

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico County
2 and a work session to discuss amending the Zoning Ordinance to revise the regulation of
3 commercial vehicles in residential and agricultural districts, held in the County
4 Administration Building in the Government Center at Parham and Hungary Spring Roads
5 beginning at 9:00 a.m. Wednesday, January 25, 2012.
6

Members Present: Mr. Tommy Branin, Chairman (Three Chopt)
Mrs. Bonnie-Leigh Jones, Vice Chairperson, C.P.C. (Tuckahoe)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Eric Leabough (Varina)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary
Mr. Frank J. Thornton,
Board of Supervisors' Representative

Others Present: Mr. David D. O'Kelly, Assistant Director of Planning
Ms. Leslie A. News, CLA, Principal Planner
Mr. Benjamin Blankinship, 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
Ms. Aimee Berndt, County Planner
Mr. Tommy Catlett, Traffic Engineering
Mr. Mark Strickler, Director of Community Revitalization
Ms. Kim Vann, Henrico Police
Mr. Eric Dykstra, Recording Secretary

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8 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains on all**
9 **cases unless otherwise noted.**

10
11 Mr. Branin - Welcome to the January 25, 2012, Plan of Development
12 meeting. I would like to remind everyone in the room, if you could, to please turn off your
13 cell phones. Let us all stand for the Pledge of Allegiance.
14

15 I don't believe we have any media in the room this morning. I would like to recognize and
16 thank the Honorable Frank Thornton, who will be joining us this year for the full year as
17 our Board of Supervisors' representative, and giving us guidance, wisdom, and
18 assistance as we go through the year. So, Mr. Thornton, thank you.
19

20 Mr. Secretary, with that you can take over.
21

Mr. Emerson - Yes, sir. Thank you, Mr. Chairman. First on your agenda this morning will be requests for deferrals and withdrawals. Those will be presented by Ms. Leslie News.

Ms. News - Good morning, Mr. Chairman, members of the Commission. Staff has not received any requests for deferrals or withdrawals this morning.

Mr. Emerson - So if the Commission does not have any deferrals they would like to enter at this time we will move on to the expedited agenda, which also will be presented by Ms. Leslie News.

Ms. News - We have four items on our expedited agenda this morning. The first item is found on page 3 of your agenda and is located in the Three Chopt District. This is transfer of approval for POD-10-92, Hondo's Retail Shoppes at Lakepointe, which is formerly the Valcom Building. Staff recommends approval.

TRANSFER OF APPROVAL

POD-10-92 POD2011-00434 Hondo's Retail Shoppes at Lakepointe (Formerly Valcom Building) – 4120 Cox Road	Hirschler-Fleischer for Grace Holdings, LLC: Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from The Innsbrook Corporation, W.W. Whitlock Agency, Inc., and Grace Holdings, LLC to RMA/Hunton, LC. The 1.65-acre site is located on the west line of Cox Road, approximately 800 feet north of West Broad Street (U.S. Route 250), on parcel 748-761-5133. The zoning is B-2C, Business District (Conditional). County water and sewer. (Three Chopt)
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Mr. Branin - Is there anyone in opposition to this transfer of approval for POD-10-92 (POD2011-00434), Hondo's Retail Shoppes at Lakepointe (formerly Valcom Building)? No. Then with that I'd like to move that POD-10-92 (POD2011-00434), Hondo's Retail Shoppes at Lakepointe (formerly Valcom Building), be approved on the expedited agenda.

Mrs. Jones - Second.

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

The Planning Commission approved the transfer of approval request for POD-10-92 (POD2011-00434), Hondo's Retail Shoppes at Lakepointe (formerly Valcom Building), from The Innsbrook Corporation, W.W. Whitlock Agency, Inc., and Grace Holdings, LLC to RMA/Hunton, LC, subject to the standard and added conditions previously approved and the following additional condition:

1. All deficiencies, as identified in staff's letter dated December 7, 2011, shall be corrected no later than May 15, 2012.

Ms. News - The next item is found on page 4 of your agenda and is located in the Tuckahoe District. This is transfer of approval for POD-07-72, Sun Trust Regency Branch, which is formerly United Virginia Bank. Staff recommends approval.

TRANSFER OF APPROVAL

POD-07-72 POD2011-00432 Sun Trust Regency Branch (Formerly United Virginia Bank) – 1500 N. Parham Road	Michael Blevins for IA Branch Portfolio, LLC: Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from United Virginia Bank to IA Branch Portfolio, LLC. The 0.92-acre site is located on the northwest corner of Parham and Quioccasin Roads, on parcel 753-744-8820. The zoning is B-1, Business District. County water and sewer. (Tuckahoe)
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Mr. Branin - Is anyone in opposition to transfer of approval for POD-07-72 (POD2011-00432), Sun Trust Regency Branch (formerly United Virginia Bank)? No one?
Mrs. Jones.

Mrs. Jones - I move for approval of transfer of approval for POD-07-72 (POD2011-00432), Sun Trust Regency Branch (formerly United Virginia Bank), on the expedited agenda.

Mr. Archer - Second.

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

The Planning Commission approved the transfer of approval request for POD-07-72 (POD2011-00432), Sun Trust Regency Branch (formerly United Virginia Bank), from United Virginia Bank to IA Branch Portfolio, LLC, subject to the standard and added conditions previously approved.

Ms. News - The next item is on page 5 of your agenda and is located in the Three Chopt District. This is transfer of approval for POD-20-04. This is part of the POD Independence Park Medical Offices. Staff recommends approval.

TRANSFER OF APPROVAL

POD-20-04 (Part) POD2011-00286 Independence Park Medical Offices – 9900 and 9930 Independence	Reit Management & Research, LLC for SNH Independence Park, LLC: Request for a partial transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from GMH Virginia, LLC to SNH Independence Park, LLC. The 2.01-acre and 3.67-acre
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Park Drive

sites are located at the southern terminus of Independence Park Drive, on parcels 752-756-3770 and 0070. The zoning is M-1C, Light Industrial District (Conditional). County water and sewer. **(Three Chopt)**

Mr. Branin - Is anyone in opposition to the transfer of approval for POD-20-04 (Part) (POD2011-00286), Independence Park Medical Offices? No one? Then I'd like to move that transfer of approval for POD-20-04 (Part) (POD2011-00286), Independence Park Medical Offices, be approved on the expedited agenda.

Mr. Archer - Second.

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

The Planning Commission approved the transfer of approval request for POD-20-04 (Part) (POD2011-00286), Independence Park Medical Offices, from GMH Virginia, LLC to SNH Independence Park, LLC, subject to the standard and added conditions previously approved.

Ms. News - The final item is on page 9 of your agenda and is located in the Tuckahoe District. This is SUB2012-00002, The Townes at The Shire (January 2012 Plan). There is an addendum item on page one of your addendum, which indicates that the applicant has submitted a revised plan eliminating unnecessary pavement to provide front- and rear-yard setbacks, and provide underground stormwater detention. Staff has revised condition #15 on the agenda to include a requirement for public sidewalks along John Rolfe Parkway and Glen Eagles Drive, as shown on both the original and revised plan. Staff can recommend approval of the revised plan with the revised condition.

SUBDIVISION

SUB2012-00002
The Townes at The Shire
(January 2012 Plan) –
11901 Church Road

Balzer and Associates, Inc. for Rebkee Replacement, LLC and Patriot Development, LLC: The 6.714-acre site proposed for a subdivision of 45 townhouses for sale is located at the southeast corner of the intersection of John Rolfe Parkway and Pump Road, on part of parcel 739-754-7156. The zoning is RHTC, Residential Townhouse District (Conditional). County water and sewer.
(Tuckahoe) 45 Lots

Mr. Branin - Is there anyone in opposition to SUB2012-00002, The Townes at The Shire (January 2012 Plan)? No one?

Mrs. Jones - All right. It is with thanks to Mike Kennedy and to the applicant, and with great pleasure that I move approval for SUB2012-00002, The Townes at The Shire (January 2012 Plan), with standard conditions for residential

townhouses for sale subdivisions, and the following additional conditions: #15, as revised on the addendum, #16, and #17 on the expedited agenda.

Mr. Archer - Second.

Mr. Branin - Motion was made by Mrs. Jones, seconded by Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission granted conditional approval to SUB2012-00002, The Townes at The Shire (January 2012 Plan), subject to the standard conditions attached to these minutes for subdivisions served by public utilities, the annotations on the plans, and the following additional conditions:

15. **REVISED** - A County standard sidewalk shall be constructed along the south side of Pump Road, **the east side of John Rolfe Parkway and the north side of Glen Eagles Drive.**
16. Any necessary offsite drainage easements must be obtained prior to final approval of the construction plan by the Department of Public Works.
17. The proffers approved as part of zoning case C-27C-06 shall be incorporated in this approval.

Ms. News - That completes our expedited agenda.

Mr. Branin - Thank you, Mrs. News.

Mr. Emerson - Mr. Chairman, the next item on your agenda is Subdivision Extensions of Conditional Approval. There are no extensions of conditional subdivisions this month. So that takes you to page 6 of your regular agenda.

LANDSCAPE AND LIGHTING PLAN

POD-12-11
POD2011-00444;
POD2011-00445
Value Place Hotel – 6900
W. Broad Street (U.S.
Route 250)
(POD- 91-75 Rev.)

Rummel, Klepper & Kahl, LLP for Sandpiper West Richmond, LLC: Request for approval of a landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 1.9-acre site is located on the east line of W. Broad Street (U.S. Route 250), approximately 350 feet south of the intersection of W. Broad Street and Glenside Drive, on parcel 767-746-7334. The zoning is B-2C, Business District (Conditional) and B-3, Business District. County water and sewer. **(Brookland)**

Mr. Branin - Is anyone in opposition to POD-12-11 (POD2011-00444, POD2011-00445), Value Place Hotel? No one? Mr. Pambid.

161 Mr. Pambid - Good morning. Staff has reviewed the lighting and landscape
162 plans for compliance with County ordinances and policies including Police and
163 Planning's requirements. The staff recommends approval subject to the standard
164 conditions for lighting and landscaping plans.

165
166 This concludes my presentation. I can answer any questions that you might have. And
167 Evan Paner and Malachi Mills are here also to represent the applicant.

168
169 Mr. Branin - Does anybody have any questions for Mr. Pambid? None?
170 Okay. Mr. Witte, would you like to hear from the applicant?

171
172 Mr. Witte - Certainly.

173
174 Mr. Mills - Members of the Commission, my name is Malachi Mills. I'm
175 with RK&K Engineers and I represent the applicant on this landscape and lighting plan. If
176 there are any questions, I'm ready to answer those. We've reviewed all the staff
177 comments and appreciate Mr. Pambid working with us and working out those details,
178 and Kim Vann on some security issues, and some of the remaining staff comments.
179 We're in agreement with those, and I know we can work out some of those details on
180 substituting certain things.

181
182 Mr. Witte - The light fixtures?

183
184 Mr. Mills - Yes, sir.

185
186 Mr. Witte - Those exact heights, that's going to accomplish what you
187 need?

188
189 Mr. Mills - Yes, sir.

190
191 Mr. Witte - Even with the lower one over by the buffer?

192
193 Mr. Mills - Yes, sir. The lowering of the wall packs and setting those
194 dimensions and then adding those few ancillary light poles on the perimeter I believe will
195 address all of the security issues and the down-lighting issues.

196
197 Mr. Witte - All right, thank you.

198
199 Mr. Mills - Yes sir. Thanks.

200
201 Mr. Branin - Thank you, Mr. Mills. Any other questions? Okay. I'll entertain
202 a motion.

203
204 Mr. Witte - I move for approval of landscape and lighting plans for POD-
205 12-11 (POD2011-00444, POD2011-00445), Value Place Hotel, subject to the
206 annotations on the plan and standard conditions for landscape and lighting plans.

207
208 Mr. Leabough - Second.

209
210 Mr. Branin - Motion was made by Mr. Witte, seconded by Mr. Leabough.
211 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

212
213 The Planning Commission approved the landscape and lighting plan for POD-12-11
214 (POD2011-00444, POD2011-00445), Value Place Hotel, subject to the standard
215 conditions attached to these minutes for landscape and lighting plans.

216
217 **PLAN OF DEVELOPMENT AND LIGHTING PLAN**

218
POD2012-00002 **Balzer and Associates, Inc. for 1241 Associates, LLC.:**
W.E.M. Community Center Request for approval of a plan of development and lighting
- 7705 Impala Drive plan, as required by Chapter 24, Section 24-106 of the
 Henrico County Code, to construct a one-story 10,912
 square-foot place of worship, including a mezzanine. The
 5.2-acre site is located along the east line of Impala Drive,
 approximately 125 feet north of its intersection with
 Lafayette Avenue, on parcel 775-749-1480. The zoning is
 R-2AC, One-Family Residential District (Conditional), and
 O-3C, Office District (Conditional). County water and
 sewer. **(Brookland)**

219
220 Mr. Branin - Is anyone in opposition to POD2012-00002, W.E.M.
221 Community Center?

222
223 Mrs. Jones - Mr. Chairman, before we start I need to state for the record
224 that I will not be discussing, nor will I vote on this case, due to a representational conflict.

225
226 Mr. Branin - Then let it be noted that Mrs. Jones will be abstaining. Mr.
227 Wilhite?

228
229 Mr. Wilhite - Thank you, Mr. Chairman. In your packet you received, there
230 are a number of revised plans that address all of staff's comments that were needed
231 prior to staff's recommendation of approval. The revised architectural plans and revised
232 lighting plan that you see were just received this week and you would need to waive the
233 time limits in order to accept those.

234
235 There is a revised site plan included in there that addresses the main issue that dealt
236 with the extent of the improvements along Impala Drive. They now show pavement
237 widening, and curb-and-gutter, essentially from the southern property line to roughly in
238 front of the intersection with Impala Place. This plan also shows the dumpster location
239 moved away from the southern property line and the adjacent single-family residential
240 neighborhood, to the northern part of the parking lot, as far away from the neighborhood
241 as it could get. Staff is okay with this location and can accept that.

The revised architectural plans you have in your packet confirm that the building is primarily brick, as required by proffer. The vegetative screens that were shown on the original architectural plans have been removed, as well as some smaller domes above the entranceway in this location here. The architectural plans are acceptable.

A revised lighting plan is also included in the packet. The applicant's original plan was not showing the light levels staff wanted to see in the parking lot. They've fixed this problem by adding a number of fixtures around the parking lot area. The light levels in the parking area do meet staff's requirements. They've also added some fixtures on the building in various areas around the building.

Staff's revised recommendation for approval appears on page 1 of your addendum. I remind you the architectural plans and the lighting plan need to have their time limits waived.

I'll be happy to answer any questions you have.

Mr. Branin - Does anyone have any questions for Mr. Wilhite?

Mr. Witte - You have received the revised lighting plan?

Mr. Wilhite - Yes sir, it's in the packet.

Mr. Witte - Okay. But that wasn't here a couple days ago, right?

Mr. Wilhite - No, we just received it this week, the updated lighting plan.

Mr. Witte - Okay, thank you.

Mr. Branin - Mr. Wilhite, the additional lights compared to the original plan, would you point out which ones have been added?

Mr. Wilhite - The two up here in the very top northern part of the parking lot were added. The original plan showed, I believe, one fixture along the southern property line. They've added two additional pole fixtures in that location.

Mr. Branin - And this brings us up to what we need safety-wise and so forth, and we meet criteria for safety.

Mr. Wilhite - Yes, sir. Staff typically wants to see at least a one foot-candle for all areas of the parking lot. This plan has been reviewed by the Police Department and they do find the light levels acceptable.

Mr. Branin - Okay.

288 Mr. Witte - Do you know what type of lights they are?

289
290 Mr. Wilhite - These are concealed-source fixtures. The poles themselves
291 are limited to a total height of 20 feet. They do meet that requirement. Also, the lights
292 attached to the building are also concealed-source fixtures.

293
294 Mr. Branin - No more questions?

295
296 Mr. Leabough - Was there an issue with the detention facility on the site at
297 one point in time? Has that been addressed?

298
299 Mr. Wilhite - There is a stormwater management basin in this area here,
300 just to the north of the building. There was some question about meeting water quality
301 requirements. They were not sure at one point whether or not they could contribute to
302 the County's environmental fund to satisfy those. It has been determined that they are
303 indeed eligible for a contribution to that fund. That's still what they intend to do.

304
305 Mr. Branin - No more questions? Anyone else? Mr. Witte, would you like
306 to hear from the applicant? No? Does anybody else? Okay. A reminder to you. Because
307 all the information came in past deadline, you have to first make your motions to waive
308 time limits for the information and then move on.

309
310 Mr. Witte - All right. I move we waive the time limits on POD2012-00002,
311 W.E.M. Community Center, in order to accept the revised architectural and revised
312 lighting plan.

313
314 Mr. Leabough - Second.

315
316 Mr. Branin - Motion by Mr. Witte, seconded by Mr. Leabough. All in favor
317 say aye. All opposed say no. The ayes have it; the motion passes.

318
319 The vote was as follows:

320
321 Mr. Branin - Yes
322 Mr. Archer - Yes
323 Mr. Leabough - Yes
324 Mr. Witte - Yes
325 Mrs. Jones - Abstain

326
327 Mr. Witte - I move for approval of POD2012-00002, W.E.M. Community
328 Center, with the annotations on the revised plans, standard conditions for developments
329 of this type, and conditions #11B through #35.

330
331 Mr. Archer - Second.

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

Mrs. Jones - I abstain.

The vote was as follows:

Mr. Branin -	Yes
Mr. Archer -	Yes
Mr. Leabough -	Yes
Mr. Witte -	Yes
Mrs. Jones -	Abstain

The Planning Commission approved POD2012-00002, W.E.M. Community Center, subject to the annotations on the plans, the standard conditions attached to these minutes for developments of this type, and the following additional conditions:

- 11B. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting heights details shall be revised as annotated on the staff plan and included with the construction plans for final signature.
29. The right-of-way for widening of Impala Drive as shown on approved plans shall be dedicated to the County prior to any occupancy permits being issued. The right-of-way dedication plat and any other required information shall be submitted to the County Real Property Agent at least sixty (60) days prior to requesting occupancy permits.
30. Outside storage shall not be permitted.
31. The proffers approved as a part of zoning case C-10C-11 shall be incorporated in this approval.
32. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.
33. The owners shall not begin clearing of the site until the following conditions have been met:
 - (a) The site engineer shall conspicuously illustrate on the plan of development or subdivision construction plan and the Erosion and Sediment Control Plan, the limits of the areas to be cleared and the methods of protecting the required buffer areas. The location of utility lines, drainage structures and easements shall be shown.
 - (b) After the Erosion and Sediment Control Plan has been approved but prior to any clearing or grading operations of the site, the owner shall have the limits of clearing delineated with approved methods such as flagging, silt fencing or temporary fencing.
 - (c) The site engineer shall certify in writing to the owner that the limits of clearing have been staked in accordance with the approved plans. A copy of this letter

- 378 shall be sent to the Department of Planning and the Department of Public
379 Works.
- 380 (d) The owner shall be responsible for the protection of the buffer areas and for
381 replanting and/or supplemental planting and other necessary improvements to
382 the buffer as may be appropriate or required to correct problems. The details
383 shall be included on the landscape plans for approval.
- 384 34. The location of all existing and proposed utility and mechanical equipment
385 (including HVAC units, electric meters, junction and accessory boxes,
386 transformers, and generators) shall be identified on the landscape plans. All
387 equipment shall be screened by such measures as determined appropriate by the
388 Director of Planning or the Planning Commission at the time of plan approval.
- 389 35. The limits and elevations of the Special Flood Hazard Area shall be conspicuously
390 noted on the plan and labeled "Limits of Special Flood Hazard Area." In addition,
391 the delineated Special Flood Hazard Area must be labeled "Variable Width
392 Drainage and Utility Easement." The easement shall be granted to the County
393 prior to the issuance of any occupancy permits
394

395 **SUBDIVISION** (*Deferred from the December 14, 2011 Meeting*)
396

SUB-09-11
SUB2011-00088

Westin (October 2011
Plan) – Axe Handle Lane

Youngblood, Tyler, and Associates for HHHunt Corporation and Russell H. Malone, III: The 51.1-acre site proposed for a subdivision of 40 single family homes is located at the northern terminus of Axe Handle Lane, approximately 280 feet north of Sawdust Drive, **and at the western terminus of Heather Grove Road, approximately 130 feet west of Willane Road,** on parcels 732-774-7514 and 733-773-5413. The zoning is A-1, Agricultural District. County water and individual on-site sewage disposal system. **(Three Chopt) 40 Lots**

397
398 Mr. Branin - Is anybody in opposition to SUB-09-11 (SUB2011-00088),
399 Westin (October 2011 Plan)? We have one? Mr. Secretary, would you explain the rules
400 of engagement?
401

402 Mr. Emerson - Yes, sir. The Planning Commission rules and regulations
403 governing public hearings. The applicant is allowed ten minutes to present the request
404 and time may be reserved within those ten minutes for responses to testimony. The
405 opposition is allowed ten minutes to present its concerns—that is ten minutes cumulative
406 of everyone who wishes to speak. Commission questions do not count into the time
407 limits, and the Commission may waive time limits for either party at its discretion.
408

409 Mr. Thornton - I have a general point of clarification. You may seek whether
410 or not I will abstain. My posture this year is, unless I'm needed, I will be in abstention in
411 all of these cases.
412

413 Mr. Branin - I apologize for not asking or getting a clarification in the
414 beginning. So we'll let it be noted that you will be abstaining throughout the year unless
415 needed. Thank you, sir.

416
417 All right. Mr. Wilhite?

418
419 Mr. Wilhite - Thank you, sir. This subdivision has been deferred three
420 times now. The main reason for the deferrals is for the applicant to take an opportunity to
421 try to provide a second point of access to this development at the request of staff. The
422 applicant has submitted a revised plan at this time that you have. He has added a lot in
423 the existing Westridge subdivision, which he intends to dedicate right-of-way from
424 Heather Grove Road, stubbing it at the Sonenklar property to the north. This is the
425 property which has an approved subdivision plan on it, Westridge East. This would allow
426 for a potential second point of access in the future with development of the Sonenklar
427 property. The applicant is willing to do the dedication. He does have the property under
428 contract and we do have a signature from the property owner, Mr. Russell Malone, to
429 allow this to be included as part of the subdivision. The applicant is willing to dedicate the
430 right-of-way. He is not willing, though, at this point to actually construct the improvements
431 to the property line. Staff's position on this is that a second point of access has to be
432 provided in order for us to recommend approval of the revised subdivision plan, as it
433 would increase the number of lots from 34 to 40.

434
435 Page 2 of your addendum stated there is a revised map. We've changed the caption to
436 update the acreage and the applicants to the subdivision proposal. There is one added
437 condition, #16, which addresses the remainder of the Malone lot, should you approve
438 this plan. It requires the areas that are shown in reserve, either be dedicated as common
439 area with the subdivision plat, or be transferred to the adjacent parcel owners. There are
440 two options. This would have to be done before this portion of the subdivision is
441 recorded.

442
443 Mr. Emerson - Mr. Wilhite, do we have an actual signed application by Mr.
444 Malone on this property?

445
446 Mr. Wilhite - No. We received a letter from Mr. Malone stating that he is
447 agreeable to being included in the subdivision proposal.

448
449 Mr. Emerson - But we do not have an application.

450
451 Mr. Wilhite - No.

452
453 Mr. Branin - Does anybody have any questions for Mr. Wilhite?

454
455 Mrs. Jones - Let me just clarify. There is a letter of intent; there is no
456 signed contract.

457

Mr. Wilhite - According to the applicant, they do have a contract on the property, and we do have a signature from the property owner stating he is agreeable to having it included as part of this subdivision.

Mr. Emerson - Mrs. Jones, the reason for my question is that—I haven't had adequate time to review this, but we've had some recent discussions with the County Attorney as to whether or not this actually would have to be formally on an application to be actually technically in front of the Commission. I'm not sure at this time as to whether or not this is technically in front of the Commission. I do believe you have a new application in total. Once it's submitted adequately, we make the determination, which again starts the whole time clock.

Mrs. Jones - Okay. I just don't want us to vote on something without having our options and situation clear.

Mr. Emerson - I don't disagree. That's why I raised that question.

Mr. Branin - Mr. Wilhite, this is old information, but we have two new commissioners we would like to bring up to speed, if you wouldn't mind. Our policy with subdivisions is how many households with single point of access?

Mr. Wilhite - For a single-family residential development, it is 50 lots on a single point of access. Any more than that, our policy is to request a second point of access.

Mr. Branin - Okay, and how many are there currently?

Mr. Wilhite - Essentially there are already 50 lots existing outside this development. Also, 34 additional lots were approved in the original Westin Subdivision. Westridge East added 7 additional lots. So you're approaching 100 on one point of access.

Mr. Branin - Correct. For the new Commissioners, as you can see at the bottom end of it, there's a current neighborhood that has been very proactive in stating their quality of life and the safety of their homes in needing emergency response and so forth, with the roads being Kain Road and Axe Handle Lane, they won't be able to handle this being built out, even though it's already approved. The addition of the 6 additional lots gave us an opportunity to try to work through to find a second point of access. Normally 6 lots, when they come through your district, aren't a big deal. But in this case, because of the community, because of past mistakes being cleaned up, we've been trying to work through this.

HHHunt has moved forward and gotten a good place to connect. There was still one missing piece, which is the Sonenklar property. Mr. Wilhite, do you have any information on the Sonenklar property?

504 Mr. Wilhite - The applicant and the owner of that property have been in
505 discussion. It appears it might be potentially a sale of the property to the applicant. But
506 they're in the early phases of discussion; there is no agreement at this point, no contract.
507

508 Mr. Branin - So again, to my fellow Commissioners, as you can see, we
509 have an opportunity that this safety issue can be addressed and fixed for the future. To
510 my other Commissioners, I apologize for taking the time to explain it, but I figured they
511 needed to be brought up to speed.
512

513 Mrs. Jones - With all due respect, I also like to be brought up to speed. No
514 offense at all. But I don't want to cast a vote for a situation that's not resolved.
515

516 Mr. Branin - I agree.
517

518 Mrs. Jones - I want to just make sure I understand how the resolution is
519 coming along, whether it is resolved or not. I do believe this is an important thing. I know
520 we're zeroing this all down to one issue, but it's an important issue.
521

522 Mr. Witte - It looks like they could possibly have two different means of
523 ingress and egress. You could extend Sawdust, which of course would involve taking
524 part of that gentleman's property.
525

526 Mr. Branin - Which they're not willing to sell.
527

528 Mr. Witte - Oh, okay. And then the other one is the 6 lots. Just make that
529 a continuation and take out the cul-de-sac?
530

531 Mr. Branin - But those 6 lots are not their property.
532

533 Mr. Witte - Oh, they're not?
534

535 Mr. Branin - That's the new piece to the puzzle.
536

537 Mr. Witte - Okay.
538

539 Mr. Branin - Does anybody else have any questions for Mr. Wilhite? Okay.
540 Before we hear the opposition, may I speak to Traffic?
541

542 Mr. Catlett - Good morning, Mr. Chairman, members of the Commission. I
543 am Tommy Catlett with Public Works, Traffic Engineer.
544

545 Mr. Branin - Mr. Catlett, as you see what's marked in yellow up on the
546 screen and the possibility of being able to connect the Sonenklar property to this, would
547 this be in Traffic's mind a good answer and good resolution to this issue?
548

549 Mr. Catlett - Yes sir, if the road was constructed and connected through.
550 Yes, that would satisfy our requirement.

551
552 Mr. Branin - Because in our report it states that Traffic, Public Works says
553 you guys do not recommend this because of the amount of vehicle trips on a single point
554 of access.

555
556 Mr. Catlett - Yes, sir.

557
558 Mr. Branin - All right. Thank you, sir. Opposition? Would you like to come
559 down and speak?

560
561 Mr. Holmes - My name is Bob Holmes. I live on East Branch Drive, which is
562 part of the Westridge subdivision. Pretty much everything you said I agree with. Until it's
563 resolved, I don't see how you can go forward. Six homes, if you're looking at the
564 difference between 50 and 56, okay. It comes out in the wash. When you're already at
565 100, there are some approved non-completed subdivisions there at the end of Kain Road
566 as well that are supposed to be built. You have over 100. You go to 106 and more, it's
567 ridiculous. Once it gets approved, the Sonenklar extension—I was a little bit troubled in
568 the sense that, who knows when the Sonenklar's will ever get around to developing that
569 land. Even if they get the approval for it, HHHunt would built all 50 homes or 40 homes,
570 and the connector may still never come to pass, if you know what I mean. So building
571 another 6, I'm opposed to it. It's that simple.

572
573 And as I mentioned last time we were here, Kain Road is a tough little road. There are no
574 lines. Six homes would equate to at least 12 cars, counting service vehicles and stuff.
575 You're looking at 20, 30, or 40 trips a day added to Kain Road, in addition to all the other
576 stuff.

577
578 Mr. Branin - And you also have 3 lots that haven't been developed in your
579 neighborhood.

580
581 Mr. Holmes - Right. So, until there's a definitive resolution, as opposed to
582 "we're working on it"—and I have great respect for HHHunt; they have done a lot to work
583 on this and have worked with us. It's certainly no disparagement on their character or
584 anything else. But at this time I'm opposed.

585
586 Mr. Branin - I appreciate you coming down and speaking to me. HHHunt
587 has been working diligently to resolve this.

588
589 Mr. Holmes - I understand that.

590
591 Mr. Branin - It wasn't until yesterday that I heard this new piece was
592 actually a possibility.

593

594 Mr. Holmes - The purchase, yes. As you said, there have been mistakes in
595 the past. The system has let us down. You can look at all the cul-de-sacs coming in—
596 “coulda shoulda,” if you know what I mean.

597
598 Mr. Witte - You’re not opposed to this with that connector.

599
600 Mr. Holmes - No.

601
602 Mr. Witte - Okay.

603
604 Mr. Branin - Thank you, sir.

605
606 Mr. John Moore - Members of the Commission, my name is John Moore. I’m an
607 attorney representing the Sonenklar’s. I’m not in opposition to this at all. I would say that
608 we are in preliminary discussions with the Hunt’s about that property.

609
610 Mr. Branin - Mr. Moore, I would recommend you move forward because I
611 can tell you I’m going to make a motion to defer this for 30 days. I would hope you would
612 be motivated, proactive, and reasonable in getting this done quickly and sensibly so
613 HHHunt can move forward, the Sonenklar’s can move forward, and the neighborhood
614 can finally be at ease that an issue has been addressed and resolved.

615
616 Mr. John Moore - Thank you.

617
618 Mr. Branin - Does anybody else have any other questions? None? Would
619 the applicant like to speak?

620
621 Mr. George Moore - Good morning, Mr. Chairman, and members of the Planning
622 Commission. My name is George Moore. I’m vice president with HHHunt. Last time, at
623 the November Planning Commission meeting, I took the time to provide some context,
624 some history of kind of how we’ve gotten to where we are today. I wasn’t going to go into
625 that because I didn’t want to belabor that again, but I know there are some new Planning
626 Commissioners here today. Do you mind if I kind of go back through that real quickly so
627 you can at least appreciate where we are today? I do think there is a solution and a
628 resolution we’ll all get to. But I do think it’s important that you guys understand.

629
630 I believe the County finds the conditional plan we’ve proposed acceptable, except for the
631 one issue, and that’s the single point of access. If I could, I would like to just, again,
632 provide some history and context on how we got here.

633
634 Access to Westin and the adjacent Westridge community is provided by way of Kain
635 Road. That’s really the only way in and out of there right now. The intersection of Kain
636 Road with Willane Road forms one point of single access. The existing Westridge
637 neighborhood itself has 55 homes or parcels off of this single point of access. If you
638 include the approved 34-lot Westin tentative, the 7-lot tentative as the Westridge East,
639 and the existing Westridge community, there would be a total of 96 lots already approved

off of a single point of access. Our revised tentative will only add 6 additional lots, making the total number of lots 102 off of one point of access. Based on what's already approved, it's not unreasonable to expect 6 additional lots.

Furthermore, the County has had many opportunities over the years to provide a solution to the single point of access. The first opportunity was provided by way of a collector road that was shown on the County's Thoroughfare Plan, and it would have provided a secondary means of access to this area. However, for some reason in late 2003, this road was removed from the Thoroughfare Plan.

The second opportunity was an existing cul-de-sac in the adjacent Stonehurst neighborhood. The County Planning staff had even recommended in the Stonehurst rezoning case that a stub street be provided to the Westin parcel in order to provide for the second point of access. This would have represented good planning for the benefit of the entire community. But for whatever reason, the case was approved without the stub street.

The third opportunity was a potential connection through the community of Henley that borders Westin to the north. There are 2 cul-de-sacs in Henley along our property line. And one of them could have been extended to the Westin property. As a side note, this community was approved for 80 homes off of one point of access.

And then the fourth opportunity would have been for the County to require right-of-way dedication across the Hall property, allowing for the connection of Sawdust and Heather Grove Road. This dedication could have been a condition of their requested variance that was needed to build a home on this property due to the lack of required street frontage.

As you can see, there were numerous opportunities for the County to require a second point of access that would have solved this issue. It's not fair or consistent that the County holds developers to a policy of 50 lots on one point of access when the County itself is not promoting its own policy for good planning.

Notwithstanding the above, and at the request of the adjacent Westridge neighborhood, HHHunt, along with Mr. Branin, has been exploring options that still may be available for a second point of access. Two potential options have been reviewed, which included the extension of Sawdust Drive to connect to Heather Grove Road. That was determined to not be feasible because the current property owner was unwilling to dedicate anything to the right-of-way

However, HHHunt has provided for a solution with the second option we believe will solve the second point of access. We've recently entered into a purchase contract for the vacant lot with Russell Malone on Heather Grove Road and have agreed to dedicate the right-of-way across this lot that will allow for the connection of the proposed right-of-way in the Westridge East subdivision. The right-of-way dedication on this lot will be

685 completed prior to lots being recorded in Westin. This will allow for a second point of
686 access when the lots from the Westridge East subdivision are developed.

687
688 We had made initial efforts to try and acquire the Sonenklar property when we first
689 started. At that point they said they were not interested. It wasn't until the last week or
690 two that we were contacted by the Sonenklar's attorney who said they now were open to
691 seeing if they could work something out with HHHunt, which we're more than willing to
692 do. And we're in the process of studying it right now. But I just don't feel like based on
693 the history and where we are today, that HHHunt should be put in a position to be forced
694 into working something out. We've already made what I consider a good-faith effort, a
695 more than good-faith effort by acquiring the Malone lot, agreeing to dedicate the right-of-
696 way, and then working with the Sonenklars to try and resolve this. But I don't believe that
697 should be a condition of this case.

698
699 So based on that, I would like to ask that you approve this as it's submitted today.

700
701 Mr. Leabough - Quick question. So without the Sonenklar property, you still
702 have no way to create a second point of access, correct?

703
704 Mr. George Moore - That is correct. The Sonenklars will have to eventually
705 develop their property. They could go ahead and agree today to revise their changes so
706 the cul-de-sac could be eliminated and a road could be extended to tie into the right-of-
707 way that we're providing. There is no reason they couldn't do that.

708
709 Mr. Leabough - But that's not solidified today.

710
711 Mr. George Moore - No, no sir, it's not.

712
713 Mr. Branin - Any other questions for Mr. Moore? Okay. Mr. Moore, we all
714 understand you guys have been caught in some mistakes or some oversight from past
715 years. As we go forward through all of the district and we start piecing together final
716 pieces of information and so forth, things that have been missed or miscalculated in past
717 years will arise. It is, indeed, an issue. The neighborhood has strongly voiced to myself
718 and to staff that this is a safety issue. I think it's absolutely fantastic HHHunt has the
719 opportunity to solve a problem that's been a problem for a long time. I commend you on
720 getting with Mr. Malone, and feel confident you will move forward with Sonenklar. This
721 County and your neighbors will be very, very thankful to HHHunt for getting this done.
722 Okay? If you would like to defer this, you may. If not, I'll be happy to. You'd like me to?
723 Okay, not a problem.

724
725 With that being said, I'm going to move for a 30 day deferral. That would be—

726
727 Mr. Emerson - I believe it's February 22nd.

728
729 Mr. Branin - February 22nd. Hopefully all of this will be resolved and we will
730 have some happy information on that day. With that, I'd like to move that SUB-09-11

(SUB2011-00088), Westin (October 2011 Plan), be deferred to the February 22, 2012 meeting per Commission request.

Mrs. Jones - Second.

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

At the request of the Commission, the Planning Commission deferred SUB-09-11 (SUB2011-00088), Westin (October 2011 Plan), to its February 22, 2012 meeting.

Mr. Emerson - Mr. Chairman, that now takes us to consideration of approval of your minutes of your December 14, 2011 meeting.

APPROVAL OF MINUTES: December 14, 2011

Mrs. Jones - I have one small correction. It is on Page 19, line 732, a comment from Mr. Emerson, who always has proper grammar. I think it should read, "The plans possibly would have to come back to you."

Mr. Branin - Okay.

Mr. Archer - I have one correction, Page 2, line 59. We were discussing Mr. Jernigan's golf balls and I think I said, "Try not to lose them all in one round."

Mrs. Jones - Oh. Well it made sense the other way, too.

Mr. Branin - Okay. And I have one as well. Page 21, line 810. I do not believe I was chairman yet, so I think that was Mr. Archer that made the motion. It says Mr. Branin. Is that correct? It should say Archer, and Branin made the motion. So instead of saying Mr. Branin, it needs to say Mr. Archer. Any other corrections? Motion?

Mrs. Jones - I so move to accept the minutes as corrected.

Mr. Archer - Second.

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

The Planning Commission approved the December 14, 2011 minutes as corrected.

Mr. Emerson - Mr. Chairman, the next item is a discussion item. I would like for the Commission to consider scheduling a public hearing for the fiscal year 2012-2013 through fiscal year 2016-2017 Capital Improvement Plan. You normally see that in February. There were a couple of things that occurred which caused it to be moved to March. So I would request the Commission schedule this on March 15 at 6:00 p.m. You

777 should know the County Manager does come and present that document to the
 778 Commission, along with all of the department heads of the County.
 779
 780 Mr. Branin - March what?
 781
 782 Mr. Emerson - March 15 at 6:00 p.m. Since that's outside of your regular
 783 meeting schedule at 7:00 p.m., I would request that you do that with a motion.
 784
 785 Mrs. Jones - I so move.
 786
 787 Mr. Archer - And I second.
 788
 789 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Archer. All in favor
 790 say aye. All opposed say no. The ayes have it; the motion passes.
 791
 792 Mr. Secretary, that meeting would be held?
 793
 794 Mr. Emerson - In this room.
 795
 796 Mr. Branin - In this room?
 797
 798 Mr. Emerson - Yes, sir.
 799
 800 Mr. Branin - March 15 is a Thursday.
 801
 802 Mr. Emerson - I'm confusing myself. I was thinking it was a Wednesday
 803 meeting. It is a Thursday meeting, that's correct. Thursday is the 15th. The 16th is a
 804 Friday.
 805
 806 Mr. Branin - To recap the motion, move for a public hearing on CIP at 6:00
 807 p.m. on March 15—that's Thursday—March 15 at 6:00 p.m.
 808
 809 Mrs. Jones - In the boardroom?
 810
 811 Mr. Branin - In the boardroom?
 812
 813 Mr. Emerson - In the boardroom.
 814
 815 Mr. Branin - Okay.
 816
 817 Mr. Emerson - Mr. Chairman, that takes us to the next item, which is a work
 818 session to discuss potential amendments to the Zoning Ordinance, revising the
 819 regulation for commercial vehicles in residential and agricultural districts. That will be
 820 presented to you by Mr. Ben Blankinship.
 821

822 Mr. Blankinship - Thank you, Mr. Emerson. Good morning, Mr. Chairman,
823 members of the Commission.

824
825 Mr. Branin - Welcome, Mr. Blankinship. How are you, sir?

826
827 Mr. Blankinship - Mr. Witte, when I came in and saw you, I thought you'd
828 shown up a day early. Congratulations on your appointment.

829
830 I am here this morning to discuss with you a proposed amendment to the Zoning
831 Ordinance. Some time ago Mark Strickler, the director of the Department of Community
832 Revitalization, made a proposal to the Board of Supervisors concerning some changes
833 he would like to implement about the regulation of commercial vehicles in residential
834 districts. Now Mr. Strickler is here this morning if you have any questions for him. But
835 that is where this proposal began. As it went through the Board of Supervisors' process,
836 they felt like some of these zoning issues could be dealt with in a shorter time frame;
837 some of the other issues he had brought up, they wanted to consider further. So this
838 portion of that proposed amendment was broken off, and the Board passed a resolution
839 requesting the Planning Commission to consider this matter and make recommendations
840 for a proposed Zoning Ordinance amendment.

841
842 So just to go briefly over the current regulations, commercial vehicles are mentioned in
843 three places in the Zoning Ordinance. In the Principal Uses of the R District, you have
844 the words, "Parking of any truck or commercial vehicle exceeding an empty weight of
845 5,000 pounds is permitted only while loading or unloading." And then that section goes
846 on to prohibit commercial enclosed or flatbed trailers, or any wrecker from parking at the
847 property any longer than it takes to load or unload. That's the principal use. Then under
848 the "Accessory Uses Permitted in the R District," it specifically allows private parking
849 areas, garages, and stables. It allows one commercial vehicle up to 5,000 pounds empty
850 weight. It again prohibits the commercial enclosed or flatbed trailer, or any wrecker. It
851 also goes on to allow temporary parking of one unoccupied manufactured home and
852 stable subject to the distance requirements. We're not going to get into that last bullet
853 point with this amendment. I just wanted to make you aware of it for the sake of
854 completeness.

855
856 But you see under "Principal Use," it says "the parking of any truck or commercial vehicle
857 is permitted only while loading or unloading." Then under "Accessory Uses," it says "one
858 commercial vehicle may be parked."

859
860 Then, in the "Parking Lot regulations," there is a paragraph very similar to the one in the
861 Principal Uses stating, "any truck or commercial vehicle over 5,000 pounds is permitted
862 only while loading or unloading."

863
864 This raises several concerns. The first is that in a residential district, parking should not
865 be listed as a principal use. It's an accessory use to whatever the principal use of the
866 property is. In the Business Districts, we do list parking as a principal use. You could
867 take the business property, build a parking lot, and that could be the main use of that

property. But we really don't want to see that in residential. So we are going to propose the principal use be deleted entirely and the subject be handled in the accessory and then in parking.

We also feel it should not be a zoning violation to park a pickup truck or an SUV in your own driveway that is not used for any commercial purpose. The way the words read now—it's repeated there—parking of any truck or commercial vehicle. In the administration and enforcement of this, we really read it as if it said parking of any commercial truck or any other commercial vehicle. But the words on the page literally say parking of any truck, including a pickup truck or an SUV, or any commercial vehicle over 5,000 pounds is only allowed while loading or unloading. We've been working with that language for some time and it hasn't really caused us a problem. But as long as we're addressing the issue of the vehicle weight, we feel like some language should be tuned up as well.

The other issue that really brought this about is it uses empty weight as the standard. We feel like 'gross weight' is the better standard to use than 'empty weight.' Empty weight of a vehicle is just what it sounds like—what the vehicle weighs by itself. The gross weight is what the vehicle weighs plus the maximum standard load that it is approved to carry. I'll go into a little more detail than that and show you some examples of empty weights and gross weights. But the other important point here is, as times have changed, now there are many common pickup trucks and SUVs that exceed 5,000 pounds empty weight. This is some research that, again, Mr. Strickler's department developed for us. I was going to take credit for this, but since he's here this morning, I guess I better not.

As you see, there are quite a few vehicles that are not unusual to see on a residential street that exceed 5,000 pounds of empty weight. But all of these listed are at or under 10,000 pounds of gross weight. And I want to point that out to you because the recommendation that we're going to make is, instead of limiting it to 5,000 pounds of empty weight, we're going to propose 10,000 pounds of gross weight. So looking at this you can see that there are quite a few vehicles. Take the Chevy Suburban, for example.

Mr. Branin - Mr. Blankinship, I was going to bring that up. I was going to mention that Mr. Strickler's going to have a heck of time going through every family residence and telling people they can't park their Suburban's out in front of their house.

Mr. Blankinship - It would be a challenge.

In graphic form here are some of these vehicles. All 4 of these exceed 5,000 pounds empty weight, but are at or below 10,000 pounds gross weight. And then here are some vehicles that exceed 10,000 pounds gross weight. Then, a few others as you get up into the higher classes of trucks.

So as I've already suggested, the recommendations I think we're going to come back with, if you're ready to schedule a public hearing, would be to remove parking from the list of principal uses in the residential districts. We'd leave it as an accessory use and we

would leave the paragraph in the parking lot regulation. But we don't see a need, really, to have it listed as a principal use in the residential districts.

Second, we would not regulate private, non-commercial trucks. Again, the language today says "truck or any commercial vehicle." We would be proposing that, so it regulates commercial vehicles but does not regulate vehicles that are non-commercial.

We will continue to allow one commercial vehicle; that seems to have served us well all these years. But we will propose changing the weight limit from 5,000 pounds empty weight to 10,000 pounds gross weight. As you see, I've just shown you exactly why we want to do that. And we'll continue to prohibit commercial trailers and wreckers. Again, that prohibition has not caused problems. It has not raised issues in the past. So at this point we see no need to change it.

As Mr. Emerson mentioned, we would like to schedule a public hearing. March 15 is the next evening meeting we could make the advertising deadline for. That is our suggestion to you, or whatever meeting you would like to hear it, of course. That is the end of my presentation.

Mrs. Jones - I have some questions.

Mr. Branin - I have one as well.

Mrs. Jones - Okay. Can you just tell me how you calculate gross weight?

Mr. Blankinship - As I said, it's the weight of the vehicle itself plus the weight of the load the vehicle is designed to carry.

Mrs. Jones - So what the vehicle is designed to carry.

Mr. Blankinship - Right. If it's a half-ton pickup truck, then you take the weight of the truck and add half a ton.

Mrs. Jones - Okay. All right. And I just want to be clear on this. Can large commercial vehicles over 14,000 pounds gross weight be parked on public streets let's say overnight?

Mr. Blankinship - Not in a residential zoning district.

Mrs. Jones - I guess the County is complaint-driven on those kinds of situations?

Mr. Blankinship - Yes, we are. And of course if the truck sits just overnight it can be very difficult for us to handle that complaint. That is one of the issues that led Mr. Strickler—as I said, this began with some recommended changes to the Board on handling that. If it's in the right-of-way, it's a police issue; if it's on private property it's a

960 Community Maintenance issue. And it's not unusual for the vehicles to just move back
961 and forth depending on who's doing the enforcing. There are other issues we're not
962 going to address with this zoning.

963
964 Mrs. Jones - I have a situation in my district I've been wondering how to
965 handle, which is right on target with this. So really a change would affect everybody.
966 There is no one who has grandfathered permission to do things. This would be a
967 standard zoning change.

968
969 Mr. Blankinship - I suppose somebody could make the argument they had
970 been parking a commercial vehicle on their property continuously since before the
971 change was made and therefore a non-conforming use. I'd rather be our lawyer than
972 theirs on that. It's very difficult to apply the non-conforming use standard to an
973 accessory use. There are court cases that say you're allowed to keep a principal use if
974 it's non-conforming. But a non-conforming accessory use can still be regulated. But it's
975 not really black and white; there is some gray area there.

976
977 Mrs. Jones - Okay. I will probably have to pursue that one way or the
978 other, but this is right on target for the problem.

979
980 Mr. Blankinship - For the most part these vehicles aren't there for years at a
981 time. So the non-conforming issue is not what it is for structures.

982
983 Mrs. Jones - Okay. Thank you.

984
985 Mr. Archer - Mr. Blankinship, in considering the one commercial vehicle,
986 which must be 5,000 pounds or less—

987
988 Mr. Blankinship - We want to change that.

989
990 Mr. Archer - Let's say a family is a florist and they have two small vans
991 that they use to deliver flowers. The way you'd probably distinguish them is there would
992 be some kind of sign on it that says "Bill's Flower Service." Those are commercial
993 vehicles, technically. But they both weigh less than 5,000 pounds. Would a person be
994 allowed to park those?

995
996 Mr. Blankinship - Not if we were receiving complaints. Now if they have a florist
997 business in a commercial location, they can park one van there and bring the other one
998 home.

999
1000 Mr. Archer - Right, I understand. I'm just saying I can see something like
1001 that happening because technically, according to the weight, it is not a commercial
1002 vehicle, but once you attach the sign to the side of it, then it's commercial.

1003

Mr. Blankinship - Attaching a sign would be one indication it's a commercial vehicle, yes. But if we determined it was a commercial vehicle, they would only be allowed to keep one. If we had a complaint, we would have to follow up.

Mr. Archer - Okay. But it is complaint-driven because I can see instances where that would be a little—

Mr. Blankinship - Something at that level I would expect to be only complaint-driven. They might speak to that more, but when we see a tractor-trailer on the side of the road, we're not necessarily going to wait for a complaint. But if it was a couple of passenger vans in a driveway, I would think those would be complaint-driven.

Mr. Archer - I had a situation not too long ago in Fairfield where these are small vehicles, but the families owned whatever business it was. They were constantly working on these vehicles. They were always jacked up in the yard or something. But they were commercial vehicles, even though they didn't necessarily look like commercial vehicles. And then of course the sign, if it's the magnetic type, you could just very simply peel it off at night and put it away. I guess you have to handle those on a case-by-case basis.

Mr. Blankinship - Yes, sir.

Mr. Leabough - I have a quick question. So this still doesn't address any vehicles parked on the street. This is only vehicles parked on the property, right?

Mr. Blankinship - We would enforce this for commercial vehicles parked in the street as well.

Mr. Branin - As long as it was in a residential-zoned area.

Mr. Leabough - How do we define a commercial vehicle?

Mr. Blankinship - It's a vehicle that's used in connection with commerce. We don't have a definition in the County code and I don't believe there's one in state code. The quickest way, when you're an inspector, is to see who the vehicle is titled to. If it's titled to a business, that's a pretty good presumption that it's a commercial vehicle. If it's not, that doesn't mean it's not a commercial vehicle. Mr. Archer mentioned the signs you see a lot of times on the vehicles. Again, that's a pretty good indicator it's a commercial vehicle. But, as he also stated, you can take the sign off at night and it doesn't change; it's still a commercial vehicle. So there's a little bit of science and a little bit of art in making that determination.

Mr. Branin - When we went through our first go-round and discussion of this, I had brought up a point, Mr. Blankinship, that I used to drive a 5,000-pound Hummer. That doesn't fit. And I said I used to drive a Hummer that exceeds it. If I was in Northern Virginia and came home late and I still had my yellow light from stopping on 95

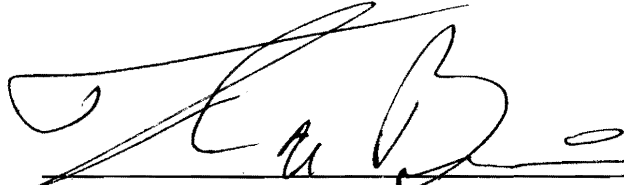
1050 on top of my truck, technically I'm a commercial vehicle. But that vehicle is privately
 1051 owned. So how is this all going to work? He said Americans love bigger vehicles.
 1052
 1053 Anybody have any other questions? Would anyone like to speak to Mr. Strickler?
 1054 Everybody's good? You requested a public hearing for Thursday, April 12th?
 1055
 1056 Mrs. Jones - No.
 1057
 1058 Mr. Blankinship - March 15th. If you're more comfortable in April, there's no
 1059 hurry.
 1060
 1061 Mr. Emerson - I don't know that we need a motion for that. I can just place
 1062 that on your regular agenda after seven o'clock, if that is fine with the Commission.
 1063
 1064 Mrs. Jones - But it would be listed first on the agenda?
 1065
 1066 Mr. Emerson - We can list it first on the agenda, yes ma'am.
 1067
 1068 Mrs. Jones - I think that's better for anyone from the public who wants to
 1069 come and make a comment.
 1070
 1071 Mr. Emerson - We can do that. I need to check with Mr. Strauss.
 1072
 1073 Mr. Blankinship - I did, and he was not aware of any conflict.
 1074
 1075 Mr. Emerson - We can place it as the first item at 7:00 p.m., or the first item
 1076 that would appear after you go through your normal organizational opening.
 1077
 1078 Mr. Archer - Works for me.
 1079
 1080 Mr. Emerson - We'll plan on doing that then. Now, on March 15 what you will
 1081 have is your normal meeting that you always have, the first Thursday after the second
 1082 Wednesday, unless for some reason like Christmas or Thanksgiving it gets bumped
 1083 back. Those are the times that it will change on you. But this is your normal Thursday
 1084 evening March meeting. You will come in at 6:00 p.m. for the Capital Improvement Plan
 1085 presentation here. Then your regular meeting will begin at 7:00 p.m. And based on input
 1086 from the Commission, this will be your first item appearing on the agenda after you've
 1087 had your public hearing on the CIP.
 1088
 1089 Mr. Branin - Is that it?
 1090
 1091 Mr. Emerson - Mr. Chairman, I have nothing else for the Commission.
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 1093 Mr. Branin - Then I will entertain a motion to adjourn.
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 1095 Mr. Archer - Mr. Chair, I so move.

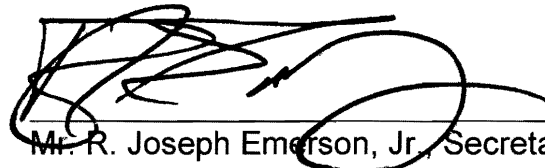
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Mrs. Jones - Second.

Mr. Branin - Motion by Mr. Archer, seconded by Mrs. Jones to adjourn. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

Meeting is adjourned.



Mr. Tommy Branin, Chairman

Mr. R. Joseph Emerson, Jr., Secretary