vacated prior to approval of the building permit for the  
558 said building.
- 559 32. The owners shall not begin clearing of the site until the following conditions have  
560 been met:
- 561 (a) The site engineer shall conspicuously illustrate on the plan of development  
562 or subdivision construction plan and the Erosion and Sediment Control  
563 Plan, the limits of the areas to be cleared and the methods of protecting  
564 the required buffer areas. The location of utility lines, drainage structures  
565 and easements shall be shown.
- 566 (b) After the Erosion and Sediment Control Plan has been approved but prior  
567 to any clearing or grading operations of the site, the owner shall have the  
568 limits of clearing delineated with approved methods such as flagging, silt  
569 fencing or temporary fencing.
- 570 (c) The site engineer shall certify in writing to the owner that the limits of  
571 clearing have been staked in accordance with the approved plans. A copy  
572 of this letter shall be sent to the Department of Planning and the  
573 Department of Public Works.
- 574 (d) The owner shall be responsible for the protection of the buffer areas and  
575 for replanting and/or supplemental planting and other necessary  
576 improvements to the buffer as may be appropriate or required to correct  
577 problems. The details shall be included on the landscape plans for  
578 approval.
- 579 33. The location of all existing and proposed utility and mechanical equipment  
580 (including HVAC units, electric meters, junction and accessory boxes,  
581 transformers, and generators) shall be identified on the landscape plans. All  
582 equipment shall be screened by such measures as determined appropriate by  
583 the Director of Planning or the Planning Commission at the time of plan approval.
- 584 34. **REVISED** - Construction activity on the site shall be limited to the hours from  
585 7:00 a.m. to 7:00 p.m., Monday through ~~Friday~~ **Saturday**. There shall be no  
586 construction on Sunday.

587 35. **REVISED** - Trash pick-up on site shall be limited to the hours from 7:00 a.m. to  
588 7:00 p.m., Monday through Friday **Saturday**. There shall be no trash pick-up on  
589 Sunday.  
590

591 **PLAN OF DEVELOPMENT AND SPECIAL EXCEPTION**

592 *(Deferred from the November 19, 2008 Meeting)*  
593

POD-64-08 **Timmons Group for Short Pump Town Center, LLC**  
Cambria Suites at Short **and Nick Patel:** Request for approval of architectural  
Pump Town Center – W. plans and a special exception for buildings exceeding 45  
Broad St. feet in height, as required by Chapter 24, Sections 24-106  
and 24-94 (b) of the Henrico County Code, to construct a  
six-story, 100-room hotel, with a proposed height of 74.5  
feet. The 1.72-acre site is located approximately 650 feet  
north of W. Broad St. (US Route 250) and approximately  
1,500 feet west of Lauderdale Dr., on parcel 736-764-  
3817. The zoning is B-3C, Business District (Conditional)  
and WBSO, West Broad Street Overlay District. County  
water and sewer. **(Three Chopt)**

594  
595 Mr. Jernigan - Is there any opposition to POD-64-08, Cambria Suites at  
596 Short Pump Town Center? There is no opposition. Okay. Mr. Wilhite.  
597

598 Mr. Wilhite - Thank you. The site plan for this project was approved at  
599 your November hearing. The architectural and the special exception for the height  
600 were deferred. Since that time, we have met twice with the applicant, trying to add more  
601 brick to the façade of the building. Staff was concerned about the eastern and western  
602 façades, the longer sides that you see on the rendering here.  
603

604 We could not come to an agreement to add any more brick. I think the feeling from the  
605 applicant was if they were to add any more brick, then they would have to go to 100%  
606 brick on this building in order to make the aesthetics work. They felt that the economics  
607 of the project would not work out at that point. What they are proposing is 61% brick,  
608 which does meet the proffered requirements of Short Pump Town Center. Therefore,  
609 staff can recommend approval at this time.  
610

611 They are requesting a special exception be granted. This will allow the height of  
612 building to be 74.5 feet. Forty-five feet is the maximum height under the ordinance  
613 without a special exception. With the special exception, they can go up to 110 feet in  
614 height.  
615

616 Mr. Jernigan - Are there any questions for Mr. Wilhite from the  
617 Commission? Thank you, Mr. Wilhite. All right, Mr. Branin. Do you want to hear from  
618 anybody?  
619

620 Mr. Branin - Yes.

621  
622 Mr. Jernigan - Okay.  
623  
624 Mr. Branin - I'd like to hear from the applicant.  
625  
626 Mr. Jernigan - Good morning.  
627  
628 Mr. Axselle - Good morning. Mr. Chairman, and ladies and gentlemen of  
629 the Commission, Bill Axselle. I'm here on behalf of Short Pump Town Center, LLC.  
630 With us in the back row is Chris Thompson with Timmons; Mr. Patel, who is the  
631 developer; Brendan Fisher with Forest City; J. R. Richardson with Forest City; Bill  
632 Lewis, who is counsel for Mr. Patel; and Lewis Little who is involved in the matter also.  
633  
634 Mr. Patel, Forest City, Pruitt, and Short Pump are desirous of his developing this  
635 property in the fashion that's been described. We have had two meetings, as Mr. Wilhite  
636 mentioned, and we had many more meetings before. Quite frankly, Forest City, Pruitt  
637 Associates, and Short Pump are very comfortable with this building, which is 61% brick,  
638 with the remainder almost all stucco. What we've found as we got into this was that  
639 Short Pump Town Center is about 75% brick, but this is further back than a lot of the  
640 outparcels and so forth. I have all the details. Your staff, Mr. Branin, and Forest City  
641 have all pushed each other to get to where we think this works well. It looks nice. It's  
642 stucco instead of EIFS. It is, in fact, as Mr. Wilhite said, in compliance with the proffers,  
643 which say that the building needs to be primarily brick. We put the cap in brick facing  
644 Broad Street. We do have a number of exhibits, which I can go through in extensive  
645 detail. It is further back, and it's visibility is blocked by a number of outparcels.  
646  
647 I will tell you that as we came out of the meeting the other day, Forest City and Pruitt  
648 have turned down a number of proposals for their development. This is probably the last  
649 outparcel we developed out there because they didn't think they aesthetically fit. We're  
650 comfortable with this one. We think it does fit and will look nice. We hope you will  
651 approve it. I'll be glad to go into more detail, Mr. Branin, if you want me to. I think we're  
652 at a point now where I think it's reasonable to proceed with the elevation.  
653  
654 Mr. Branin - Mr. Axselle, you meet all the conditions and the proffered  
655 conditions for that property with the amount of brick, correct?  
656  
657 Mr. Axselle - We do.  
658  
659 Mr. Glover - What's the life expectancy of stucco versus brick?  
660  
661 Mr. Axselle - I would ask maybe Mr. Richardson to respond. Come on up,  
662 Jim, if you will. Jim is with Forest City, who coordinates these matters at Short Pump  
663 and others. Especially higher up and extremely long-term, EIFS is less, but he can  
664 answer the question a little more directly.  
665

666 Mr. Richardson - I hope I can. Jim Richardson with Forest City. Good  
667 morning. The lifespan of stucco is probably as long as block, as long as it's not  
668 battered. They actually use it in Florida for hurricanes and the strength of hurricanes.  
669  
670 Mr. Glover - Do you use it in Cleveland?  
671  
672 Mr. Richardson - Yes, some places.  
673  
674 Mr. Glover - Why wouldn't they use it a great deal in Cleveland?  
675  
676 Mr. Richardson - The cold weather. You have more cold weather up in  
677 Cleveland.  
678  
679 Mr. Glover - So, does cold weather have a deteriorating factor with this?  
680  
681 Mr. Richardson - Extreme cold, yes.  
682  
683 Mr. Glover - Do we ever get extreme cold here?  
684  
685 Mr. Richardson - Not enough to where it would affect the stucco.  
686  
687 Mr. Emerson - Yes, sir, I think we do.  
688  
689 Mr. Glover - We get extreme cold here. It was cold this past week. What  
690 do you classify as extreme cold?  
691  
692 Mr. Richardson - Below zero many days.  
693  
694 Mr. Glover - So, it would have to get below zero before it's extreme.  
695  
696 Mr. Richardson - Yes.  
697  
698 Mr. Glover - How many buildings are out there in Short Pump? The only  
699 reason I'm asking is Short Pump is dear to Henrico's future.  
700  
701 Mr. Richardson - Mmm-hmm, I understand.  
702  
703 Mr. Glover - How many buildings out there have stucco on them?  
704  
705 Mr. Richardson - Actually, stucco's a better product than EIFS, and the  
706 buildings at Short Pump are EIFS.  
707  
708 Mr. Glover - Pardon?  
709  
710 Mr. Richardson - The buildings at Short Pump are a mixture of brick and EIFS.  
711

712 Mr. Glover - Well, we're not talking about EIFS, we're talking about  
713 stucco. You all do a great job of building shopping centers.  
714  
715 Mr. Richardson - Right.  
716  
717 Mr. Glover - All right. I just don't understand stucco.  
718  
719 Mr. Richardson - Stucco is a more durable product than EIFS.  
720  
721 Mr. Glover - My son just remodeled a house; it was falling off his house.  
722  
723 Mr. Richardson - Okay. It was falling off?  
724  
725 Mr. Glover - Yes. It had bubbled underneath. There are a lot of reasons  
726 that stucco, to me, is not as good as EIFS. I haven't ever seen any EIFS fall off since  
727 we got past the EIFS that we used to get from other countries.  
728  
729 Mr. Richardson - EIFS is a quarter inch thick on demi glass, and this stucco is  
730 three-quarter inch thick.  
731  
732 Mr. Glover - Why wouldn't they want to match, basically, the 75% that  
733 Short Pump has set?  
734  
735 Mr. Richardson - Two reasons. One, they have a corporate look to their  
736 buildings. There were probably five or six buildings, I think, we submitted to the  
737 Commission showing that most of the buildings across the country have a certain look,  
738 and they're not all 100% brick. We put the brick on all the end caps and all the columns  
739 throughout the façade of the building. Your next step would actually be to start infilling  
740 around the windows. At that point, it's going to look awkward, so you're going to have to  
741 go 100% brick. You're going to have to fill in all those areas around the windows. At a  
742 certain point, again, like Bill said, the economics, they just don't work because of the  
743 cost. Again, we look at Short Pump and the combination that we have with the EIFS and  
744 the brick, and we feel that this very well blends in with what we have already. When  
745 you look at the Pottery Barn and the other stores that are facing the front of the Center,  
746 those are mostly EIFS. So, we think they've done a good job. We think it's a very  
747 good-looking building. We think it matches very well. We'd like to do the deal and go  
748 forward.  
749  
750 Mr. Glover - You don't have any financial interest in this hotel?  
751  
752 Mr. Richardson - No.  
753  
754 Mr. Glover - I think it's important we make sure that we don't do anything  
755 that takes away from Short Pump.  
756

757 Mr. Richardson - Oh, we agree, too. Obviously, we have a big investment in  
758 Short Pump, and we don't want one building to hamper that.  
759  
760 Mr. Glover - Thank you.  
761  
762 Mr. Richardson - Thank you.  
763  
764 Mr. Axelle - May I supplement only one comment. I don't want to get too  
765 legalese, but the proffers say that any building shall be primarily brick, which would be  
766 50%, and may include stucco if applied over masonry surface. So, both of them are  
767 permitted. It does say that you do EIFS if you have a specific request, which is not  
768 where we are today, so. That's basically where we are.  
769  
770 Mr. Glover - Proffered conditions are a part of the ordinance, Mr. Axelle,  
771 and I know you know we have an element of our Comprehensive Land Use Plan that's  
772 called Goals, Objectives, and Policies. This very well fits into the Goals, Objectives,  
773 and Policies, and I don't think it's violated it. But I do think we have severe weather  
774 here, and it doesn't have to get to zero.  
775  
776 Mr. Axelle - I think, if I may amend my witness' statement, I think he's  
777 talking about an extended period of extreme weather. It is, obviously, a little colder  
778 more frequently and longer in Cleveland than here, but less so in Florida.  
779  
780 Mr. Glover - The snow's a lot deeper, too.  
781  
782 Mr. Jernigan - Mr. Axelle, let me clear up one thing. The stucco is going to  
783 be put over masonry; it's going to be put over cinderblock, where EIFS is put over  
784 styrofoam.  
785  
786 Mr. Axelle - Yes.  
787  
788 Mr. Jernigan - Any more questions?  
789  
790 Mr. Branin - I have two. Mr. Wilhite, may I ask this one more time, and  
791 you can answer this? This does meet the proffered conditions for the mall area,  
792 correct?  
793  
794 Mr. Wilhite - Yes, sir.  
795  
796 Mr. Branin - Thank you. May I speak to Mr. Patel?  
797  
798 Mr. Jernigan - Good morning. Would you state your name for the record,  
799 please?  
800  
801 Mr. Patel - Nick Patel, developer of the Cambria Suites at Short Pump.  
802

803 Mr. Branin - Mr. Patel, you know I've been pushing for more brick, right?

804  
805 Mr. Patel - Yes, sir.

806  
807 Mr. Branin - I'm going to give you one more opportunity.

808  
809 Mr. Patel - I believe what we presented here is the most, actually, I can  
810 do financially.

811  
812 Mr. Branin - Okay. I just wanted to give you an opportunity. Hope to see  
813 you on another case soon.

814  
815 Mr. Patel - Thank you.

816  
817 Mr. Branin - Thank you, Mr. Axselle. All right. Anybody have any other  
818 questions? As the Commission can see, I've exhausted everything I can legally to get  
819 more brick, and we're assured that the quality of this project is going to meet the  
820 standards. The representatives from the mall, which this sits on the property, are happy  
821 with it. The developer is happy with it. According to them, they've turned down many  
822 hotels because they didn't meet the standards of this one. With that, Mr. Chairman, I'd  
823 like to move that POD-64-08, Cambria Suites at Short Pump Town Center, be approved  
824 with the following conditions 31 and 32, including the special exception for height.

825  
826 Mr. Archer - Second.

827  
828 Mr. Jernigan - Motion by Mr. Branin, seconded by Mr. Archer. All in favor  
829 say aye. All opposed say no. The ayes have it; the motion passes.

830  
831 The Planning Commission approved POD-64-08, Cambria Suites at Short Pump Town  
832 Center and the special exception for buildings exceeding 45 feet in height, subject to the  
833 conditions previously approved on November 18, 2008, and the following additional  
834 conditions:

835  
836 31. Evidence that an engineer has certified the height of the building shall be  
837 provided to the Director of Planning prior to the issuance of a Certificate of  
838 Occupancy.

839 32. The location of all existing and proposed utility and mechanical equipment  
840 (including HVAC units, electric meters, junction and accessory boxes,  
841 transformers, and generators) shall be identified on the landscape plans. All  
842 equipment shall be screened by such measures as determined appropriate by  
843 the Director of Planning or the Planning Commission at the time of plan approval.

844  
845 **PLAN OF DEVELOPMENT AND SPECIAL EXCEPTION**

846  
POD-73-08 **VHB for Laburnum Station, LLC:** Request for approval of  
Comfort Suites at a plan of development and special exception for a building  
Laburnum Station – S.

Laburnum and Gay  
Avenues  
(POD-76-07 Rev.)

exceeding 45 feet in height, as required by Chapter 24, Sections 24-2, 24-94(b), and 24-106 of the Henrico County Code, to construct a four-story hotel with 83 rooms with a proposed height of 56 feet in an existing shopping center. The 10.19-acre site is located at the southwest corner of the intersection of S. Laburnum Avenue and Gay Avenue on part of parcel 813-717-7951. The zoning is B-2C, Business District (Conditional) and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

847

848 Mr. Jernigan - Is there any opposition to POD-73-08, Comfort Suites at  
849 Laburnum Station? We do have opposition. Good morning, Ms. Goggin.

850

851 Ms. Goggin - Good morning. Staff has had time to complete its review of  
852 the plan as submitted, and it's in the handout addendum with staff's annotations. The  
853 applicant is requesting approval of a special exception to allow a 56-foot-tall building; 45  
854 feet is permitted by-right. The applicant will need to present their case to the  
855 Commission for their request.

856

857 The architecturals proposed brick around the entire building on the first level and the  
858 main entrance, as shown on the elevations. Staff requested, and the applicant has  
859 agreed to provide additional brick on the hotel side elevations, as shown in the  
860 Commission packet and on these architecturals. The sides will be seen from the  
861 neighborhood and southbound Laburnum Avenue, as shown on the staff plan. So, the  
862 sides, as you can tell from this where the extra brick is, will face the neighborhood and  
863 southbound Laburnum as people drive down the road.

864

865 The orientation of the hotel does not locate or face any customer rooms so they will  
866 overlook into the adjacent residential dwellings. The emergency exits and stairways are  
867 located at the ends of the hotel to afford the maximum amount of privacy possible to the  
868 residents, as pointed out earlier. People staying in the hotel will overlook the BMP and  
869 the back of Best Buy. The closest point of the hotel is a little over 95 feet away from the  
870 nearest neighbor, who is Mr. Frederick Wood at 4501 Mizar Road. He has contacted  
871 staff concerning this proposal.

872

873 The site does have a 35-foot proffered transitional buffer and a 6-foot opaque vinyl  
874 fence that was installed with the Best Buy and the additional retail stores, and it will  
875 need to be maintained and/or replaced if damaged during construction.

876

877 Staff has received a couple of phone calls concerning this POD and special exception  
878 request. As previously mentioned, Mr. Wood, who lives right here, has expressed  
879 concern that this proposal does not correspond with the offices that were indicated  
880 during the rezoning for this site. He is also concerned about the impact and proximity of  
881 the use to his property and on the County's infrastructure. Ms. Linda Morony, the  
882 Lawndale Farms Neighborhood Watch coordinator, also called—this is Lawndale  
883 Farms, this neighborhood—the office to express the neighborhood's similar concerns

884 with this development. Mr. Pastore, another neighbor, is here today, but his main  
885 concern is about the location of the hotel on the site. He didn't necessarily have a  
886 complaint about the proposed use.

887  
888 There is an additional condition on page 2 in your handout addendum limiting hours of  
889 construction on the exterior of the building to 7 a.m. to 7 p.m. Monday through Friday,  
890 and 8 a.m. to 7 p.m. on Saturday for exterior work, and interior work which produces  
891 audible noise beyond the property line. It also limits interior work on Sunday that  
892 produces audible noise to the property line.

893  
894 Staff recommends approval subject to the annotations on the staff plan in your handout  
895 addendum, conditions 24 through 34 in the agenda, and additional condition 35 on page  
896 2 in your handout addendum. Should the Commission choose to approve the special  
897 exception request, at the Commission's discretion, the POD and special exception can  
898 be covered in one motion. I'd be happy to answer any questions the Commission may  
899 have of me. Caroline Peters is here to present the applicant's case for their special  
900 exception. John Carty from VHB is here to answer any engineering questions. And  
901 Walter Bernell, the developer, is also here.

902  
903 Mr. Jernigan - Okay. Thank you, Ms. Goggin. Any questions for Ms.  
904 Goggin from the Commission?

905  
906 Mrs. Jones - Ms. Goggin, the requested height is?

907  
908 Ms. Goggin - Fifty-six feet.

909  
910 Mrs. Jones - Fifty-six. Okay.

911  
912 Ms. Goggin - And 45 is permitted by-right in this zone. And just to recap, it  
913 is 98 feet. I said a little bit over 95 feet from the closest point of the hotel to the property  
914 line with Mr. Wood's property.

915  
916 Mrs. Jones - Thank you.

917  
918 Mr. Branin - Ms. Goggin, is this stucco, or is it EIFS?

919  
920 Ms. Goggin - Good question. EIFS.

921  
922 Mr. Branin - Okay. We have EIFS and brick.

923  
924 Mr. Jernigan - Thank you, Ms. Goggin.

925  
926 Ms. Goggin - You're welcome.

927  
928 Mr. Jernigan - I'd like to hear from the applicant, please. Good morning.

929

930 Ms. Peters - Good morning, Mr. Chairman, members of the Commission.  
931 My name is Caroline Peters. I'm here on behalf of the applicant. Ms. Goggin did an  
932 excellent job of presenting all of the issues in the case. I just want to highlight a couple  
933 of things.

934  
935 It didn't come to our attention until yesterday that there was any concern from the  
936 neighborhood residents. During the zoning case, we did not have any opposition. We  
937 did have a community meeting. In our zoning case, we proffered out a number of  
938 prohibited uses for this property, one of which was not hotel use. So, this is a by-right  
939 use. We are requesting the special exception. Without the special exception, by code  
940 we have to increase our setback from the property line I believe for front setback. That  
941 would be an additional seven feet per ten feet of height requested. For side and rear, it  
942 has to be an additional six feet per ten feet requested. As Ms. Goggin mentioned, we  
943 have 98 feet between the proposed hotel and the property line where the residence is.  
944 Also as Ms. Goggin mentioned, we really did try to situate the hotel so that none of the  
945 hotel rooms will be facing the residences, and more, Gay Avenue. So, we really do feel  
946 like this is the optimal footprint of the building.

947  
948 One other point I just want to make is that to make this economically viable, in order to  
949 get the 83 rooms that we need for the hotel, we do need the special exception for  
950 height. Without that, we'd have to increase the footprint of the building, so it would  
951 actually have to come closer to the residences. By increasing the height an additional  
952 10 to 11 feet, we're actually able to make a more compact building. Keep in mind that  
953 by-right, we can do a hotel up to 45 feet.

954  
955 One other point I want to make is I think there was a sense with the zoning case that we  
956 would have a small office development. We didn't have a user for this property when  
957 we went to the zoning case. We had thought that it would probably be small retail, small  
958 office, something to that effect. But certainly a hotel is not as intensive a use as, say, a  
959 restaurant, or other retail use whether it be more traffic coming and going. So, we think  
960 that this is an appropriate use to actually buffer between the retail that is existing out  
961 there and the residential development.

962  
963 Finally, one other point. Ms. Goggin mentioned that we do have a six-foot vinyl fence,  
964 and also we are having to plant that Transitional Buffer 35, the 35-foot buffer that we  
965 proffered in our zoning case.

966  
967 I'm happy to answer any questions.

968  
969 Mr. Jernigan - Any questions for Ms. Peters from the Commission? Ms.  
970 Peters, when we first met on this, during the zoning case, we did think it would be office  
971 or retail, and nothing was proffered out at that time. So, this is a by-right. When we met,  
972 we did discuss the fact that we didn't want the hotel. A lot of people don't want people  
973 looking out of their window and into theirs so we made sure that the ends of the hotel  
974 with no windows faced that direction, only the window that you have for the stairwell.

975

976 Ms. Peters - Yes, that's correct.  
977  
978 Mr. Jernigan - This is an EIFS building. This isn't stucco, correct?  
979  
980 Ms. Peters - No, it's consistent with the proffers that we provided, which  
981 did include EIFS in our list of permitted materials.  
982  
983 Mr. Jernigan - Is this wood construction or masonry?  
984  
985 Mr. Carty - I believe it's going to be wood construction.  
986  
987 Mr. Jernigan - Okay. All right. Are there any more questions? We do have  
988 opposition. Sir, if you'd like to come on down. Good morning. Would you state your  
989 name for the record, please?  
990  
991 Mr. Wood - Frederick J. Wood.  
992  
993 Mr. Jernigan - Okay. Good morning, Mr. Wood.  
994  
995 Mr. Wood - Good morning. I've listened to the presentation, and I was  
996 hoping that it wouldn't be a stick-built hotel, but I guess that's the way it has to be. I  
997 have no further opposition to this. My concerns were about a stress on the  
998 infrastructure of our utilities, natural gas, sewage, and water drainage over there. If all of  
999 that can be met, I wouldn't have any opposition to it. You've addressed the thing about  
1000 overlooking the neighborhood from the windows of the hotel.  
1001  
1002 Mr. Jernigan - I understand that. People don't want people staring down on  
1003 them. That's the reason we made sure they had to go up there to make a smaller  
1004 footprint to have it to where—  
1005  
1006 Mr. Wood - I understand that. Going higher will take up less footprint.  
1007  
1008 Mr. Jernigan - Yes, sir. We wanted them as far away from the  
1009 neighborhood as we could get it.  
1010  
1011 Mr. Wood - I have no further opposition.  
1012  
1013 Mr. Jernigan - All right. I appreciate you coming down, sir.  
1014  
1015 Mr. Wood - Thank you, sir.  
1016  
1017 Mr. Jernigan - Thank you so much. All right. I don't guess there were any  
1018 questions for Mr. Wood. With that, I will move for approval of POD-73-08, Comfort  
1019 Suites at Laburnum Station, subject to the annotations on the plan, the standard  
1020 conditions for developments of this type, and the following additional conditions #29  
1021 through 34, and #35 on the addendum.

1022  
1023 Mr. Branin - Second.  
1024  
1025 Mrs. Jones - The special exception.  
1026  
1027 Mr. Jernigan - And the special exception.  
1028  
1029 Motion by Mr. Jernigan, seconded by Mr. Branin. All in favor say aye. All opposed say  
1030 no. The ayes have it; the motion passes.  
1031

1032 The Planning Commission approved POD-73-08, Comfort Suites at Laburnum Station,  
1033 subject to the annotations on the plans, the standard conditions attached to these  
1034 minutes for developments of this type, and the following additional conditions:  
1035

- 1036 29. There shall be no outdoor storage in moveable storage containers including, but  
1037 not limited to, cargo containers and portable on demand storage containers.
- 1038 30. Federal Aviation Administration (FAA), Form 7460-1 shall be submitted to the  
1039 FAA and proof of such approval shall be provided to the Planning Department  
1040 prior to approval of any building permit application.
- 1041 31. In order to maintain the effectiveness of the County's public safety radio  
1042 communications system within buildings, the owner will install radio equipment  
1043 that will allow for adequate radio coverage within the building, unless waived by  
1044 the Director of Planning. Compliance with the County's emergency  
1045 communication system shall be certified to the County by a communications  
1046 consultant within ninety (90) days of obtaining a certificate of occupancy. The  
1047 County will be permitted to perform communications testing in the building at  
1048 anytime.
- 1049 32. Evidence that an engineer has certified the height of the building shall be  
1050 provided to the Director of Planning prior to the issuance of a Certificate of  
1051 Occupancy.
- 1052 33. Evidence of a joint ingress/egress and maintenance agreement must be  
1053 submitted to the Department of Planning and approved prior to issuance of a  
1054 certificate of occupancy for this development.
- 1055 34. The location of all existing and proposed utility and mechanical equipment  
1056 (including HVAC units, electric meters, junction and accessory boxes,  
1057 transformers, and generators) shall be identified on the landscape plans. All  
1058 equipment shall be screened by such measures as determined appropriate by  
1059 the Director of Planning or the Planning Commission at the time of plan approval.
- 1060 35. Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m.  
1061 Monday through Friday and 8:00 a.m. to 7:00 p.m. on Saturday for exterior  
1062 work, and for interior work which produces noise audible beyond the property  
1063 lines. No exterior work shall occur on Sunday. No interior construction work  
1064 which is audible beyond the property lines shall occur on Sunday.

1065  
1066 **SUBDIVISION**  
1067

SUB-14-04  
Ketterley at Grey Oaks –  
Reconsideration of Lot 14,  
Block A

**Roger R. Zurasky for Royal Dominion Homes, Inc.:**  
Request for reconsideration of the conditional approval of  
Ketterley at Grey Oaks Lot 14, Block A, to authorize an  
exception to the major thoroughfare increased setback.  
The lot is located at the southwest corner of Nuckols Road  
and Grey Oaks Park Road at 12138 Grey Oaks Park Road  
on parcel 739-774-4995. The zoning is R-2AC, One  
Family Residence District (Conditional). County water and  
sewer. **(Three Chopt) 1 Lot**

1068  
1069  
1070  
1071  
1072  
1073  
1074  
1075  
1076  
1077  
1078  
1079  
1080  
1081  
1082  
1083  
1084  
1085  
1086  
1087  
1088  
1089  
1090  
1091  
1092  
1093  
1094  
1095  
1096  
1097  
1098  
1099  
1100  
1101  
1102  
1103  
1104

Mr. Jernigan - Is there any opposition to SUB-14-04, Ketterley at Grey Oaks, Reconsideration of Lot 14, Block A? There is no opposition. Good morning, Mr. Kennedy.

Mr. Kennedy - Good morning, members of the Commission. The applicant is requesting an exception to reduce the additional major thoroughfare setback for a minor arterial road, which is 35 feet. So, they would have a 35-foot setback in addition to the standard 12-foot side yard setback, for a total of a 47-foot setback. They've requested a reduction to 35 feet in order to fit the house. This setback from a major thoroughfare road, instead of being 47 feet, would be 35 feet. The house is 5,678 square feet. It will also have a basement. This is not a spec house; it's actually a house being built for a specific person. They know what the setback would be, and they're aware of it. It's kind of a statement. It's on a hill. There's a 35-foot transitional buffer provided along Nuckols Road in that major thoroughfare setback. It's already proposed. In addition to that 35-foot transitional buffer planting, they propose to provide additional arborvitaes for additional screen along the house. They're proposing seven additional arborvitaes that will be eight to ten feet in height along the side of the house.

Staff makes no recommendation. The applicant has to make a presentation. There's a presentation in your packet, a written explanation. Mr. Zurasky is here also to answer your questions.

Mr. Jernigan - Are there any questions for Mr. Kennedy from the Commission?

Mrs. Jones - I have quick one. The square footage of the house that is proposed, should this exception be granted, is 5,000, did you say?

Mr. Kennedy - Five thousand, six hundred and seventy-eight square feet. It's a significant house. In addition, it would have a full basement.

Mrs. Jones - If the special exception is not granted, obviously the house would have to be smaller. Was there an estimate of what—

Mr. Kennedy - No. That person wouldn't purchase the lot.

1105 Mr. Jernigan - That's 5,600 without the basement?  
1106  
1107 Mr. Kennedy - Without the basement, yes. It's a big house.  
1108  
1109 Mr. Branin - I would like to talk to Mr. Zurasky.  
1110  
1111 Mr. Jernigan - Okay.  
1112  
1113 Mr. Branin - Is. Mr. Zurasky here? Sir, can I speak to you, please?  
1114 Would you state your name for the record?  
1115  
1116 Mr. Zurasky - Yes. Roger Zurasky. Good morning.  
1117  
1118 Mr. Branin - Good morning. Mr. Zurasky, you called me two months ago?  
1119  
1120 Mr. Zurasky - Yes, September or October.  
1121  
1122 Mr. Branin - You have this house that's been designed with a purchaser.  
1123 Help me if I mess up, because it's been two months. You have it sold and designed per  
1124 these people's specifications, and that's why you're requesting this, correct?  
1125  
1126 Mr. Zurasky - Correct.  
1127  
1128 Mr. Branin - You were concerned about the timeline on making sure you  
1129 got it, so you could get it underway and keep this buyer happy. Correct?  
1130  
1131 Mr. Zurasky - Yes, sir.  
1132  
1133 Mr. Branin - Okay. You haven't lost this buyer, have you?  
1134  
1135 Mr. Zurasky - Not yet. She's fully expecting a call today.  
1136  
1137 Mr. Branin - And you have a contract.  
1138  
1139 Mr. Zurasky - We do. Yes, sir.  
1140  
1141 Mr. Branin - Okay. Mr. Zurasky called me in a panic. It's not part of the  
1142 conditions because it already has a buyer and a contract for it.  
1143  
1144 Mr. Jernigan - Are there any questions for Mr. Zurasky?  
1145  
1146 Mrs. Jones - Mr. Zurasky, my problem with this is—and not specifically  
1147 just this case, but in all cases like this where we are asked to make exceptions for  
1148 different things—the lot has not changed size, and the requirements have not changed.  
1149 You have invested a tremendous amount of time and effort, obviously, with your buyer,

1150 and designed. Why would you do that when you know that there is a chance that this is  
1151 not going to be acceptable?  
1152

1153 Mr. Zurasky - Great question. The engineer of the developer, the plans  
1154 that I received from him did not show the additional setback. So, I purchased the lot  
1155 with the setback that you can see here—  
1156

1157 Mrs. Jones - Well, I'm looking there.  
1158

1159 Mr. Zurasky - Exactly. It did not include the additional setback. So, I  
1160 submitted for the permit. I'd already purchased the lot, so I'm two feet in already.  
1161

1162 Mrs. Jones - Committed.  
1163

1164 Mr. Zurasky - Committed. Already purchased the lot, had the house fit into  
1165 the buildable, and it was rejected by Planning and Zoning which I didn't know.  
1166

1167 Mrs. Jones - So, it was that darn engineer's fault.  
1168

1169 Mr. Zurasky - Yes. So, when I had to do the research, oh man. Again, we  
1170 designed the house to fit the buildable. The current plan that would show the additional  
1171 setback, because of that corner lot, number one, the house that I've sold and have a  
1172 contract on won't fit. It would make it very difficult on that corner to fit the way that that  
1173 buildable gets very small at the side. I agree with you. That's why I'm in the spot that I'm  
1174 in.  
1175

1176 Mrs. Jones - On the other hand, this is the entrance to this community,  
1177 and it's a critical lot to the community.  
1178

1179 Mr. Zurasky - Yes. We put a brick front on it, too. We do the additional  
1180 plantings on the side, and a brick front because of the entrance on Nuckols Road.  
1181

1182 Mrs. Jones - I guess my last question is since we're talking about a  
1183 couple of feet, I find it hard to think that a home couldn't be designed to fit within the  
1184 requirements of our ordinance.  
1185

1186 Mr. Zurasky - Unfortunately, like I said, I had it sold, had it built to spec  
1187 custom, and got to the point of the permit.  
1188

1189 Mrs. Jones - Okay.  
1190

1191 Mr. Branin - I have no further questions.  
1192

1193 Mr. Jernigan - He's putting some additional landscaping in?  
1194

1195 Mr. Branin - Yes, additional landscaping.

1196  
1197 Mr. Jernigan - Does anybody remember why we made that change for the  
1198 additional setback on main entrances?  
1199  
1200 Mr. Emerson - It's along all your major thoroughfare roads. It's to increase  
1201 the setback to provide more buffering from the major traffic roads for residential.  
1202  
1203 Mr. Jernigan - That's why we did it. Sometimes when people come off a  
1204 main arterial road into a subdivision, they come through too fast. So, we set the houses  
1205 back for safety. That was the intent for that change.  
1206  
1207 Mr. Zurasky - The driveway is in further in the community, also.  
1208  
1209 Mr. Jernigan - Okay. I was just bringing up a little history. Thank you, sir.  
1210  
1211 Mr. Zurasky - Thank you.  
1212  
1213 Mr. Jernigan - All right, Mr. Branin.  
1214  
1215 Mr. Branin - Mr. Chairman, I'm going to move for approval of SUB-14-04,  
1216 Ketterley at Grey Oaks, Reconsideration of Lot 14, Block A, with conditions approved by  
1217 the Commission on January 28, 2004. That's it.  
1218  
1219 Mr. Jernigan - Okay. Do we have a second?  
1220  
1221 Mr. Vanarsdall - Second.  
1222  
1223 Mr. Jernigan - Motion by Mr. Branin, seconded by Mr. Vanarsdall. All in  
1224 favor say aye. All opposed say no. The ayes have it; the motion passes.  
1225  
1226 The Planning Commission granted an exception to the major thoroughfare increased  
1227 setback for SUB-14-04, Ketterley at Grey Oaks, Reconsideration of Lot 14, Block A,  
1228 subject to the conditional subdivision conditions previously approved on January 28,  
1229 2004.  
1230

1231 **SUBDIVISION**

1232

SUB-29-08  
Dumbarton  
(December 2008 Plan)  
Irisdale and Greenway  
Avenues

**M-Squared Engineering, LLC for Tetra Assoc., LLC:**  
The 3.309-acre site proposed for a subdivision of 9 new single-family homes is located between Irisdale and Greenway Avenues, approximately 200 feet east of Greendale Road on parcels 775-745-8761, 9463, 9842, 776-745-0165, 0968, 2271, and 1246. The zoning is R-4, One Family Residence District. County water and sewer.  
**(Brookland) 9 Lots**

1233

1234 Mr. Jernigan - Is there any opposition to SUB-29-08, Dumbarton  
1235 (December 2008 Plan)? There is no opposition. You may proceed, Mr. Ward.

1236

1237 Mr. Ward - Thank you. This subdivision request is to create 9 lots for an  
1238 infill development here along Greenway and Irisdale Avenues. It's approximately 200  
1239 feet from Greendale Road. The revised plan depicts the required 35-foot setback from  
1240 the wetlands as required by Public Works, Environmental Division. However, due to  
1241 some information received last night from the Corps of Engineers, grading may  
1242 eliminate some of the existing natural buffer that exists along this property line. Staff  
1243 has been discussing some of this and thought we should provide a reasonable buffer  
1244 between these lots and the adjacent property to lessen the impact of the industrial use  
1245 next door, but this issue has yet to be resolved. Currently, a five-foot wall on the  
1246 property line is owned by the property owner here and is in existence. I have a picture of  
1247 that if we need to pass that around. The applicant, David Durant, and the engineer,  
1248 Mike Morgan, are here to discuss any matters. I would be happy to answer any  
1249 questions you have at this time. The revised plan would need a waiver of time limits.

1250

1251 Mr. Jernigan - Are there any questions for Mr. Ward from the Commission?

1252

1253 Mr. Vanarsdall - I don't have any because we've talked about it every day this  
1254 week.

1255

1256 Mr. Jernigan - Okay.

1257

1258 Mr. Vanarsdall - And last week.

1259

1260 Mr. Jernigan - Do you need to hear from anybody, Mr. Vanarsdall?

1261

1262 Mr. Vanarsdall - The applicant.

1263

1264 Mr. Jernigan - Okay. Would the applicant come up, please?

1265

1266 Mr. Durant - Good morning. David Durant with Tetra.

1267

1268 Mr. Vanarsdall - Good morning.

1269  
1270 Mr. Durant - Good morning. How are you doing, Mr. Vanarsdall?  
1271  
1272 Mr. Vanarsdall - We have two issues on this. Mr. Ward just mentioned about  
1273 the wetlands not being settled yet. Along the same lines is the wall behind the  
1274 proposed development. I have a piece of it to show it to you. It's made of plastic. One  
1275 side of it is wooden, and the side facing the warehouse is this. It's one inch thick in  
1276 some places. I'm going to put a wall back there. We have a problem with the present  
1277 wall, as it's on the line. I don't know at this point who owns the warehouse; I know who  
1278 used to own it. We have information that will tell you. So, you may want to work with  
1279 them to replace the wall. You don't need to put a wall back there near this wall, because  
1280 then it becomes no-mans land between them. But you do need a wall back there  
1281 because that loading dock is looking right into where you want to put your houses.  
1282  
1283 Mr. Durant - We had considered doing some landscape buffering, but we  
1284 had never considered any type of screen wall just because as far as we knew,  
1285 nothing—  
1286  
1287 Mr. Vanarsdall - The wall is more for safety, so people can't come over into  
1288 the subdivision.  
1289  
1290 Mr. Durant - Right.  
1291  
1292 Mr. Vanarsdall - You do need landscaping also.  
1293  
1294 Mr. Durant - With the existing wall there, it was just never considered  
1295 there was anything else we needed.  
1296  
1297 Mr. Vanarsdall - Right. I'm going to ask you to defer this for 30 days. Thank  
1298 you.  
1299  
1300 Mr. Durant - All right, thanks.  
1301  
1302 Mr. Vanarsdall - With that, Mr. Chairman, I recommend SUB-29-08,  
1303 Dumbarton (December 2008 Plan), be deferred to January 28, 2009, at the applicant's  
1304 request.  
1305  
1306 Mrs. Jones - Second.  
1307  
1308 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mrs. Jones. All in  
1309 favor say aye. All opposed say no. The ayes have it; the motion passes.  
1310  
1311 At the request of the applicant, the Planning Commission deferred SUB-29-08,  
1312 Dumbarton (December 2008 Plan), to its January 28, 2009 meeting.  
1313

1314 Mr. Emerson - Mr. Chairman, that now takes us to the resolution that  
1315 follows page 18 in your regular agenda. It is a discussion item. The Commission  
1316 received a letter dated December 4, 2008 explaining to you that we have several  
1317 changes that the General Assembly made to the Code of Virginia that requires us to  
1318 amend our Subdivision and Zoning Ordinances. You will be receiving a draft ordinance  
1319 from the County Attorney's Office through us, of course, prior to your hearing. We  
1320 would request that you adopt a resolution to place this on your agenda for  
1321 consideration.

1322  
1323 Two of the new laws affect the approval and expiration of subdivision plats so we have  
1324 amendments to the Subdivision and Zoning Ordinances that will outline the approval  
1325 procedures. Another new law is intended to establish and regulate dam break  
1326 inundation zones, which again requires some small changes to the Subdivision and  
1327 Zoning Ordinances. A third change added "stepchild and sibling" to the list of persons  
1328 considered immediate family under the subdivision ordinance. Then, there is a code  
1329 section regarding non-conforming structures that has been amended again for the third  
1330 time in the last three years requiring an adjustment to the Zoning Ordinance.

1331  
1332 So, the resolution that you are considering to initiate the amendment process today will  
1333 take you to either February or March, whichever you choose to schedule this.

1334  
1335 Mr. Glover - Can I ask a question? Can you explain to me what the  
1336 General Assembly's thinking was when it considered changing the immediate family  
1337 members? What were they thinking there that you needed—Tell me again how it reads?

1338  
1339 Mr. Emerson - What they've done is they have changed the code to require  
1340 that we include in our definition of immediate family, stepchild and sibling, meaning, of  
1341 course, either brothers or sisters.

1342  
1343 Mr. Glover - At what age do you consider a stepchild and sibling to be  
1344 adults and on their own? In other words, can you have siblings and stepchildren of any  
1345 age?

1346  
1347 Mr. Emerson - Well, minors can't hold property, as I understand it. You  
1348 have to be 18. So, it would have to be people in excess of 18 years of age in order for  
1349 this to occur to begin with.

1350  
1351 Mr. Glover - I don't understand that.

1352  
1353 Mr. Emerson - I don't exactly follow the logic of the General Assembly  
1354 either, but they have required that we make these changes.

1355  
1356 Mr. Glover - I was wondering if they were attempting to do something  
1357 about the huge number of people that live in houses sometimes and say this is family,  
1358 and you can't prove differently because sometimes we don't know where they came

1359 from, and don't have—How do we determine that somebody is a sibling? How do we  
1360 enforce what they have initiated here, the General Assembly, in their wisdom?

1361  
1362 Mr. Emerson - Well, it does become somewhat complicated to ascertain  
1363 that fact. As you know, we do have difficulty with occupancy issues now. So, that's  
1364 something that as we move through structuring this ordinance we can discuss further.  
1365 Perhaps you could add some criteria that would require additional documentation.

1366  
1367 Mr. Glover - We can add criteria as the County?

1368  
1369 Mr. Emerson - I believe you could add something to the ordinance; yes, sir,  
1370 something to the approval plat that would require some sort of statement that they  
1371 actually meet this requirement.

1372  
1373 Mr. Glover - In other words, I'm not looking to put a burden on the  
1374 Planning Department, but could we find out what the intent was behind this?

1375  
1376 Mr. Emerson - We can certainly look into it; yes, sir.

1377  
1378 Mr. Glover - The next thing I want to ask is about the inundation zones for  
1379 dams. Are we talking about dams the size of the Boshier Dam, or are we talking about  
1380 dams the size of the ones at the Botanical Gardens, or Staples Mill Pond?

1381  
1382 Mr. Emerson - I want to say, Mr. Glover, that I'm not 100% sure. I want to  
1383 say dams of 25 acres or more. Dave, do you recall?

1384  
1385 Mr. O'Kelly - No, I don't, Joe. I do think that probably Staples Mill Pond  
1386 would be covered under the ordinance.

1387  
1388 Mr. Glover - What does it do? What does this ordinance do for Staples  
1389 Mill Pond Dam?

1390  
1391 Mr. Emerson - It requires us to map dam break inundation zones.

1392  
1393 Mr. Glover - Tell me what that means.

1394  
1395 Mr. Emerson - That means if a—

1396  
1397 Mr. Glover - I think I know what it is, but I want to hear what your—

1398  
1399 Mr. Emerson - If a dam were to break, you have a certain flood zone  
1400 underneath it based on the surge that would be created.

1401  
1402 Mr. Glover - And who is required to determine where that flood zone will  
1403 be?

1404

1405 Mr. Emerson - We're looking at Public Works to assist us with this. They've  
1406 been primarily working with this.  
1407  
1408 Mr. Glover - Does FEMA have anything to do with it?  
1409  
1410 Mr. Emerson - I'm not sure, Mr. Glover, but I can check into that.  
1411  
1412 Mr. Glover - Can you check into that and determine before we have to  
1413 vote on it?  
1414  
1415 Mr. Emerson - Absolutely.  
1416  
1417 Mr. Glover - There is a difference between dams of 25 acres and the  
1418 James River Boshier Dam, I believe. Isn't there? Somewhere along the line, it seems  
1419 that the MPO has something to do with dams, too.  
1420  
1421 Mr. Emerson - I believe you're right. I believe they do.  
1422  
1423 Mr. Glover - Could you find out what that is?  
1424  
1425 Mr. Emerson - Yes, sir, I certainly can.  
1426  
1427 Mr. Glover - I don't want to put a great deal of burden on you, but I'm not  
1428 sure. When government decides that they want to impose more regulations, I think we  
1429 should know why we're imposing them and what the intent was. Maybe we don't agree  
1430 with it.  
1431  
1432 Mr. Emerson - We certainly can check into that.  
1433  
1434 Mr. Glover - All right.  
1435  
1436 Mr. O'Kelly - I think we would have a work session with the Planning  
1437 Commission before this would ever be brought to take a vote.  
1438  
1439 Mr. Glover - In that work session, I would hope we could explain that in  
1440 detail and maybe even invite Senator Watkins and Delegate Frank Hall since they have  
1441 a great interest in local government. Maybe they could come and explain it.  
1442  
1443 Mr. Emerson - We certainly can invite them. What this resolution does  
1444 today is it initiates staff work on these changes. Then, of course, as Mr. O'Kelly said,  
1445 we would bring this to a work session with the Commission. Based on the Commission's  
1446 schedule, my guess is it's probably going to be March, because in February, you will be  
1447 considering the CIP. We will also have further work sessions on—  
1448  
1449 Mr. Glover - What is the CIP?  
1450

1451 Mr. Emerson - The Capital Improvements Program.  
1452  
1453 Mr. Vanarsdall - Mr. Secretary, passing this resolution doesn't take away  
1454 from the things that Mr. Glover has asked you to look into.  
1455  
1456 Mr. Emerson - No, sir, it does not. In actuality, it will work towards getting  
1457 that information for you for the work session, which we can schedule at a future date.  
1458  
1459 Mr. Glover - It's interesting how this resolution starts. It says, "Whereas  
1460 the Code of Virginia authorizes..." In other words, it doesn't mandate.  
1461  
1462 Mrs. Jones - That was my question exactly. If we resolve to amend, are  
1463 we resolving to investigate amending, or are we resolving to amend our County  
1464 Subdivision and Zoning Ordinances?  
1465  
1466 Mr. Emerson - As I understand it from the County Attorney, we really don't  
1467 have any choice.  
1468  
1469 Mrs. Jones - That was my question.  
1470  
1471 Mr. Glover - So, that should read, "requires."  
1472  
1473 Mr. Emerson - Yes, sir.  
1474  
1475 Mrs. Jones - Okay.  
1476  
1477 Mr. Glover - Maybe you want to change that.  
1478  
1479 Mr. Emerson - We can change that.  
1480  
1481 Mr. Glover - Are you willing to do that now?  
1482  
1483 Mr. Emerson - Yes, sir.  
1484  
1485 Mr. Glover - Okay.  
1486  
1487 Mr. Emerson - Change "authorizes" after "Whereas the Code of Virginia" to  
1488 "requires." In this case, it is required.  
1489  
1490 Mr. Glover - Okay.  
1491  
1492 Mr. Emerson - These are not optional changes.  
1493  
1494 Mrs. Jones - I appreciate Mr. Glover asking about the definitions, although  
1495 I guess the bottom line is we will be changing.  
1496

1497 Mr. Emerson - Yes, ma'am. We really don't have an option here.  
1498  
1499 Mr. Glover - I appreciate your comment, but I think when we do change  
1500 them because we're told we have to, then I think those people that told us we had to,  
1501 since they represent us in the General Assembly, maybe they need to explain it in  
1502 detail, and our attorney needs to find out from them. No?  
1503  
1504 Mrs. Jones - I agree.  
1505  
1506 Mr. Vanarsdall - I don't particularly want an attorney present because they  
1507 can confuse things.  
1508  
1509 Mr. Emerson - The County always has the option to request the General  
1510 Assembly reconsider changes that they send to us if, for some reason, the Commission  
1511 or the Board find that these are not in keeping with practices they wish to pursue.  
1512  
1513 Mr. Glover - Sometimes the General Assembly approves things—They  
1514 have 3,000 to 3,500 bills, and they cover them within less than two months. It's hard to  
1515 believe since we take all this time to cover just a few issues. I would just like to have a  
1516 better understanding.  
1517  
1518 Mr. Jernigan - When I read this about the family members, I'm thinking  
1519 where they have the family subdivisions, which falls under different regulations than a  
1520 regular subdivision. That's what I thought this was for.  
1521  
1522 Mr. Emerson - That's what it's intended for, but it's adding additional people  
1523 in it, I believe. The concern I'm hearing is it's spreading it, and the County already has  
1524 difficulty enforcing occupancy regulations. We also have difficulty enforcing family  
1525 subdivisions. Exactly who is a sibling, and how you determine who that that person is or  
1526 how they're a stepchild? How do you legally make that determination prior to granting  
1527 that approval? So, those are things we need to research and bring back to you at the  
1528 work session.  
1529  
1530 Mr. Glover - That's a good point you raised, Mr. Chairman. If this  
1531 addresses family subdividing, if they subdivide it, I think it's no more than 3 lots. Are  
1532 there a number of lots that you can subdivide as a family subdivision? I think it's no  
1533 more than 3 lots.  
1534  
1535 Mr. Emerson - I'm not sure the family subdivisions are limited. I believe until  
1536 you actually exhaust your supply of land, if you can qualify, you can continue to divide.  
1537 Is that incorrect, Mr. O'Kelly?  
1538  
1539 Mr. O'Kelly - That's correct.  
1540  
1541 Mr. Glover - Then does the family subdividing require right-of-ways and  
1542 those types of things and easements to be dedicated?

1543  
1544 Mr. Emerson - Yes, sir, it does.  
1545  
1546 Mr. Glover - In other words, you cannot subdivide unless you have a  
1547 public right-of-way fronting for each lot?  
1548  
1549 Mr. O'Kelly - That's correct. They have to meet all the zoning  
1550 requirements, Mr. Glover.  
1551  
1552 Mr. Glover - Okay. Because we do have—and I'll specify—Tiller Road,  
1553 for instance. There are three or four two-acre parcels that have a private road serving  
1554 each one of those. Okay? I think it would be good to find out about these.  
1555  
1556 Mr. Jernigan - I have a question for Mr. O'Kelly, because you said it has to  
1557 meet all criteria. In family subdivisions, you don't have to have road frontage, correct?  
1558  
1559 Mr. O'Kelly - Yes, sir, you do.  
1560  
1561 Mr. Jernigan - You do?  
1562  
1563 Mr. O'Kelly - Right.  
1564  
1565 Mr. Glover - See, that was my question, because in previous years, you  
1566 have a builder down here who used to build them and front them on alleys over on  
1567 Second, Third, Fourth, and Fifth Street.  
1568  
1569 Mr. Jernigan - That wasn't a family deal there.  
1570  
1571 Mr. Emerson - I believe we've had the Board of Zoning Appeals turn down  
1572 some family subdivisions recently, have we not, that didn't have road frontage?  
1573  
1574 Mr. O'Kelly - There have been some variances that have been denied,  
1575 correct.  
1576  
1577 Mr. Jernigan - Maybe it would be good for us to understand a little more the  
1578 differences between family subdivides and regular subdivides. I'd like to see the  
1579 differences all the way through.  
1580  
1581 Okay. Any other questions? All right. Can we make a motion on this?  
1582  
1583 Mr. Emerson - You can make a motion. I'll be happy to read it into the  
1584 record, if you'd like for me to, with the change.  
1585  
1586 Mr. Jernigan - We have a change, so we had better read it.  
1587

1588 Mr. Emerson - Let me state this for you. Whereas the Code of Virginia  
1589 requires the County to amend the Subdivision Ordinance from time to time, and to  
1590 amend the Zoning Ordinance for public necessity, convenience, general welfare or good  
1591 zoning practice require; and whereas the General Assembly has amended the  
1592 controlling statutes regarding dam inundation zones, immediate family members,  
1593 subdivision approval procedures, expiration of approvals, and non-conforming uses; and  
1594 whereas it would be in the public interest for the Board of Supervisors to amend the  
1595 County Code to reflect the statutory change. Now, therefore, be it resolved that the  
1596 Henrico County Planning Commission directs the Director of Planning to draft  
1597 amendments to Chapters 19 and 24 of the Henrico County Code to comply with recent  
1598 changes enacted by the General Assembly.

1599  
1600 Mrs. Jones - I move the resolution.

1601  
1602 Mr. Archer - Second.

1603  
1604 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Archer. All in favor  
1605 say aye. All opposed say no. The ayes have it; the motion passes.

1606  
1607 Mr. Emerson - Mr. Chairman, that takes us to the approval of the minutes  
1608 for your November 19, 2008 meeting.

1609  
1610 APPROVAL OF MINUTES: November 19, 2008

1611  
1612 Mr. Jernigan - Are there any corrections to the minutes of November 19,  
1613 2008?

1614  
1615 Mrs. Jones - I move approval of the minutes.

1616  
1617 Mr. Archer - Second.

1618  
1619 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Archer to approve  
1620 the minutes of November 19, 2008. All in favor say aye. All opposed say no. The ayes  
1621 have it; the motion passes.

1622  
1623 The Planning Commission approved the November 19, 2008 minutes.

1624  
1625 Mr. Glover - Mr. Chairman, I need to make a remark before you close  
1626 out.

1627  
1628 Mr. Jernigan - Okay.

1629  
1630 Mr. Glover - But go ahead, Mr. Vanarsdall.

1631  
1632 Mr. Vanarsdall - It was about you, Mr. Glover. I just wanted to say this is the  
1633 last meeting Mr. Glover will attend this year. Thank you for overseeing us.

1634  
1635 Mr. Glover - Is that what you call it?  
1636  
1637 Mr. Vanarsdall - I hope you will carry a good report back to the Manager.  
1638  
1639 Mr. Glover - I'll work on it. I stayed up late at night putting it together. I  
1640 wanted to say I really thoroughly enjoyed—You know, Planning has always been my  
1641 first love of County government, and I think our staff, our professional staff, we could  
1642 weigh it against any professional staff in the country. I appreciate all the effort that goes  
1643 into it, for most of you—I'm kidding—all of you. I haven't found anybody, even the  
1644 people that have come to us from Ukrop's and places like that. You really complement  
1645 the Board of Supervisors in your efforts, and you make it so easy for the Board to carry  
1646 out our goals, objectives, and policies. I'm going to ask one more time that the Planning  
1647 staff put together a review with the Planning Commission of the part of the  
1648 Comprehensive Land Use Plan that is the Goals, Objectives, and Policies. I think  
1649 probably with a work session on that, I'd like to attend it whether the rest of the Board  
1650 wants to or not. You all have done an outstanding job this year. I can't say anything but  
1651 good things. That's a compliment to the staff, and a compliment to you.  
1652  
1653 Mr. Jernigan - Thank you, Mr. Glover. The reason that I brought up a little  
1654 while ago if everybody knew about why we had that additional setback on those coming  
1655 off main arteries was because that was passed by this Commission about four years  
1656 ago, I guess. You kind of want to know why something was put in rather than just the  
1657 fact that it's there, and it was put in for safety.  
1658  
1659 Okay. If there be no other business—  
1660  
1661 Mr. Vanarsdall - How about Merry Christmas to everybody?  
1662  
1663 Mr. Jernigan - Oh, yes. Merry Christmas to everybody, and Happy New  
1664 Year.  
1665  
1666 Mr. Vanarsdall - What song do you want to sing? Santa Claus?  
1667  
1668 Mr. Jernigan - We'll let Mike sing. Meeting adjourned.  
1669

1670 The meeting is adjourned.

1671

1672

1673

1674

1675

1676

---

E. Ray Jernigan, Chairperson

1677

1678

1679

1680

1681

1682

1683

---

R. Joseph Emerson, Jr., Secretary

1684

1685

1686

1687

1688

1689

1690

1691