

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico  
2 County held in the County Administration Building in the Government Center at  
3 Parham and Hungary Spring Roads, beginning at 7:00 p.m., Thursday, April 13,  
4 2023. Display Notice having been published in the Richmond *Times-Dispatch* on  
5 March 27, 2023, and April 3, 2023.  
6  
7

8 Members Present: Mr. Robert H. Witte, Jr., Chairperson (Brookland)  
9 Mr. Gregory R. Baka, Vice Chair (Tuckahoe)  
10 Mrs. Melissa L. Thornton, (Three Chopt)  
11 Mr. C. W. Archer, C.P.C. (Fairfield)  
12 Mr. William M. Mackey, Jr., (Varina)  
13 Mr. R. Joseph Emerson, Jr., AICP, Director of Planning  
14 Secretary  
15 Mr. Thomas M. Branin (Three Chopt)  
16 Board of Supervisors Representative  
17

18 Also Present: Ms. Jean Moore, Assistant Director  
19 Mr. Ben Sehl, Senior Principal Planner  
20 Mr. Michael Morris, County Planner  
21 Ms. Molly Mallow, County Planner  
22 Mr. Livingston Lewis, County Planner  
23 Mr. Seth Humphreys, County Planner  
24 Ms. Rosemary Deemer, County Planner  
25 Mr. Phil Bariteau, County Planner  
26 Mr. Lamont Johnson, County Assistant Traffic Engineer  
27 Mr. Billy Moffett, Police \*  
28

29 \* (Virtually)  
30

31 **Mr. Thomas M. Branin, the Board of Supervisors' representative, abstains on all**  
32 **cases unless otherwise noted.**  
33  
34

35 Mr. Emerson - I apologize for the delay. We're still having technical  
36 difficulties. But hopefully those will take care of themselves shortly. If not, the meeting is  
37 open to the public. There's no legal requirement that our Webex be operational even  
38 though we like to offer that option. So, with that said we're going to move forward with our  
39 meeting. Technology is always a good thing when it works correctly. But I'll join with the  
40 Chairman tonight welcoming you to the Planning Commission meeting public hearing for  
41 April 13. This evening it is requested that all public comments be provided from the lectern  
42 to the rear of the room. For everyone and of course hopefully it's coming up, for everyone  
43 who's watching the livestream on the county website, you can participate remotely in the  
44 public hearings by following these guidelines. Go to the Planning Department's meeting  
45 webpage at [henrico.us/planning/meetings](http://henrico.us/planning/meetings). Scroll under Planning Commission and click  
46 on Webex Event. Once you have joined the Webex Event, please click the chat button  
47 in the bottom-right corner of the screen. Staff will send a message asking if anyone would

like to sign up to speak on an upcoming case. To respond, select Philip Bariteau from the drop-down menu and send him a message. He will get you placed in the queue to speak. The Commission does have guidelines for its public hearings. The applicant is allowed 10 minutes to present the request and time may be reserved for responses to testimony. The opposition is allowed a cumulative 10 minutes to present its concerns. What that means is that everyone who wishes to speak regarding that case must be included in the overall 10-minute allowance. Commission questions do not count into either of these time limits. The Commission may waive the time limits at its discretion. Comments must be directly related to the case under consideration. Commenters must provide their name and address prior to speaking for the record. We do maintain verbatim minutes so we need to have your name and address so we get everything correctly in our minutes. If we have a question about your comments we can contact you and make sure we get your comments correct. We do appreciate your participation and interest this evening. And again, if the Webex doesn't get up or it's just beginning to come up I will remind everyone the Planning Commission actions are a recommendation. These cases, if approved by the Commission or recommended approved, will move on to the May meeting of the Board of Supervisors for final action and another public hearing will also be held at that time. And all the affected parties that are within our notification areas will be notified. With that said Mr. Chairman, we'll move into the first item on your agenda. That would be the requests for withdrawals and deferrals and those will be presented by Mr. Ben Sehl.

Mr. Sehl - Thank you Mr. Emerson. Apologies again for the difficulties this evening. We'll get the show up there. There are two withdrawals on your agenda this evening. Both are on Page 2 of your agenda in the Varina District. The first is SIA2022-00001, Ironwood Renewables.

**SIA2022-00001 Ironwood Renewables, LLC - Solar Array:** The Department of Planning has received a request from Ironwood Renewables, LLC to initiate a Substantially In Accord study for a proposed solar array. The proposed site consists of Parcel 832-697-5024 located on the south line of Charles City Road approximately 2,075' east of Turner Road. The existing zoning is A-1 Agricultural District. The 2026 Comprehensive Plan recommends Prime Agriculture. The site is in the Airport Safety Overlay District.

This was a request to determine the consistency with the Henrico County 2026 Comprehensive Plan. Again, that application has been withdrawn by the applicant. No action is requested or needed from the Commission this evening.

The second is a companion request, it's also on Page 2 of your agenda. It is PUP2022-00016.

**PUP2022-00016 Adrian Ortlieb for Ironwood Renewables, LLC:** Request for a Provisional Use Permit under Sections 24-4205 and 24-2306 of Chapter 24 of the County Code to allow a solar array on Parcel 832-697-5024 located on the south line of Charles City Road approximately 2,075' east of Turner Road. The existing zoning is A-1

93 Agricultural District. The 2026 Comprehensive Plan recommends Prime Agriculture. The  
94 site is in the Airport Safety Overlay District.

95  
96 This was a Provisional Use Permit request for a solar array on that same property on  
97 Charles City Road. Again, since it was withdrawn by the applicant. No action is requested  
98 by the Commission this evening.

99  
100 With that, staff is aware of one request for deferral this evening. It is on Page 2 of your  
101 agenda also in the Varina District. This is REZ2023-00010, J. Gregory Forrest

102  
103 **REZ2023-00010 Robert L. Stout for J. Gregory Forrest:** Request to conditionally  
104 rezone from A-1 Agricultural District to R-2AC One-Family Residence District  
105 (Conditional) Parcel 830-725-6531 containing 11.445 acres located approximately 915'  
106 southwest of the intersection of N. Washington Street and N. Airport Drive. The applicant  
107 proposes a single-family residential development. The use will be controlled by zoning  
108 ordinance regulations and proffered conditions. The 2026 Comprehensive Plan  
109 recommends Suburban Residential 1. This site is located in the Airport Safety Overlay  
110 District.

111  
112 The applicant is proposing a single-family residential development and is requesting  
113 deferral of this item to the May 11, 2023, meeting.

114  
115 Mr. Witte - Hello, is there anyone in the audience or on Webex...hello?  
116 that would like to speak for or against the withdrawals? The SIA2022-00001?

117  
118 Mr. Emerson - Mr. Chairman, no action is necessary on the withdrawals.  
119 We're on REZ2023-00010, Robert L. Stout for J. Gregory Forrest and it is a request for  
120 deferral to May 11th.

121  
122 Mr. Witte - Anybody in the audience or on Webex opposed to the deferral  
123 or have to speak on it?

124  
125 Unknown speaker - I just want to understand if that just means that they'll  
126 postpone it? Okay.

127  
128 Mr. Emerson - Yes, ma'am. That's what that means. It will move to next  
129 month on May the 11<sup>th</sup>.

130  
131 Unknown speaker - Okay.

132  
133 Mr. Witte - Anyone else? No? I see no one. Mr. Mackey?

134  
135 Mr. Mackey - Mr. Chairman, I move that REZ2023-00010, J. Gregory  
136 Forrest be deferred to the May 11, 2023, meeting at the request of the applicant.

137  
138 Mr. Baka - Second.

Mr. Witte - We have a motion by Mr. Mackey, a second by Mr. Baka. All in favor say aye.

Commission - Aye.

Mr. Witte - Opposed? Motion passes.

Mr. Emerson - Mr. Chairman, that completes the requests for withdrawals and deferrals this evening. We now move on to requests for expedited items. We have three of those and they will also be presented by Mr. Ben Sehl.

Mr. Sehl - Thank you again. As Mr. Emerson noted, there are three items on your expedited agenda this evening. The first is on Page 1 of your agenda in the Fairfield District. This is PUP2023-00004, American Tower Corporation.

**PUP2023-00004 Jeff Holland for American Tower Corporation:** Request for a Provisional Use Permit under Sections 24-4205 and 24-4314.F of Chapter 24 of the County Code to amend the existing Provisional Use Permit, P-17-06, on Parcel 802-736-8028 located at the north intersection of Mechanicsville Turnpike (U.S. Route 360) and E. Laburnum Avenue. The applicant proposes removing Condition 10 regarding the use of low-profile or flush-mounted antennas on the telecommunications tower. The existing zoning is B-2 Business District. The 2026 Comprehensive Plan recommends Commercial Concentration. The site is located in the Enterprise Zone and Airport Safety Overlay District.

This is a site, as you can see on the screen, approximately 500' northwest of the intersection of Mechanicsville Turnpike and E. Laburnum Avenue. Staff is aware of no opposition to this request and is recommending approval subject to the conditions in the staff report and I'd be happy to try and answer any questions that you might have at this time.

Mr. Witte - Is there anyone in the audience or on Webex who would like to speak to this issue? I see no one. Mr. Archer?

Mr. Archer - Mr. Chairman, I move that PUP2023-00004 American Tower Corporation be approved on the expedited agenda subject to the information in the staff report.

Mr. Baka - Second.

Mr. Witte - We have a motion by Mr. Archer, a second by Mr. Baka. All in favor say aye.

Commission - Aye.



185 Mr. Witte - Opposed? Motion passes.  
186

187 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Baka, the  
188 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors  
189 grant the request because it would provide added services to the community and it would  
190 not be expected to adversely affect public safety, health, or general welfare.  
191

192 Next on Page 3 of your agenda is REZ2023-00006 in the Three Chopt District.  
193

194 **REZ2023-00006 Youngblood, Tyler, & Associates, PC for Bacova Development**  
195 **Company, LLC:** Request to amend proffers accepted with C-19C-12 on Parcel 738-767-  
196 8602 located at the southwest intersection of Manor Crossing Court and Manor Crossing  
197 Place. The applicant proposes to amend Proffer 3 to increase the maximum density from  
198 95 to 96 residential dwelling units. The existing zoning is R-5AC General Residence District  
199 (Conditional). The 2026 Comprehensive Plan recommends Suburban Mixed-Use, overall  
200 gross residential density should not exceed 4 units per acre.  
201

202 Staff is unaware of any opposition to this request. I'd be happy to answer any questions  
203 you might have at this time.  
204

205 Mr. Witte - Do we have anyone in the audience or on Webex who would  
206 like to speak for or against? We have none.  
207

208 Mrs. Thornton - Okay, Mr. Chairman, I move that we recommend approval of  
209 REZ2023-00006, Bacova Development Company, LLC with the proffers dated January 19,  
210 2023.  
211

212 Mr. Mackey - Second.  
213

214 Mr. Witte - We have a motion by Mrs. Thornton, a second by Mr. Mackey.  
215 All in favor say aye.  
216

217 Commission - Aye.  
218

219 Mr. Witte - Opposed? Motion passes.  
220

221 **REASON:** Acting on a motion by Mrs. Thornton, seconded by Mr. Mackey,  
222 the Planning Commission voted 5-0 (one abstention) to recommend the Board of  
223 Supervisors grant the request because the changes do not greatly reduce the original  
224 intended purpose of the proffers and it is not expected to adversely impact surrounding  
225 land uses in the area.  
226

227 Mr. Sehl - Staying on Page 3 of your agenda in the Three Chopt District  
228 is REZ2023-00007.  
229

**REZ2023-00007 Jeffrey Geiger for Edward Rose Development Company, LLC:**  
Request to conditionally rezone from R-6C General Residence District (Conditional) to C-1C Conservation District (Conditional) parts of Parcels 734-765-0271, 734-765-1094, and 734-765-1326 containing 2.0 acres located approximately 295' northwest of the terminus of Old Three Chopt Road extending approximately 1,400' north along the floodplain to Interstate 64. The applicant proposes a conservation district. The uses will be controlled by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan recommends Environmental Protection Area and Urban-Mixed Use. This site is located in the West Broad Street Overlay District.

In this application the applicant is proposing a Conservation District for area within the 100-year floodplain. Staff is recommending approval of this request and is unaware of any opposition at this time.

Mr. Witte - Anyone in the audience or on Webex opposed to REZ2023-00007 or would like to speak for it? Once again, there's no one.

Mrs. Thornton - Okay, Mr. Chairman, I move that we recommend approval of REZ2023-00007, Edward Rose Development Company, LLC with the proffers dated March 21, 2023.

Mr. Baka - Second.

Mr. Witte - I believe we have a motion by Mrs. Thornton and a second by Mr. Baka. All in favor say aye.

Commission - Aye.

Mr. Witte - Opposed? Motion passes.

**REASON:** Acting on a motion by Mrs. Thornton, seconded by Mr. Baka, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant the request because it is reasonable and conforms to the recommendations of the Land Use Plan.

Mr. Emerson - Mr. Chairman, that completes our expedited items. We now move into your regular agenda. On Page 1, REZ2023-00002, Andrew M. Condlin for Canterbury Development Group, LLC.

**REZ2023-00002 Andrew Condlin for Canterbury Development Group, LLC:**  
Request to conditionally rezone from R-4 One-Family Residence District and M-1 Light Industrial District to RTHC Residential Townhouse District (Conditional) parcel 797-737-0449 containing 5.696 acres located on the east line of Walnut Avenue at its intersection with Ratcliffe Avenue. The applicant proposes a townhome development. The RTH District allows a maximum density of 12 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan

276 recommends Light Industry. Part of the site is in the Airport Safety Overlay District and the  
277 Enterprise Zone.

278  
279 The staff report will be presented by Mr. Seth Humphreys.

280  
281 Mr. Witte - Mr. Humphreys.

282  
283 Mr. Humphreys - Mr. Chairman. Was there any opposition?

284  
285 Mr. Witte - I'm sorry.

286  
287 Mr. Emerson - The Chairman can ask either before or after your presentation.

288  
289 Mr. Humphreys - Okay. Thank you, Mr. Chairman, members of the Planning  
290 Commission. As stated, this is a request to conditionally rezone a property zoned for  
291 Industrial and single-family for a 48-unit townhouse development. The property is mostly  
292 cleared as can be seen and has occasionally been used for private parking for events at  
293 the raceway. The zoning of the subject property is currently split between two districts, M-  
294 1 to the north and R-4 to the south. Seen here. The M-1 zoned portion is unconditional,  
295 meaning any use allowed by the Zoning Ordinance for M-1 District could be developed on  
296 the property by-right. Surrounding uses include the Highland Park Annex subdivision to the  
297 south and to the west, a warehouse zoned M-1 to the north, and an office warehouse zoned  
298 M-1 located to the east with road frontage on Carolina Avenue.

299  
300 Since the staff report the applicant has revised their concept plan, elevations, and proffers.  
301 These have been handed out to you this evening in your packets at the beginning of the  
302 meeting. They would not require time limits to be waived. The revised concept plan shown  
303 here shows townhouse style condominiums in roughly a U-shaped arrangement. It would  
304 include a park along Walnut Avenue and contain 48 units.

305  
306 The Walnut Avenue right-of-way would still be widened with this proposal and a five-foot-  
307 wide sidewalk and landscaping would be provided along the property frontage of Walnut  
308 Avenue. Proffered elevations now show two-story townhomes with materials as listed in  
309 the proffers. At the community meeting residents expressed concerns with the look of the  
310 originally proposed townhomes as they did not fit in with the existing community. The  
311 applicant has responded by submitting these elevations. The applicant has also revised  
312 their proffers. Changes include the addition of vinyl as a material allowed on a portion of  
313 the structures. Staff notes that the language that has been submitted could be clarified  
314 better to ensure that the applicant's intent is met. Speaking with them I don't think that the  
315 actual language submitted is what they were talking about. The applicant can speak to that.  
316 A requirement to establish an HOA and register Protective Covenants, as well as  
317 compliance with the Virginia Condominium Act and properties would be marketed and  
318 offered for sale.



Two community meetings have been held by the applicant on March 1st and April 3rd. Concerns raised included increased traffic on residential streets, density, visual impact of the development, ownership versus rental and general public safety.

The 2026 Comprehensive Plan recommends Light Industry for the subject property and those properties to the north and east. The neighboring area to the south and west are designated Urban Residential. While the proposed use is not consistent with the Light Industry it is more consistent with the Urban Residential designation. The proposed townhouse development could be an appropriate transition from existing industrial uses to single-family residences to the west. The applicant has made revisions to address staff and community concerns, but some language clarifications in the proffers could still be beneficial. If the applicant could satisfactorily clarify this language, staff could recommend approval of this request.

This concludes my presentation. I'm more than happy to try and answer any questions you may have.

Mr. Witte – Is there anyone in the audience or on Webex that would like to speak for or against? We have one. How would you like to continue?

Mr. Archer - Let's hear the person speak Mr. Chairman.

Mr. Emerson- Mr. Chairman, I would also note that Webex is up and operational now.

Mr. Witte - Oh, do we have anyone on Webex?

Ms. Deemer - We have no one for this case.

Mr. Witte - Okay, and you want to hear the opposition?

Mr. Archer - Yes.

Mr. Witte - You'd like to speak? Go to the podium in the back please.

Ms. Miller - My name is Janet and I live at 719 Ratcliffe Avenue.

Mr. Witte - Can you speak into the mic please?

Mr. Mackey - They need to turn it.

Ms. Miller - My name is Janet Miller and I live at 719 Ratcliffe Avenue and my concern is putting 64 families in a two-block radius. You know, more traffic, more foot traffic going back and forth to stores and stuff. It's just a lot of people. I've been seeing more people as it is moving into the neighborhood. It's just a change. We started off with 48 units



365 and now they've gone up to 64. I'm just concerned about the traffic and people roaming the  
366 neighborhood and stuff.

367  
368 Mr. Witte - Okay, thank you.

369  
370 Ms. Miller - Thank you.

371  
372 Mr. Witte - Thank you. Mr. Archer?

373  
374 Mr. Archer - Let me hear from Mr. Condlin now.

375  
376 Mr. Witte - He's on the way.

377  
378 Mr. Archer - Mr. Condlin while you're on the way can you make a  
379 clarification as to the number of proposed units please, lest we forget?

380  
381 Mr. Condlin - Mr. Chairman, members of the Commission, Mr. Branin. My  
382 name is Andy Condlin. I'm here on behalf of Canterbury Development Group. I'll go through  
383 quickly because Mr. Humphreys made a good presentation as you can see this is a 5.6  
384 acre property that's off of Laburnum Avenue across from the Richmond Raceway. The  
385 area's obviously been changing and it's kind of a transition area as Mr. Humphreys has  
386 talked about it. Really this property is within the neighborhood but it's also next to an  
387 industrial park that sits behind Carolina Avenue as well as right next to us heading out to  
388 Laburnum Avenue on Walnut.

389  
390 The access is off of Walnut but it really sits within the community and that's really been the  
391 issue in talking with the property that's surrounded on two sides by M-1 and then two sides  
392 by R-4 so it's kind of like two sides of a coin that we're dealing with but 2/3 of the property  
393 it's actually zoned M-1. And as it's been pointed out it's called for Light Industrial on the  
394 entirety of the property and with respect to the Land Use Plan but you can see the industrial  
395 properties in the buildings adjoining this property in the rear and above the site to the north.

396  
397 In 2021 there was a proposal to be consistent with the Land Use Plan and zone the entirety  
398 of the property for M-1 for Office and Storage Use. It actually appeared I think before the  
399 Planning Commission. At least the staff report came before the Planning Commission; it  
400 was deferred. My understanding, while I didn't handle that case there was quite a bit of  
401 opposition and concern about continuing the industrial zoning into the neighborhood and  
402 rightly so. I mean it sits right in within the neighborhood.

403  
404 So, we have proposed something slightly different. I apologize to Ms. Miller that we have  
405 gone back down to the 48 units we originally did propose to the neighborhood. We've made  
406 a number of changes. As you can see on the site plan and we've tried to address some of  
407 the concerns, obviously one of the initial concerns that was raised was regarding traffic.  
408 We're expanding Walnut Avenue but we are adding homes and it will increase traffic but  
409 we're trying to expand in this area but it's our thought that Walnut goes almost directly to

Laburnum Avenue at this location. So that there shouldn't be traffic going through the neighborhood and we're actually improving the Walnut Avenue area.

Also, another concern that was raised was regarding open space and we've provided for open space on the front. The neighbors were concerned on the original plan we had the buildings all the way to Walnut Avenue again trying to create a more urban look and that was met with some concern by the neighborhood. So, we created this open park area with a U shape in the design. We also provided for a buffer in the back again. You can see the industrial buildings at the top of the site, at the left of the site and see how close in proximity they are. Again, with the residential literally across Walnut and across Savannah from that standpoint.

This was the original elevations that we proposed and to say that people were not happy with these elevations would be an understatement. That was probably the initial concern and the last concern that they raised is for us to change that. At the last community meeting we did show a new plan with the townhomes, and we tried to provide for more consistency with the neighborhood. We also had presented previously on the 64 that Ms. Miller talked about and we actually had a different product called a one over one condominium unit. So, I think we're used to a two over two because the neighbors are concerned about height and we're making sure and we have proffered that and we only have two story buildings that they have in fact all the buildings will be two story. We proposed a one over one and again folks were concerned about the density so we've gone back to the 48 units, only the townhome condominium units, and we're doing condominiums only because we want to be able to bring these homes a little bit closer together from the building standpoint and be able to create more open space for the entirety of the property in relation to the question of what they had.

The last couple of things that we addressed from the neighborhoods were, they were really concerned about these turning into rental properties. We've had some concerns on some other nearby properties and so we've put in a proffer and we've committed to ownership. I think we need to work this out with the County Attorney. From the typical language I think this is language we've used before in that they will be marketed and sold initially. We're not going to keep a homeowner from being able to rent if they move for a job and have to rent it until they can sell it but where the initial sale, the initial developer will be selling these units and that's what we've put in the proffered conditions and I think it addresses the concerns by the neighbors.

We have a lot of typical proffers that you see for a townhouse development in Henrico County so that we've covered all those. I'll be happy to answer any questions that you have with respect to that. And, then finally I would just point out with respect to the vinyl. I made a mistake when I talked about the front elevations. We just really wanted to make sure there would be no vinyl, there would be cementitious but no vinyl facing Walnut Avenue so we'll make that change. It's really just a change of a couple of words but you can see here what our intent was that from the neighbor's standpoint to make sure that the quality materials the stone and brick are seen from Walnut Avenue and instead of the front of the elevation that the elevation portion that's fronting Walnut Avenue will have to get changed.



456  
457 With that I'll be happy to answer any questions. I went through that rather quickly with some  
458 of the changes but again all these changes were in response to a couple of neighborhood  
459 meetings including the last one on April 3. I'd ask for your recommendation to the Board of  
460 Supervisors.

461  
462 Mr. Witte - Mr. Archer? We've been notified that there's somebody on  
463 Webex who would like to speak. Would you like to have them speak now or...?

464  
465 Mr. Archer - I think that would be best. If they have a question Mr. Condlin  
466 can answer it because he's still at the mic.

467  
468 Mr. Sehl - Ms. Deemer can clarify, but I I was letting Mr. Emerson know  
469 that somebody came to speak about one of the items on the Expedited Agenda. They came  
470 on afterwards so they're not on this one. I apologize.

471  
472 Mr. Witte - And that wasn't on this case.

473  
474 Mr. Sehl - Correct.

475  
476 Mr. Emerson - Okay, I apologize Mr. Chair.

477  
478 Mr. Witte - Okay, now any questions for Mr. Condlin?

479  
480 Mrs. Thornton - I have one.

481  
482 Mr. Witte - No.

483  
484 Mrs. Thornton - Maybe two. Okay, so, about the ownership and the residents  
485 were concerned about turning into rentals. In the language in your HOA; are you going to  
486 specify that no more than 10% of the buildings can, you know just as an example can be  
487 rentals?

488  
489 Mr. Condlin - Yes. I think certainly with respect to we're always worried about  
490 the Virginia Fair Housing and Federal Fair Housing but with condominiums we can do that.  
491 Yes, Ma'am.

492  
493 Mrs. Thornton - Okay, I think maybe that would give a reassurance because  
494 you can have somebody come in and buy them, live there for a year and then turn around  
495 and rent them and then you can have a whole community of rentals.

496  
497 Mr. Condlin - Yes, well, right. that's fine. I think we can do that. I think that is  
498 unlikely in the sense that they have to be sold initially and that would be once it's sold the  
499 homeowner it would be hard for someone to come through and get all of them. But that  
500 would be and initial person so we can do the 10% no greater than 10%.

502 Mrs. Thornton - Well, that could be worked out with Mr. Archer. I was just giving  
503 an example of 10% because I've seen 10, 20.

504  
505 Mr. Condlin - Yes, I've seen somewhere between that. So, whatever that  
506 percentage is appropriate is we'll talk to the County Attorney there's always some concern  
507 about limiting ownership and that can be put in the restrictive covenants and enforced by  
508 the Association and not put that burden on the county. That's how we've typically done that.  
509 So, we could come up with a percentage on that.

510  
511 Mr. Archer - Thank you Mrs. Thornton.

512  
513 Mrs. Thornton - Sorry, I have one more question. Is there a fence around this  
514 or is it just because it's like a neighborhood park and then in another picture you had like a  
515 dog park.

516  
517 Mr. Condlin - Well, in a previous plan we had a dog park that also met with  
518 some resistance by the neighbors not wanting a dog park in that area. So we've taken that  
519 out and you can see it's now called a future amenity and buffer because there's industrial  
520 right next to us we were planning on keeping a lot of those there are some trees in that  
521 area and then we might move the pergola and some of the other amenities that we talked  
522 about. The outdoor seating and the outdoor firepit in towards that area but the neighbors  
523 were concerned about a dog park so we took that out.

524  
525 Mrs. Thornton - So, is there a fence around it or...?

526  
527 Mr. Condlin - No, ma'am.

528  
529 Mrs. Thornton - No. Okay.

530  
531 Mr. Condlin - We've got a buffer in the back to screen us from the that's  
532 already existing landscaping but no we don't have a fence. We don't have a proffered fence  
533 nor are we planning a fence anywhere else on the property. The fence was for the dog park  
534 but we've taken that out on this plan based on the neighbors concerns.

535  
536 Mr. Archer - Done Mrs. Thornton? Thank you so much.

537  
538 Mr. Mackey - Mr. Condlin, I had one question.

539  
540 Mr. Archer - Oh, go ahead Mr. Mackey.

541  
542 Mr. Mackey - The future amenity and buffer. Did you have an idea of what  
543 type of amenity might be there?

544  
545 Mr. Condlin - I think what the plan is what we've listed on the amenities which  
546 we already show a pergola, and we might have a gazebo but also outdoor furniture with  
547 the fire pit and the grills and so that might move into that area. Otherwise, it might just be



548 it's intended to be an open space, a play area you know like a small field. I think that would  
549 be the extent of it. We proffered those amenities there and we've shown them on the plan  
550 but we can expand in that area. But once we took the dog park out we just thought we  
551 would have an open area.

552  
553 Mr. Mackey - Thank you. That's all.

554  
555 Mr. Branin - Mr. Condlin. I'd like to reiterate what the Commissioner from  
556 Three Chopt said, I don't think your language in there is tight enough and you just basically  
557 left it open to go ahead and sell and do whatever you want. You can tighten it down to  
558 protect the surrounding communities and protect the actual community itself.

559  
560 Mr. Condlin - Yes, sir. I think we can do we can tighten that language and I  
561 know we can with the County Attorney. It's language we've used in the past but I agree  
562 with you and then we can put in a percentage that says no more than "x" in the Association  
563 documents.

564  
565 Mr. Branin - I'm sure the Director of Planning would be happy to share some  
566 of the language we've used from Three Chopt.

567  
568 Mr. Condlin - Yes, sir.

569  
570 Mr. Emerson - Absolutely.

571  
572 Mr. Branin - If Fairfield would like it.

573  
574 Mr. Archer - Thank you Mr. Branin. We would like it. Actually, we've been  
575 discussing that particular language. So, Mr. Condlin is aware that that's something he has  
576 to look forward to doing. Anybody else have any questions before I go on?

577  
578 Mr. Mackey - No, sir.

579  
580 Mr. Archer - Okay, thank you. I've got just a few comments. As Mr. Condlin  
581 indicated some months ago there was a case that was brought to introduce some type of  
582 commercial project. In fact, it's been more than a few months ago now. The community  
583 was opposed to it and I suppose that's why it was dropped. So now we have something  
584 that's more residential in nature and as Mr. Condlin indicated the first drawings that we saw  
585 were not acceptable to the community and I wasn't too crazy about them either. So, I have  
586 to say that the applicants, Mr. Condlin and the people he's working for have been very  
587 cordial and have tried to do whatever we've asked them to do to make this better and I  
588 appreciate the fact that they did. And it took some work.

589  
590 Somebody mentioned the fact that the traffic would increase. As I always say, "Yes, it will."  
591 Traffic will always increase. To get just a feel for how that area works on a daily basis I  
592 spent a couple of days out there. Not all day but I went out there on a couple of occasions  
593 at different times to sort of get a feel about how things operate out there daily and being

that it's next to an industrial site. I was trying to see how much noise was created during the course of a day and whether or not that amount of noise would make it unfeasible for people to live next to it. To be honest with you I found it to be pretty quiet. It's a well-kept industrial area and it's pretty neat. The only noise making thing that I heard and that might not have been enough to bother residents. There was somebody out there who sells or I think who warehouses pipes. They were loading some pipes with a front-end loader onto a truck and you could hear a little clang when the pipes were dropped together but other than that the approach during the day seemed to be pretty quiet.

So, to put it mildly this has really been vastly improved since the first discussion that we had on this both in terms of what the housing looks like and how it was to be arranged. I mentioned traffic because any case that we have people will express concern, and I appreciate the fact that they do, that traffic will increase and the truth of it is anything that we do ever from now on will increase traffic. If anybody can think of something that can be done to decrease traffic let us know and we'll be happy to look about trying to get interested in that. The one thing I think people assume is that all of the traffic is going to come out to the same place at the same time and it just doesn't happen that way and I guess Mr. Condlin has clarified all of the questions that I've had.

There's been two public hearings. I think he got a pretty good indication of what the neighborhood wanted and I think the applicant has tried very hard to give them what they expect and want. So, I don't guess there's too much more I can say about this so this will go to the Board next month whether I approve it or not. Mr. Condlin, are you aware about the clarification of the language and you'll work with staff...

Mr. Condlin - Yes, I'll work with Mr. Emerson and the staff on the ownership issue and the vinyl.

Mr. Archer - Yes, those are the two things that I had written down that we want to talk about. But anyway, I think we've probably beat this to death to the point that we can and I think it is worthy of moving to the Board. And since we're a committee that recommends then Mr. Chairman, I move that we recommend approval of REZ2023-00002, Canterbury Development Group, LLC with the revised proffers dated April 11, 2023.

Mrs. Thornton - Second.

Mr. Witte - We have a motion by Mr. Archer, a second by Mrs. Thornton.  
All in favor say aye.

Commission - Aye.

Mr. Witte - Opposed? Motion passes.

**REASON:** Acting on a motion by Mr. Archer, seconded by Mrs. Thornton, the Planning Commission voted 5-0 (one abstention) to recommend the Board of

Supervisors grant the request because it is reasonable and the proffered conditions will assure a level of development otherwise not possible.

Mr. Emerson - Mr. Chairman, we now move on to Page 2 of your agenda, we have two companion cases. They will require separate motions after the presentation. You have SIA2022-00002, DG Virginia CS, LLC – Solar Array. We had a request from DG Virginia to initiate a Substantially In Accord study for a proposed solar array.

**SIA2022-00002 DG Virginia CS, LLC - Solar Array:** The Department of Planning has received a request from DG Virginia CS, LLC to initiate a Substantially In Accord study for a proposed solar array. The proposed site consists of Parcel 857-689-8404 located on the south line of Charles City Road approximately 650' east of the intersection of Elko Road (State Route 156). The existing zoning is A-1 Agricultural District. The 2026 Comprehensive Plan recommends Prime Agriculture and Environmental Protection Area.

We also have PUP2022-00017 LaBella Associates, DPC for DG Virginia CS, LLC.

**PUP2022-00017 LaBella Associates, DPC for DG Virginia CS, LLC:** Request for a Provisional Use Permit under Sections 24-4205 and 24-2306 of Chapter 24 of the County Code to allow a solar array on Parcel 857-689-8404 located on the south line of Charles City Road approximately 650' east of the intersection of Elko Road (State Route 156). The existing zoning is A-1 Agricultural District. The 2026 Comprehensive Plan recommends Prime Agriculture and Environmental Protection Area.

Mr. Michael Morris will present the staff report on both of these items. And, again of course, separate motions at the conclusion of the hearings.

Mr. Witte - Is there anyone in the audience or on Webex who would like to speak to either of these? Mr. Morris.

Mr. Morris - Thank you Mr. Chairman, members of the Commission.

The Substantially In Accord study under consideration was undertaken by the Planning Department, in coordination with other County divisions and departments, at the request of DG Virginia CS, LLC. The goal of this study was to determine whether a proposed site for a solar electric generation facility is substantially in conformance with the County's adopted Comprehensive Plan. Because the Comprehensive Plan does not recommend a public land use for the subject parcel, the Code of Virginia mandates a Substantially In Accord finding be submitted to and approved by the Planning Commission prior to the use of the property for a public purpose. This includes public utility facilities, even if privately owned.

The subject property is located on Charles City Road, east of its intersection with Elko Road. The property, and overwhelming majority of the surrounding area, is zoned A-1 Agricultural District, which reflects current uses in this area. Similarly, the Comprehensive Plan designates the subject property and surrounding area as Prime Agriculture and

Environmental Protection Area. The Prime Agriculture designation generally corresponds to the A-1 zoning district and reflects land especially suitable for agricultural use based on soil conditions and/or land currently being used for agricultural purposes. The Prime Agriculture Land Use classification lies within the Rural Land Use Group in the Comprehensive Plan, which "applies to areas characterized primarily by agricultural uses, land maintained in its natural state, and large tract residential development." Keystone Policies of the Rural Land Use Group include the "continuation of the historic, rural pattern, including farms, pastureland, and preserved natural and historic sites as the desired character for these areas." Based on these points, the proposed solar generation facility is not consistent with the Prime Agriculture designation. This proposal could set precedent for additional small-scale solar facilities in rural areas of the county, possibly threatening agricultural use and the rural character of the area if steps are not taken to ensure compatibility of the areas in question. For these reasons, the resolution provided in the report found the proposed use of the property to not be Substantially In Accord with the Henrico County 2026 Comprehensive Plan.

In addition to the Code of Virginia-mandated Substantially In Accord review, the Henrico Zoning Ordinance requires a Provisional Use Permit, or PUP, for solar arrays. This PUP request is located on the same property as the aforementioned SIA and would consist of a solar array generating no more than 5 MW of electricity. A single-family residence is currently located on the subject property, adjacent to Charles City Road, while the solar facility is shown in the southern portion of the site. The proposed facility would consist of 15,484 modules or panels surrounded by a chain link fence. Access to the site would be provided by a 20' wide access road running along the eastern property line.

As noted in the staff report, the 5 MW capacity of the proposed facility is smaller in size and output relative to other approved solar projects in the county. These larger-scale facilities provide an opportunity to concentrate such projects on suitable sites rather than dispersed across several smaller facilities, which could increase impacts in multiple areas of the county. While staff acknowledges the unique opportunity for buffering provided by the subject property, there is concern that the approval of this request would set a precedent for rural areas of the county, encouraging piecemeal development on land otherwise designated as open space or used for agricultural purposes. As previously noted, the companion SIA request found the proposed use not to be Substantially In Accord with the Comprehensive Plan's designations of Prime Agriculture and Environmental Protection Area on the property. For these reasons, staff cannot support the PUP request at this time.

I should note that separate actions will be required for the Substantially In Accord request via the provided resolution PCR-3-23, and the Provisional Use Permit request. This concludes my presentation and I'm happy to try and answer any questions you may have at this time.

Mr. Witte - Any questions by the Commission?

Mr. Mackey - No, sir. I don't have any questions for staff.



731  
732 Mr. Witte - You have the floor.  
733  
734 Mr. Mackey - I think I know we had some people in the audience that  
735 wanted to speak. I wasn't sure if we heard from anybody on Webex?  
736  
737 Mr. Witte - Do we have anyone on Webex to speak?  
738  
739 Ms. Deemer - We only have a member of the applicant team who's  
740 participating.  
741  
742 Mr. Witte - Thank you. Is anyone interested in speaking for or against in  
743 the audience please raise your hands. How would you like to proceed?  
744  
745 Mr. Mackey - Those are the applicants.  
746  
747 Ms. Hayes - What I wanted to know is where...  
748  
749 Mr. Mackey - Ma'am, you have to go to the lectern in the back. State your  
750 name please for the record.  
751  
752 Mr. Witte - So, you want to hear from the opposition first?  
753  
754 Mr. Mackey - Yes. I'd like to hear from the opposition first. Well, I don't know  
755 if she's opposition or not. She said she wanted to speak.  
756  
757 Ms. Hayes - My name is Tia Hayes and I wanted to know where you get  
758 more information about what they proposed? Where do you get more information about  
759 what they have proposed?  
760  
761 Mr. Emerson - Yes, ma'am it is on the county website, their application. If  
762 you'll touch base with Mr. Morris or Mr. Sehl, they'll be able to provide you the information  
763 that will connect you to the website. Also, they'll have a separate copy of our staff report  
764 for this evening.  
765  
766 Ms. Hayes - Thank you.  
767  
768 Mr. Mackey - Thank you Ms. Hayes. If there's no one else in the audience  
769 that wants to speak for or against then we can hear from the applicant.  
770  
771 Mr. Witte - We have one.  
772  
773 Mr. White - Good evening to the Planning Commission, Chairman, Board  
774 members. My name is Joshua White here for DG Virginia CS, LLC presenting our project  
775 which we call the Colonial Solar Generating Facility. A quick overview of the applicant.  
776 DG Virginia CS is a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC.

NEER is the world's largest generator of renewable energy with approximately 28,000 MW in operation currently. 18,000 additional megawatts currently in development. It has been recognized as No. 1 overall among electric and gas utilities on Fortune's 2023 list of "World's Most Admired Companies". We've invested through the end of last year approximately \$55B in planned investment in American infrastructure and have been ranked among the Top 20 companies in the world for innovation, by Fortune. I say this not to toot our horn but to make the Board and the folks in Henrico County comfortable with the fact that we are a company that's been around, will be around. The company's coming up on 100 years old. We'll be here throughout the development of the facility through the 30 years that it's operation and through the decommissioning of the facility. Our project team in Richmond, VA consisting of our engineer of record, LaBella Associates and Jared Pantella who is here in person, as well as ERM, Environmental Resources Management, and our Principal Consultant and scientist, Chris Senfield who is also here who is a proud Henrico County resident and library card holder. Hopefully he's up to date on his fees. Quick project overview. Here you'll see an aerial rendering of the proposed site. The proposed use is a solar voltaic electrical generating facility. The proposed footprint is approximately 25 acres generating 5MW AC. Interconnecting utility is Dominion. The location as stated at 6751 Charles City Road. The landowner is Mr. Steven Crouch who's also here in attendance tonight and I'll note the parcel size is just shy of 100 acres. So, the proposed footprint of the site would consist of just under or just over a quarter of the overall size of the parcel. Project timeline - 2021 a lot of due diligence, careful siting analysis, environmental investigations, socioeconomics and the preliminary impact assessment. Once the site was deemed to be suitable for this use we moved into the design phase with some preliminary electrical and civil engineering planning. This year we're really focused on permitting at the local, state, and federal levels, stakeholder and public outreach. We did hold a community meeting last month at the Varina library to reach out to the local community members. Mailers were sent out to all landowners and homeowners in a five-mile radius of the proposed site. Construction would be proposed to begin the Spring of 2024. Again, prior to due diligence the environmental investigations that go into a project like this are pretty detailed. A wetland delineation was conducted on the site in November 2021 and approved by the U.S. Army Corps of Engineers in January this year. Minimal impacts to wetlands for site access. The Chesapeake Bay Preservation Areas: A site-specific assessment of the Resource Protection Area was conducted in November of '21. No direct or indirect impact to the RPA is anticipated. Also, a habitat survey was conducted in November of '21 indicating no direct or indirect impact on protected species in the area are anticipated. An archeological and architectural survey was completed in January of this year. No impact to cultural or historic resources is anticipated. Visual buffers and screening which is critical to this site, photographic analysis of the key observation point from Charles City Road showed visual simulations that show minimal visual impact. Which you'll see an access road with a vegetative screen to preserve the rural viewshed. This is an aerial overview. You can see Charles City Road in the top left corner, it's highlighted. The leading edge of the array is approximately 2000' feet from Charles City Road. Through two naturally screening tree lines. On the west side of the property, you have about a 150' tree line, buffering it from the neighboring property and just to the south of that the tree line widens out and is about 600' in width providing substantial natural screening from the array to



any potential community member or neighbor. These are some visual simulations from a known observation point near the driveway to Mr. Crouch's property on Charles City Road. As you can see on the top that's the existing conditions, on the bottom we tried to simulate the proposed conditions unfortunately because of the tree lines and the slope of the property in the back you won't be able to see. It's really just a side-by-side comparison because the array would not be visible from the road. Which is a good thing.

Mr. Mackey - Mr. White, a question. I think I remember from the community meeting. Is the bluish area where the arrays would be or the yellow?

Mr. White - The yellow is sort of a portrayal of where the access road would go. Obviously, it's flat. There would be a vegetative buffer on the west side of the access road so you would not be able to see it. The blue is there in the back. We're trying to show you where the array would be but from the road you will not be able to see the panels.

Mr. Mackey - What is the purple looking pole or something? On the bottom of the page. I don't remember seeing that. What is that designation? That little purple pole?

Mr. Branin - Bottom left corner.

Mr. Mackey - You don't see it?

Mr. White - Must be too far away. You know what? That is the only additional piece of infrastructure that's going to be above ground added by Dominion. That's what's called a tap hole. That's where our system would tie into the existing electrical infrastructure owned by Dominion. Everything from that point out to the array would be underground.

Mr. Mackey - Okay, alright. Thank you.

Mr. White - Consistency with the Henrico County Comprehensive Plan. I thank Mr. Morris for putting together a detailed response and sharing that with us. The SIA staff report for this project mentions that... "The request is not consistent with the following Vision, Goals, Objectives, and Policies of the 2026 Comprehensive Plan..."

Infrastructure/Service Provision & Growth Coordination Vision: In order to be fiscally responsible and provide adequate public services and infrastructure to the current and future residents and businesses in Henrico County, it will be important to closely coordinate residents and businesses in Henrico County, it will be more important to closely coordinate development with plans for expansion of public services and infrastructure. I won't read all of these verbatim. The Infrastructure/Services Provision & Growth Coordination Objective 1: The county will identify the need for new public services and facilities based on projected growth. Our stance is that the Colonial Solar Energy Center is a private investment. The fiscal responsibility, orderly provision of public

services and growth coordination goals would not apply to this solar project. In fact, its proposed location in a more remote area contributes to its compatibility and makes it a greater asset to the community. No municipal investment or improvements are required to support this land use. This is a zero cost to Henrico County. This is a private investment on behalf of NextEra Energy Resources and DG Virginia CS. All required infrastructure improvements for this project, like I said, are the financial responsibility of the developer DG Virginia CS. So, three big key takeaways I want to leave everyone with, Number 1, consistency with the Comprehensive Plan, Zoning Ordinance, and State of Virginia Clean Economy Act; Number 2 the site consideration that went into establishing this site and community benefits and impact. Like I said, we did hold a community meeting or open house at the Varina Library, on March 16. The purpose of the event was to present this project to community members, neighbors, and the general public. No opposition to the project was received at the meeting. Consistency with the Comp Plan, the site is in the Varina Magisterial District and the 2026 Comp Plan's recommended future land uses for the parcel are Prime Agriculture and Environmental Protection Area. A solar power generating facility that converts sunlight to electrical power is proposed on the subject parcel to provide local sustainable energy without carbon emissions or other negative impacts to the land or environment.

The Prime Agricultural Land Use District is defined as a land use classification that generally corresponds with the A-1 zoning district. Since zoning ordinances are consistent with the Comprehensive Plan, the use must be considered generally compatible.

The zoning ordinance for Henrico County does allow for parcels designated A-1 to be provisionally permitted for the intended use as a solar energy generating facility. Zoning Ordinance Section 24-2306.D provides the decision standards for approving a PUP. These include: "Consistent with the purposes, goals and policies of the Comprehensive Plan and other applicable County-adopted plans." While this may provide an opportunity to deny this project as a result of the SIA staff report, NextEra feels that the SIA report does not make a case that the use is inconsistent with the plan, it merely expresses concern with the proliferation of smaller-scale solar facilities without substantiation of Comprehensive Plan incompatibilities. Shared Solar program is capped. This is in opposition to the feeling that this would allow for other smaller 5 and under megawatt projects to begin to proliferate the area. The shared solar program in which projects are capped at 5MW individually. That program overall is capped at 200 MW for the Dominion territory, of which to date 130 have already been awarded, none of which are here in Henrico County. So, that 70MW of additional capacity is scattered across the entire Dominion territory. That's all that's available for these smaller DG size projects going forward.

Mr. Mackey - That's all that's available currently.

Mr. White - Currently, right.

Mr. Mackey - Which could change.



915  
916 Mr. White - It could change. Within the current program that's what's  
917 available. Again, we would argue that approval of one project does not set a precedent  
918 that all similarly sized projects are Substantially In Accord. Size is one attribute of minor  
919 to some importance of an overall project. County guidance states that: "The Provisional  
920 Use Permit procedure provides for certain uses which are permitted in a district, but which  
921 may be approved with conditions or restrictions that make them compatible with  
922 surrounding properties." Absent any land use externalities that cannot be mitigated, the  
923 use should be approved. A smaller solar project was recently approved in the GOV Comp  
924 Plan Land Use District. This district seems less appropriate for solar use. As defined in  
925 the Comp Plan: Government Areas designated as Government include a variety of non-  
926 recreational public uses and facilities that are government owned. It seems this land is  
927 being leased as a government enterprise. We believe the private projects and citizens  
928 should have the same ability to put their property to productive and beneficial use just as  
929 a government owned parcel. Site consideration – as we went over before, the careful  
930 selection of this site due to its natural screening distance from Charles City Road.  
931 Conditional key community benefits. I mentioned the upgrades. A \$1.3 million dollar five  
932 mile-long expansion to existing fiber optic lines between the project site and the Turner  
933 Substation in addition to a \$1.1 million dollar equipment upgrade to the Turner Substation.

934  
935 Mr. Witte - Mr. White?

936  
937 Mr. White - Yes, sir?

938  
939 Mr. Witte - Are you close to wrapping this up?

940  
941 Mr. White - I sure am. Conclusion - Providing adequate, green and  
942 renewable energy development for local communities is a critical piece of the Virginia  
943 Clean Economy Act. The development of the VA Colonial Solar Project supports the  
944 Commonwealth's initiatives as well as the County's Comprehensive Plan. We ask that  
945 you find this privately owned, public utility facility to be Substantially In Accord with the  
946 2026 Comprehensive Plan and allow NextEra to move forward with the Provisional Use  
947 Permit application related to this project. By finding this facility to be Sustainably In  
948 Accord, NextEra and Henrico County can collaboratively move forward in strategically  
949 developing this project around the unique needs, constraints, and strategic goals of  
950 Henrico County and the Varina District. While contributing to the State of Virginia's clean  
951 energy goals and minimizing reliance on fossil fuel resources, this project is proactive in  
952 supporting sustainable and resilient utility infrastructure for Henrico County and its  
953 community members. Thank you so much.

954  
955 Mr. Witte - Any questions by the Commission?

956  
957 Mr. Mackey - I have some but if anyone else has any they can go first.

958  
959 Mr. Archer - I've got one. In one of your displays, I think it was the one  
960 titled, Project Design?

961  
 962 Mr. White - Yes, sir.  
 963  
 964 Mr. Archer - While you were on that screen, that picture yes. While you're  
 965 on that screen you mentioned that the site was one fourth of something. What is that one  
 966 fourth of?  
 967  
 968 Mr. White - The total acreage of the proposed site where the array will sit  
 969 is roughly 25% of the overall acreage of the entire parcel. The parcel is 98.34 acres in its  
 970 entirety. The use, the proposed use of solar array would take up about 25 of those acres.  
 971  
 972 Mr. Archer - Okay, so the whole big picture there is the parcel. Is that what  
 973 you're saying and this represents the one fourth?  
 974  
 975 Mr. White - Mm'hmm.  
 976  
 977 Mr. Archer - Okay. Thank you.  
 978  
 979 Mr. Witte - Anyone else?  
 980  
 981 Mr. Branin - I've got one or two. Could you go back to where you were  
 982 discussing that this project is Substantially In Accord with no environmental. Is that it? I  
 983 don't think that's it. Back up one.  
 984  
 985 Mr. Mackey - Was it carbon emissions?  
 986  
 987 Mr. Branin - Yes. It's in your determination that this isn't harmful at all to  
 988 the land and surrounding area?  
 989  
 990 Mr. White - No, sir. Like I said, the depth of the studies we've performed  
 991 from an environmental standpoint to the degree that the U.S. Army Corps of Engineers  
 992 comes out to confirm our studies. The use in terms of future use of the property especially  
 993 with respect to agriculture and farming shows that letting that soil rest actually over time  
 994 increases the ability of it to be farmed and it improves soil conditions for future use.  
 995  
 996 Mr. Branin - I hear you on that. But what about when the arrays are put in.  
 997 Do you agree or disagree that it changes the whole characteristic of the land?  
 998  
 999 Mr. White - I agree that it changes the characteristic of the land that it can  
 1000 no longer be farmed.  
 1001  
 1002 Mr. Branin - Why does it change that?  
 1003  
 1004 Mr. White - Well, it changes it in terms of the fact that it can no longer be  
 1005 farmed.  
 1006

1007 Mr. Branin - Well, it also changes it because DEQ has now specified as  
1008 well as the State of Virginia that the arrays are impermeable which increases erosion  
1009 sediment loss and runoff. Have you heard that?  
1010  
1011 Mr. White - I understand those concerns...  
1012  
1013 Mr. Branin - No, have you heard that DEQ has determined that?  
1014  
1015 Mr. White - No, no sir.  
1016  
1017 Mr. Branin - You have not. Okay, well. Can I get his information so I can  
1018 send it to you?  
1019  
1020 Mr. White - I'm sorry. Mr. Pantella would like to say something.  
1021  
1022 Mr. Pantella - My name is Jered Pantella. I'm the Civil Engineer from LaBella  
1023 Associates on this project. You are correct. DEQ did put out a memo last year that stated  
1024 that solar panels had to be treated as impervious surfaces when dealing with the VRM  
1025 worksheet and the stormwater requirements for these projects. About two weeks after  
1026 that a clarification memo also came out that said that the panels didn't have to be treated  
1027 strictly as impervious as though a parking lot would. But they could be treated as  
1028 impervious disconnects because there's a gap and the land underneath the panel is  
1029 pervious. So, we do have to show the panels in our VRM worksheet and we do have to  
1030 show that they are being treated by providing that same gap. So, in the site plan for this  
1031 project what we do is we take the maximum length that we think would be from drip edge  
1032 of the panel to the top of the panel and then the space that we have to provide between  
1033 from that to the next panel has to be equal to or greater than the panel width itself. That's  
1034 how we address those. So, when it comes to projects like these the impervious surface  
1035 that we have to account for includes the access road and the equipment pads themselves.  
1036 If you dive deeper into our site plan you'll see that we have small bio retention facilities  
1037 around the array and that's to treat that water from the access road and from the  
1038 equipment pads.  
1039  
1040 Mr. Branin - Correct, so, March I believe it was March last year and then  
1041 you're right it was reworked but my question was he's saying it doesn't affect the land use  
1042 at all, it doesn't affect the land, it's not an environmental issue. It is. It does change the  
1043 land and it's being recognized now that it has changed the land. I can tell you the Director  
1044 of DEQ, Rolband wasn't real happy that they had to redo it. Because it does change the  
1045 land. As it does affect migrating birds as well. You're aware of that?  
1046  
1047 Mr. Pantella - That's more Chris Senfield.  
1048  
1049 Mr. Branin - Birds fly too close to those solar arrays, what happens Chris?  
1050  
1051 Chris Senfield - inaudible  
1052

1053 Mr. Branin - No, don't bother. It is an environmental issue and especially  
 1054 when it's only pumping out 5MW. Now, I don't get to vote on this here, but I do have quite  
 1055 a few opinions. Okay.  
 1056

1057 Mr. Mackey - I knew you wouldn't be able to see them from the road but  
 1058 what is the actual height of the arrays?  
 1059

1060 Mr. Pantella - So, the drip edge, which is the low end of the panels, sits  
 1061 around 2' ½ to 3' and at the back end we're looking anywhere between 9' to 12'.  
 1062

1063 Mr. Mackey - Nine to 12. Alright. I think this project you were looking at a  
 1064 lifespan what is it about 25 years?  
 1065

1066 Mr. White - Twenty-five to 35 years, yes.  
 1067

1068 Mr. Mackey - If this was approved and they had approval for 25, 35 years.  
 1069 After that point would they have to come back if they wanted to prolong it?  
 1070

1071 Mr. Emerson - Yes, sir. They have to have a decommissioning plan that  
 1072 provides for end of life for the facility. They would have to come back through to replace  
 1073 it.  
 1074

1075 Mr. Mackey - You say 25 to 35? Alright. Those were just some questions I  
 1076 had about it. Did anybody else have any questions?  
 1077

1078 Mr. Witte - Nope.  
 1079

1080 Mr. Mackey - Alright. Thank you. I appreciate your time that you spent on  
 1081 the project and everything. And like you say, and I can't say for certain that it wasn't any  
 1082 opposition at the community meeting. Technically it wasn't a community meeting. It was  
 1083 an open house. I'm not saying anything was wrong with it but you know people kind of  
 1084 coming and going. I was only there for about maybe 35, 40 minutes. I do know we had  
 1085 another case. It was a regular community meeting and there was a lot of opposition. I  
 1086 don't know if you had the same mailing address for your case as the other one. There  
 1087 was quite a bit of people at that other meeting, and we raised quite a bit of concerns you  
 1088 know to the point where they actually withdrew their case. This isn't a knock on solar and  
 1089 it isn't a knock on your project. I just don't think that the 5MW, it's not a good fit and I do  
 1090 believe that it would set a precedent because once you open that door to the smaller solar  
 1091 arrays there's going to be more and more people that want to try and come in and do the  
 1092 same thing. Prime Agriculture in the Varina District comes with a heavy price. I mean I  
 1093 don't think we have to worry too much about development in Varina. I mean it's tough  
 1094 developing anything in Varina. I also wanted to talk to you about. I'm sorry that you sat  
 1095 down. The buy-in program. Did you really, did you go into that where people outside of  
 1096 the community could buy in to the program? Because it's kind of like an investment.  
 1097



1098 Mr. White - Yes, sir and this is in the toward the end of the presentation  
1099 the subscription model that NextEra proposes obviously the state, the shared solar  
1100 program incentivizes developers to allocate a majority or all of the capacity or load on  
1101 moderate income household. In our subscription model we have approximately 80% set  
1102 aside for LMI customers and then the rest allocated to Henrico County residents  
1103 regardless of income demographic.  
1104  
1105 Mr. Mackey - Okay. Alright, thank you for clarifying that. I appreciate it.  
1106  
1107 Mr. White - Yes, sir.  
1108  
1109 Mr. Mackey - Like I was saying I just don't think it's a good fit for the Varina  
1110 District. Like I said it's not a knock on you know on the project. We are trying to do as  
1111 much with going green as we can, when we can if it makes sense and if it works for us. I  
1112 do believe there are some obstacles in the path of this and I just don't think that it's  
1113 something we're looking to do right now. Mr. Chairman, I'm first going to make a motion  
1114 on the Resolution.  
1115  
1116 Mr. Witte - Okay.  
1117  
1118 Mr. Witte - Alright Mr. Chairman, I recommend approval of Resolution  
1119 PCR-3-23 for SIA2022-00002 DG Virginia CS, LLC finding the proposed solar facility to  
1120 not be Substantially In Accord with the county's Comprehensive Plan.  
1121  
1122 Mr. Witte - Second.  
1123  
1124 Mr. Witte - We have a motion by Mr. Mackey, a second by Mr. Witte. All  
1125 in favor say aye.  
1126  
1127 Commission - Aye.  
1128  
1129 Mr. Witte - Opposed? Motion passes.  
1130  
1131 Mr. Mackey - Alright, okay. On the actual PUP itself I move that PUP2022-  
1132 00017, DG Virginia CS, LLC be recommended for denial.  
1133  
1134 Mrs. Thornton - Second.  
1135  
1136 Mr. Witte - We have a motion by Mr. Mackey, a second by Mrs. Thornton.  
1137 All in favor say aye.  
1138  
1139 Commission - Aye.  
1140  
1141 Mr. Witte - Opposed? Motion passes.  
1142

1143 **REASON:** Acting on a motion by Mr. Mackey, seconded by Mrs.  
1144 Thornton, the Planning Commission voted 5-0 (one abstention) to recommend the Board  
1145 of Supervisors deny the request because it does not conform to the recommendation of  
1146 the Comprehensive Plan nor the Plan's goals, objectives, and policies and it could have  
1147 a precedent setting impact on existing land uses in the area.  
1148

1149 Mr. Emerson - Mr. Chairman, we now move on to Page 3 of your agenda for  
1150 REZ2023-00009, Andrew M. Condlin for Union Tower LLC/Philip Nickles.  
1151

1152 **REZ2023-00009 Andrew M. Condlin for Union Tower LLC/ Philip Nickles:**  
1153 Request to amend proffers accepted with C-74C-87 on Parcel 747-757-3086 located at  
1154 the northeast intersection of Three Chopt Road and Cox Road. The applicant proposes  
1155 to amend proffers to allow a drive-thru restaurant. The existing zoning is B-2C Business  
1156 District (Conditional). The 2026 Comprehensive Plan recommends Commercial  
1157 Concentration.  
1158

1159 The staff report will be presented by Mr. Seth Humphreys.  
1160

1161 Mr. Witte - Mr. Humphreys.  
1162

1163 Mr. Humphreys - Good evening again Mr. Chairman, members of the Planning  
1164 Commission. As stated, this is a request to amend proffers accepted with conditional  
1165 rezoning case C-74C-87 in order to allow for a drive thru restaurant. The current proposal  
1166 is for Dunkin' Donuts Go. The site, located at the Northeast intersection of Three Chopt  
1167 and Cox Roads, was developed as a shopping center (Tower Plaza) in 1987. Other  
1168 existing tenants of the shopping center include restaurants, a paint store, a martial arts  
1169 gym, and a tutoring academy. The site is currently zoned B-2C Business District. Across  
1170 the intersection of Three Chopt Rd. and Cox Rd. to the west is a gas station with a  
1171 convenience store. To the southwest is a restaurant and a private pre-kindergarten and  
1172 kindergarten school, and southeast is a smaller shopping center and two residential  
1173 homes on acre lots zoned A-1. To the northeast is a county elevated water tank. Across  
1174 Cox Rd to the northwest is The Crossings at Short Pump Apartments.  
1175

1176 The applicant proposes to add a new 1,400-square-foot building and remove 37 parking  
1177 spaces in the northwest corner of the site. Shown here. Removal of the parking spaces  
1178 would accommodate the structure, two drive-through lanes, a dumpster enclosure, and a  
1179 striped partition. Here. In addition to the proffered concept plan, architectural elevations  
1180 have been submitted. These elevations are consistent with the proffer language in  
1181 Proffers 1 and 7 requiring exterior elevations to be compatible with the existing shopping  
1182 center. Amendments to Proffer 6 would ensure that the existing mature landscape buffer  
1183 along Cox Rd., which is approximately 30' in width, would be retained, and the existing  
1184 trees would not be removed.  
1185

1186 The 2026 Comprehensive Plan recommends Commercial Concentration for the subject  
1187 site. The existing zoning is consistent with this designation, The proposed amendments  
1188 would not significantly change the intent of the proffers, especially as other commercial

1189 uses have been developed around it and the proffers still ensure the level of quality in the  
1190 existing shopping center is maintained. For these reasons, staff supports this request.  
1191 This ends my presentation. I'd be happy to take any questions.  
1192

1193 Mr. Witte - Is there anyone in the audience or on Webex that would like  
1194 to speak to this case? Anybody within the Commission want to...?  
1195

1196 Mrs. Thornton - I'd like to hear from Andy and then the parking. I want to make  
1197 sure we still have enough parking for all of the other uses.  
1198

1199 Mr. Condlin - Yes ma'am. My name is Andy Condlin and on behalf of the  
1200 applicant. We did look at what I think it was on our pre-application that was the initial  
1201 concern. We'd done an analysis that we do not need to require parking, even with taking  
1202 out the spaces, to be able to accommodate the new building as well as the existing  
1203 shopping center. It was overparked by quite a few spaces to begin with. So, this is actually  
1204 taking those additional parking spaces. So, we see that and the manager of the shopping  
1205 center and the owner are comfortable that the necessary parking still exists. There's a  
1206 practical marketing part but we also meet the code. I wanted this to be on the expedited  
1207 agenda but yeah. I'm sorry, I forgot to ask. I was so busy this week I didn't actually send  
1208 the request in. I don't have a presentation otherwise.  
1209

1210 Mrs. Thornton - I also wanted, I know but just so everybody on the  
1211 Commission knows that you will have a walk-up window too. Correct?  
1212

1213 Mr. Condlin - They will be able to accommodate that. They don't have a  
1214 pathway or sidewalk here but that's the only issue. But they will accommodate walk-ups  
1215 and online orders if someone wants to, but they don't have a walkway at this point. No  
1216 ma'am.  
1217

1218 Mrs. Thornton - Okay, well that might be something we'll have to...  
1219

1220 Mr. Baka - Are the hours of operation specified? Morning rush?  
1221

1222 Mr. Condlin - No, we don't have any specific hours other than what's  
1223 allowed for them under the B-2.  
1224

1225 Mr. Baka - Under B-2. Okay. Fair enough. Thanks.  
1226

1227 Mrs. Thornton - And I can tell you the one over on Lauderdale. It's just until  
1228 2:00 and they're really...  
1229

1230 Mr. Condlin - Same with John Rolfe. It goes until the evening but not very  
1231 long.  
1232

1233 Mrs. Thornton - Does anybody else have any comments, questions?  
1234



1235 Mr. Condlin - Sorry, I don't have more of a presentation.  
 1236  
 1237 Mrs. Thornton - Mr. Condlin's beautiful presentation of the parking lot. Do you  
 1238 have anything for Mr. Condlin? Okay, with that, Mr. Chairman, I move that we recommend  
 1239 approval of REZ2023-00009, Union Tower, LLC/Philip Nickles with the proffers dated  
 1240 March 28, 2023.  
 1241  
 1242 Mr. Baka - Second.  
 1243  
 1244 Mr. Witte - We have a motion by Mrs. Thornton, a second by Mr. Baka.  
 1245 All in favor say aye.  
 1246  
 1247 Commission - Aye.  
 1248  
 1249 Mr. Witte - Opposed? Motion passes.  
 1250  
 1251 **REASON:** Acting on a motion by Mrs. Thornton, seconded by Mr. Baka,  
 1252 the Planning Commission voted 5-0 (one abstention) to recommend the Board of  
 1253 Supervisors grant the request because the business use is compatible with the  
 1254 surrounding development.  
 1255  
 1256 Mr. Emerson - Mr. Chairman, moving onto the next case on Page 3 of your  
 1257 agenda. We have REZ2023-00008, Sledd Properties, LLC.  
 1258  
 1259 **REZ2023-00008 Sledd Properties, LLC:** Request to amend proffers accepted with  
 1260 C-35C-91 on Parcel 753-759-5245 located approximately 400' from the northwest  
 1261 intersection of W. Broad Street and Stillman Parkway. The applicant proposes to amend  
 1262 proffers regarding use restrictions to allow health clubs and video arcades. The existing  
 1263 zoning is B-2C Business District (Conditional). The 2026 Comprehensive Plan  
 1264 recommends Commercial Arterial.  
 1265  
 1266 The staff report will be presented by Mr. Michael Morris  
 1267  
 1268 Mr. Witte - Is there anybody in the audience who would like to speak on  
 1269 this case? We have one.  
 1270  
 1271 Mr. Sledd - Yes, sir.  
 1272  
 1273 Mr. Witte - Hang on. Alright, Mr. Morris.  
 1274  
 1275 Mr. Morris - I should say that is the applicant.  
 1276  
 1277 Mr. Sledd - Yes.  
 1278  
 1279 Mr. Witte - Oh, do you want to speak?  
 1280

1281 Mr. Sledd - I can if I need to.  
 1282  
 1283 Mr. Witte - We'll see.  
 1284  
 1285 Mr. Emerson - Just wait a second.  
 1286  
 1287 Mr. Witte - All yours.  
 1288  
 1289 Mr. Morris - Alright, thank you, Mr. Chairman. This is a request to amend  
 1290 proffers originally accepted with rezoning case C-35C-91 to allow additional uses on a  
 1291 portion of the Broad Street Plaza Shopping Center. The subject property is located on W.  
 1292 Broad Street west of its intersection with Stillman Parkway and is zoned B-2C Business  
 1293 District (Conditional). Surrounding uses include the remainder of the Broad Street Plaza  
 1294 Shopping Center to the south, east and west. To the east is a Tesla dealership and to  
 1295 the south across W. Broad Street is a larger shopping center, both zoned B-3C Business  
 1296 District (Conditional).  
 1297  
 1298 The applicant is requesting to amend proffers related to allowed uses. These requested  
 1299 changes would remove existing prohibitions on video games as well as gymnasiums,  
 1300 sport or health clubs or spas. With the revised proffers distributed this evening, the  
 1301 applicant has provided a prohibition on gambling or lottery type machines. The applicant  
 1302 is also proposing the removal of Proffer #5, with the original proffers or original rezoning  
 1303 case which regulated automobile and stereo installation services conducted by Circuit  
 1304 City, a former tenant of the shopping center. I should note that these amendments would  
 1305 only apply to the subject property and the remainder of the shopping center would  
 1306 continue to be regulated by the original proffers. While the proffer amendments would  
 1307 allow additional uses on the subject property, the site would still be subject to B-2  
 1308 ordinance standards, which would continue to limit hours of operation, set parking  
 1309 standards, and prohibit more intensive uses. Additionally, all remaining proffers  
 1310 associated with the original rezoning would remain in place on the subject property.  
 1311 Proposed amendments would allow for uses consistent with other properties found in the  
 1312 W. Broad Street corridor and are not anticipated to adversely impact the surrounding  
 1313 area. This request is consistent with the property's 2026 Comprehensive Plan  
 1314 Commercial Arterial designation, a category meant to accommodate a variety of retail  
 1315 sales and service establishments. Lastly, the amended proffers would continue to ensure  
 1316 quality development and compatibility with the surrounding commercial uses. For these  
 1317 reasons, staff supports this request. I will note that time limits will not need to be waived  
 1318 for those proffers distributed this evening. This concludes my presentation. I'm happy to  
 1319 try and answer any questions you may have at this time.  
 1320  
 1321 Mr. Witte - Any questions by the Commission?  
 1322  
 1323 Mr. Branin - I've got a couple. Real quick. Is this the old Michaels?  
 1324  
 1325 Mr. Morris - I believe. Yes, sir.  
 1326

1327 Mr. Branin - He wants to....  
 1328  
 1329 Unknown speaker - inaudible  
 1330  
 1331 Mr. Branin - Okay, he wants to allow health clubs and video arcades?  
 1332  
 1333 Mr. Morris - Yes, I believe that they have a tenant in mind who has video  
 1334 games as a part of their business model but my understanding is it wouldn't be strictly an  
 1335 arcade.  
 1336  
 1337 Mr. Branin - Okay.  
 1338  
 1339 Mr. Witte - Just to be clear. Proffer 18, the video games is the only thing  
 1340 on line "A" that he's asking to allow?  
 1341  
 1342 Mr. Morris - Correct. They also, they have...  
 1343  
 1344 Mr. Witte - Now, on line "I" he's asking for a possibility of a gymnasium,  
 1345 sport or health club or spa?  
 1346  
 1347 Mr. Morris - For line "A", correct. They are removing the prohibition of  
 1348 video games from line A but the existing line "I" being gymnasium, sport or health club or  
 1349 spa. They are requesting removal of that prohibition as well.  
 1350  
 1351 Mr. Witte - Now are we dividing this part of the shopping center into  
 1352 several different. So, if I'm understanding this it will all be either video games, all  
 1353 gymnasium or all health club.  
 1354  
 1355 Mr. Emerson - It could be a mixture of those things.  
 1356  
 1357 Mr. Witte - That's what I wanted to make sure.  
 1358  
 1359 Mr. Sledd - It actually wouldn't affect anything.  
 1360  
 1361 Mr. Witte - Can you state your name please?  
 1362  
 1363 Mr. Sledd - Oh, sorry. Adam Sledd. Do I give you my home address? You  
 1364 said address.  
 1365  
 1366 Mr. Witte - It doesn't matter.  
 1367  
 1368 Mr. Sledd - I'm a Henrico resident.  
 1369  
 1370 Mr. Witte - That was neither.  
 1371



1372 Mr. Sledd - This doesn't affect any current tenants. We've owned this  
1373 building for 20 years. It's currently broken up into four spaces and Michaels is still the  
1374 largest space. They still have five years left on their current term. However, when we have  
1375 had to lease space over that 20 years. I understand in 1991 or when the proffers were  
1376 written we didn't have health club type uses or gym type uses in retail centers or much. I  
1377 guess I was younger then. I think now we see a lot of like Gold's Gym, or other or like a  
1378 rowing or other types of fitness uses and so from our perspective the request was just in  
1379 the future when we need to lease the space again whether it's the 10,000 square foot  
1380 space or the 16,000 square foot space we would like to be able to do to a gym-type use  
1381 the same as most other retail centers that we compete with up and down Broad Street.

1382  
1383 Mr. Witte - Now, do you have interested parties in this location?

1384  
1385 Mr. Sledd - Yes. So, we actually have a signed lease now on what had  
1386 been the old Golf Galaxy space. That's more like a kid's birthday party entertainment use.  
1387 So we have it for now. This is more just kind of thinking to the future of the building and  
1388 having gone through several cycles of trying to find new tenants. It has taken sometimes  
1389 three years to find a new tenant for the space. Again, anything we can do to give us more  
1390 options in terms of tenants we can have would be helpful. While staying within the bounds  
1391 of what you are attempting to do from a zoning perspective.

1392  
1393 Mr. Witte - I have no other questions. Anyone else? Thank you, Mr.  
1394 Sledd.

1395  
1396 Mr. Sledd - Thank you.

1397  
1398 Mr. Witte - With that being said I move that REZ2023-00008, Sledd  
1399 Properties move to the Board of Supervisors with the recommendation of approval.

1400  
1401 Mr. Baka - Second.

1402  
1403 Mr. Witte - We have a motion by Mr. Witte, a second by Mr. Baka. All in  
1404 favor say aye.

1405  
1406 Commission - Aye.

1407  
1408 Mr. Witte - Opposed? Motion passes.

1409  
1410 **REASON:** Acting on a motion by Mr. Witte, seconded by Mr. Baka, the  
1411 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors  
1412 grant the request because the change in business use is consistent with the  
1413 Comprehensive Plan recommendations and it is not expected to adversely impact  
1414 surrounding land uses in the area

1415  
1416 Mr. Emerson - Mr. Chairman, we now move on to the next item on your  
1417 agenda also appearing on Page 3. Which is the consideration of the approval of your

1418 minutes that include the Capital Improvement Program and Regular meeting hearing  
1419 conducted on March 9, 2023.

1420  
1421 Mr. Witte - Do we have a motion?

1422  
1423 Mr. Baka - So moved.

1424  
1425 Mr. Mackey - Second.

1426  
1427 Mr. Witte - We have a motion by Mr. Baka, a second by Mr. Mackey. All  
1428 in favor say aye.

1429  
1430 Commission - Aye.

1431  
1432 Mr. Witte - Opposed? Motion passes.

1433  
1434 Mr. Emerson - Mr. Chairman, I have nothing further for the Commission this  
1435 evening.

1436  
1437 Mr. Witte - Anybody else? Adjourned.

1438  
1439  
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1444  
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\_\_\_\_\_  
Mr. Robert H. Witte Jr., Chairperson  
\_\_\_\_\_  
Mr. R. Joseph Emerson, Secretary