

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary  
3 Spring Roads at 7:00 p.m., on December 9, 1999, Display Notice having been published in the  
4 Richmond Times-Dispatch on Thursday, November 18, 1999, and Thursday, November 25,  
5 1999.

6  
7 Members Present: Elizabeth G. Dwyer, C.P.C., Chairwoman, Tuckahoe  
8 Ernest B. Vanarsdall, C.P.C., Vice-Chairman Brookland  
9 C. W. Archer, C.P.C., Fairfield  
10 Debra Quesinberry, Varina  
11 Mary L. Wade, Three Chopt  
12 James B. Donati, Jr., Board of Supervisors, Varina  
13 John R. Marlles, AICP, Secretary, Director of Planning  
14

15 Others Present: Richard E. Kirkland, Chairman, Board of Zoning Appeals  
16 Randall R. Silber, Assistant Director of Planning  
17 Ben Blankinship, Principal Planner  
18 Elizabeth S. Via, Principal Planner  
19 Mark Bittner, County Planner  
20 Lee Householder, County Planner  
21 Jo Ann Hunter, County Planner, AICP  
22 Eric Lawrence, County Planner, AICP  
23 Judy Thomas, Recording Secretary  
24

25 Ms. Dwyer - The Commission just finished a work session upstairs. We were  
26 looking at a land use study on the Broad Street/Pump Road area, and we completed our work  
27 session. I believe we have another work session to discuss, before we begin our cases. So, if  
28 some of you are here for cases that are on our agenda, tonight, those will begin at 7:30 p.m.  
29 Beginning at 7:07 p.m., we will address the work session that relates to Board of Zoning Appeals  
30 Ordinance Amendment. We do have a quorum.

31  
32 Mr. Marlles - Madam Chairman, members of the Commission, we do have a  
33 quorum, tonight. The first item on the agenda is an amendment to the County Zoning Ordinance.  
34

35 **AMENDMENT TO ZONING ORDINANCE:**

36 AN ORDINANCE to amend and reordain Section 24-116 of the Code of the County of Henrico,  
37 entitled "Powers," to clarify the powers of the Board of Zoning Appeals with respect to granting  
38 variances and temporary use permits.  
39

40 Mr. Ben Blankinship, our Zoning Administrator, is going to be presenting those amendments. I  
41 would tell the Commission that staff is recommending that no action be taken on this item,  
42 tonight. We do expect additional proposals to come before the Commission. So, again, even  
43 though this has been advertised as a public hearing, we are not recommending action tonight.  
44

45 Ms. Dwyer - Thank you, very much. Are you ready? Good evening.  
46 Mr. Ben Blankinship, Zoning Administrator - Thank you, Mr. Marlles. Madam Chairman,  
47 members of the Commission, I'm here, as Mr. Marlles said, to present the amendments that the  
48 staff has drafted to Section 24-116, addressing the powers and the duties of the Board of Zoning  
49 Appeals.

50  
51 We had a work session on this, about a month ago, but let me just briefly recap the genesis of this  
52 process. There were two cases before the Board of Zoning Appeals requests for temporary use  
53 permits, over the last year that have caused concern by the Board members and by the staff.

54  
55 One of those was a case where a 24-month temporary use permit had been issued, had run its  
56 course, and then the applicant asked for an extension of the 24-month permit for a second 24-  
57 month period.

58  
59 The Ordinance was not clear on whether an extension was permissible. Staff felt that the intent of  
60 the ordinance was only to allow 24 months. And, if it was going to be any longer than that, you  
61 should go through a different process.

62  
63 The applicant felt like they should get as many 24-month extensions as the Board of Zoning  
64 Appeals was willing to grant. So, we brought that question before the Board of Zoning Appeals.  
65 They decided, on that particular case, to allow the hearing of an extension, but they asked,  
66 specifically, for the staff to address the Commission and the Board of Supervisors about whether  
67 that section of the Ordinance needed to be amended.

68  
69 Then we had a second case later this year in which a request was made for a temporary  
70 telecommunications tower. Not a "cell on wheels" that would be out there for the weekend that  
71 has been done in several cases. The original request was for two years to have a  
72 telecommunications tower in place while the service negotiated for a permanent location for that  
73 tower.

74  
75 Well, since the Board of Supervisors had already established a Provisional Use Permit process for  
76 hearing of all telecommunications towers, staff was very uncomfortable with having two different  
77 processes. The tower might go one way or the other.

78  
79 And, so, the Planning Staff and the County Attorney's office worked together to study the powers  
80 of the BZA; specifically, the temporary conditional use permit powers. As we were studying that  
81 section of the ordinance, the County Attorney's Office noticed that, where the Board is given the  
82 power to grant variances, the County Ordinance and the State Code are not exactly the same.  
83 There were some discrepancies between the two. Since that power comes directly from the State  
84 Code powers to the County, it was felt, if we were going to have that Code in two different  
85 locations, they ought to be identical.

86  
87 So, the package that's before you, tonight, is, essentially, three things: The first part, about the  
88 first four pages of the draft, and I'll go through this paragraph by paragraph. The first several

89 pages address the powers to grant variances. And the amendments that have been proposed to  
90 that are simply to bring the County Code and the State Code into line.

91 The second point has to do with the temporary use permits, whether they can be granted for more  
92 than 24 months.

93  
94 And, the third point, is setting a different standard for which uses can receive temporary use  
95 permits.

96  
97 So, let's go ahead and begin on the first page, 24-116 Powers. The Board shall have the  
98 following powers: Paragraph A there, the power to hear appeals. It is a very minor change.  
99 Right now, the County Code specifies appeals from the Director of Planning; State law is clear  
100 that any decision by an administrative officer, under the authority of the Director of Planing, can  
101 be appealed to the BZA. That's just a minor clarification.

102  
103 Beginning with Paragraph B, there, you see the section on variances. This is where the County  
104 Ordinance gives the Board of Zoning Appeals the authority to grant variances.

105  
106 The second and third paragraphs, the one beginning, "As defined in Code 15.2," and the one  
107 beginning, "...The Board is only authorized..." those are new paragraphs taken from the State  
108 Code in order to make the County Code consistent with the State Code.

109  
110 And, then on Page 2, in the Paragraph numbered 1, the specific findings that the Board has to  
111 make are slightly different in the County Code and the State Code. Again, they are minor  
112 changes in the language there, so that the two will be identical. The same thing is true under "2".  
113 Point A is not listed in the County Code at all now and needs to be. "B" is worded slightly  
114 differently, and "C" is worded slightly differently.

115  
116 And, then on Page 3, the paragraph numbered 5 does not occur now in the County Code. It is in  
117 the State Code. So, we're going to recommend putting it there, as well, just to keep the two  
118 consistent.

119  
120 Ms. Dwyer - Mr. Blankinship, there appears to be a change in No. 4, as well?

121  
122 Mr. Blankinship - Yes. You're right. The end of that sentence is a little bit different,  
123 again, in the County Code, from the way it is in the State Code. This change would make them  
124 identical. Thank you for bringing that up.

125  
126 Then, on Paragraph C, to hear and decide appeals from the Director of Planning, that's very  
127 similar to Paragraph A.

128  
129 Then, "D" is where the other set of changes, the substantive changes, begin. Up to this point,  
130 they really have just been minor corrections to the language. But, here, the changes are  
131 substantial.

132

133 Beginning on Page 3, at Letter D, “To hear and decide applications for conditional use permits  
134 authorized elsewhere in this Chapter. In considering an application for a conditional use permit,”  
135 Those two changes are from “Special Exception” to “Conditional Use Permit”, just to clarify  
136 what would otherwise be a little ambiguous.

137  
138 Then on Page 4, at the top of the page, you have another one of these minor changes, “...that the  
139 Board should find that the proposed use or structure will be in substantial accordance with the  
140 Goals and Objectives of this Chapter.” The current wording is slightly different from that.

141  
142 And, then down at the bottom, there are a couple more very minor changes where the word,  
143 “conditional” has been inserted to clarify what kind of use permit, and then clarifying that  
144 financial guarantees have to be satisfactory to the County Attorney. And, of course, that’s  
145 satisfactory in form.

146  
147 Now, beginning with Paragraph E, “The power to grant special exceptions authorized by this  
148 section after notice and hearing, as provided in the Code, the Board shall apply the criteria set  
149 forth above for conditional use permits in considering applications for Special Exceptions. The  
150 Board may impose such conditions relating to the use for which a Special Exception is granted, as  
151 it may deem necessary in the public interest, including limiting the duration of the special  
152 exception. The Board may also require a financial guarantee satisfactory to the County Attorney  
153 to ensure that the conditions imposed are being, and will continue to be complied with.” So,  
154 that’s just clarifying special exceptions, which are about to be listed, would follow the same  
155 procedure as conditional use permits that were addressed above.

156  
157 Now, beginning here in the middle of Page 5, “Special Exceptions may be granted in the  
158 following limited situations:” Now, right now, the current Ordinance allows the BZA to grant a  
159 temporary use permit for any use that is not specifically permitted as long as it is temporary;  
160 “Temporary, “ being defined as 24 months or less. And the breadth of that statement is what has  
161 given rise to the confusing cases that I mentioned at the beginning of this presentation.

162  
163 So, here we would be limiting that. Paragraph 1, “The temporary use permit shall comply with  
164 the following requirements:” It shall comply so there’s no decision to be made there. Point A,  
165 “The use or structure must be of a temporary nature.” And, “B, the temporary use may not  
166 involve the erection of substantial or permanent structures.” Right now, the code says,  
167 “Substantial or permanent buildings.” And, the word, “structures” is somewhat broader than  
168 buildings. And, that was critical, again, in the case with the telecommunications tower. A tower  
169 is a structure, but it’s not a building. So, by saying that they could not approve something for a  
170 substantial building, that allowed them a substantial structure, which was the telecommunications  
171 tower. By changing this, we would correct problems of that nature.

172  
173 Then, Point C, its that specific case. “The use may not be a communications tower of any kind,  
174 or one for which a Provisional Use Permit is required.” In a staff meeting just yesterday, we  
175 talked about clarifying that. It should say, “The use may not be a communications tower of any  
176 kind or any use for which a Provisional Use Permit is required.” And that’s a really substantial

177 change, because if something is listed in the ordinance as being permitted by Provisional Use  
178 Permit, that use needs to go through the Planning Commission to the Board of Supervisors, and  
179 should not, in any case, be heard by the Board of Zoning Appeals, because there is already a  
180 process in place for that. And, we don't want to have this split process that we had earlier this  
181 year.

182  
183 And Paragraph D, "The temporary use or use of the temporary structure cannot continue more  
184 than 24 months, including all renewals and extensions by the Board." And that language clarifies  
185 the case that I also mentioned at the beginning of the presentation for somebody who had come in  
186 for an extension after their 24 months had run.

187  
188 If this language is adopted, this would not be allowed. We would know that, after 24 months,  
189 there is no renewal of a temporary use permit. They have to find some other process.

190  
191 Paragraph E, "The temporary use shall not include the sale, rental, distribution or showing of  
192 materials depicting specified anatomical areas or specified sexual activities." Earlier this year,  
193 we've been through a lot of process of amending the ordinance to regulate adult video stores and  
194 adult book stores. This is just making clear that none of those uses would be allowed by  
195 temporary use permit either, because of their sensitive political nature.

196  
197 Paragraph F, starting on Page 6, "The temporary use permit may not allow business or  
198 commercial activity in a residential district other than a temporary real estate sales trailer." I  
199 think that's clear enough, that if something is of a commercial nature, we don't want it going on  
200 in residential neighborhoods without that having gone through the Board of Supervisors and to the  
201 Commission for a rezoning, or in the higher density districts, certain commercial uses are allowed  
202 by Provisional Use Permit. But we don't want them allowed by temporary use permit without  
203 going through those proper procedures.

204  
205 And, finally, Paragraph G, "The Board shall impose any conditions necessary to protect the  
206 public health, safety and welfare."

207  
208 And, that's the end, again, of the really substantive changes. There are a few more minor  
209 changes. Paragraph 4 on that page says, "Uses which do not have the minimum road frontage  
210 required by this chapter..." Right now, the Board of Zoning Appeals hears a fair number of  
211 variances; about ten to fifteen variance cases a year for property that does not meet the public  
212 street frontage requirement. They are almost all, someone wants to build a single-family  
213 residence on those lots.

214  
215 There was some question internally about whether that's really an appropriate case for a variance,  
216 because the State Code definition of a variance doesn't specifically include that sort of a case.  
217 And, by allowing a special exception, rather than a variance, that case would still go to the Board  
218 of Zoning Appeals, but it would be heard under a different set of rules, making it a little bit more  
219 clear how the Board is to hear those cases and what standard of evidence they're supposed to  
220 apply.

221  
222 And, Paragraph F, there's a minor change clarifying the notice requirements. And, again, taking  
223 language straight out of the Code, "The Board shall not have", that's the Board of Zoning  
224 Appeals, "shall not have the power to change substantially the location of district boundaries as  
225 established by Ordinance." That's just again to keep the County Code and the State Code in line.  
226 That statement is in the State Code and has not heretofore been in the County Code.

227  
228 Then, finally, specifically giving the Board of Zoning Appeals the authority to revoke a  
229 conditional use permit or a Special Exception if the Board determines that there has not been  
230 compliance with its terms or conditions. "No conditional use permit or special exception shall be  
231 revoked except after notice and hearing, as provided by Virginia Code 15.2-2204."

232  
233 And then the final paragraph there, again, has to do with the notice provisions. It is what we  
234 have been doing and what is already stated in the State Code. We're just bringing it over into the  
235 County Code so the two sections will match exactly.

236  
237 That is the extent of what we have to present to you, tonight. Those are the amendments to 24-  
238 116. Now, as we were going through those amendments, I just want to make you aware of this  
239 because we will be bringing to you some more amendments in the next month or two. As we  
240 were going through this process, we noticed there were a few things that if we changed them in  
241 24-116, we were going to have to make other changes elsewhere in the Ordinance.

242  
243 For example, right now, the Board of Zoning Appeals has, on fairly rare occasions, but has heard  
244 variance requests for the number of parking spaces required. The State Code does not specifically  
245 authorize them to grant variances for that purpose. That's been done sort of by inference by  
246 interpretation.

247  
248 We want to make it clear that those cases should not go through the variance procedure. So, we  
249 want to allow another procedure for those cases to still go through the BZA. Just sort of a legal  
250 technicality. But to make the one change in 24-116, we have to make another change in the  
251 parking section of the ordinance.

252  
253 And, that's why we've asked you to defer any decision on the amendments to 24-116. We want  
254 to finish drafting the other amendments so that we can present them all to you at one time, and  
255 you can see how the pieces relate to each other, and how changing something in one place results  
256 in a different change to another place.

257  
258 And, that's the end of my remarks. Are there any questions?

259  
260 Ms. Dwyer - Are there any questions of Mr. Blankinship by Commission  
261 members?

262  
263 Mrs. Wade - Could you expand a little bit about the difference between the  
264 Conditional Use Permit and the Special Exception...?

265  
266 Mr. Blankinship - Conditional use permits are listed in each zoning district. There are  
267 specific uses listed in each district. It says the Board of Zoning Appeals may grant a conditional  
268 use permit for that use. And Special Exceptions are those things that are not listed elsewhere.  
269 That's the short version.  
270 Mr. Archer - Mr. Ben Blankinship, the section that deals with temporary use, not  
271 continuing more than 24 months, is it pretty standard to use the 24 months all the time? Is that  
272 why that came up? Could there be an instance where it could be granted for 6 months or 12  
273 months, or whatever?  
274  
275 Mr. Blankinship - They can certainly be granted for less. Yes, and have been on  
276 several occasions. In fact, the tower that I mentioned earlier was granted for one year, rather  
277 than two.  
278  
279 Ms. Dwyer - Where in the Code now does it talk about the Conditional Use  
280 Permit and the BZA process for that, or does it?  
281  
282 Mr. Blankinship - I think that's where we get into one of those linguistic things. It's  
283 called a "Conditional Use Permit for Special Exception," or a "Special Exception by Conditional  
284 Use Permit." It kind of runs the two concepts together.  
285  
286 Ms. Dwyer - And so you separated those two. And now, you've made a  
287 distinction?  
288  
289 Mr. Blankinship - Right.  
290  
291 Ms. Dwyer - So, that whole aspect of this is new as well; the dividing the Special  
292 Exception?  
293  
294 Mr. Blankinship - The way that it's stated. The powers don't actually change. It is  
295 just more clear. The terms are used more consistently.  
296  
297 Ms. Dwyer - So, the effect of that will be to change, I guess, the terms under  
298 which the Board of Zoning Appeals would evaluate a case and make a decision.  
299  
300 Mr. Blankinship - In certain cases.  
301  
302 Ms. Dwyer - ...so it is a substantive change also?  
303  
304 Mr. Blankinship - In some cases.  
305  
306 Ms. Dwyer - You said this originated from staff and the...Board. Have you met  
307 with the BZA?  
308

309 Mr. Blankinship - We have not yet had an opportunity to brief them in full. This draft  
310 is still in progress, as a matter of fact. We are going to discuss it with them some more next  
311 Thursday. They have a meeting next Thursday.

312  
313 I discussed it just very, very briefly last month, which is why Mr. Kirkland, the Chairman, of the  
314 BZA is in the audience.

315 Ms. Dwyer - So, we may have some other amendments to consider next month  
316 that may be generated by that?

317  
318 Mr. Blankinship - Yes ma'am.

319  
320 Ms. Dwyer - All right. Any other questions by Commission members?

321  
322 Mr. Vanarsdall - Does Mr. Kirkland have any questions? Do you want to say  
323 anything?

324  
325 Mr. Kirkland - I'm fine.

326  
327 Ms. Dwyer - This is a public hearing, if there is no more questions by  
328 Commission members. We invite anyone that is here this evening to come to the podium and  
329 speak on this subject. There appears to be no interest from the public on this Ordinance proposal  
330 this evening. So, the Commission needs to decide when we will next hear this at a Public  
331 Hearing. We have a really big agendas in January and February to discuss that here. So, I  
332 wonder, Mr. Blankinship, what your thoughts are. You have given us a good overview of this,  
333 tonight. Do you expect a number of changes to this the next time we hear it, or it will just be  
334 tweaking what we're already reviewed?

335  
336 Mr. Blankinship - Perhaps I should let Mr. Marlles answer that. After yesterday's  
337 meeting with the County Manager and the County Attorney, and other staff, I think there could be  
338 some substantial changes.

339  
340 Ms. Dwyer - Some...full hearing again?

341  
342 Mr. Marlles - We will need to readvertise as well.

343  
344 Ms. Dwyer - All right. Any thoughts from Commission members about when  
345 we should hear this? The Zoning Meeting in January, the POD meeting in January, or put it off  
346 until February? What kind of timeframe is the staff looking at?

347  
348 Mr. Blankinship - I don't believe we're in a great hurry. We don't have any pending  
349 issues that we're trying to resolve with this.

350  
351 Ms. Dwyer - I'm thinking maybe the POD meeting in January would be—This is  
352 not a subject that there's a great deal of public involvement. It's a fairly technical procedure...

353  
354 Mr. Marlles - Staff concurs with that as well.  
355  
356 Ms. Dwyer - So, shall we, then, take this matter up again at our January POD  
357 meeting? Is there a motion to that effect?  
358  
359 Mrs. Quesinberry - I move that the Commission take up the Board of Zoning Appeals  
360 Ordinance at the January POD meeting.  
361  
362 Mr. Vanarsdall - Are we going to have a time, Madam Chairman, or we just right  
363 now, just put it on there? I second the motion? We'll set a time later.  
364  
365 Ms. Dwyer - We can do it after our cases. Does 1:00 o'clock sound reasonable?  
366  
367 Mr. Marlles - That's fine.  
368  
369 Mrs. Wade - What date is it supposed to be?  
370  
371 Mr. Archer - The 26<sup>th</sup>, I believe.  
372  
373 Ms. Dwyer - Definitely on the 26<sup>th</sup>, tentatively at 1:00 o'clock. Okay. Motion  
374 made by Mrs. Quesinberry, seconded by Mr. Vanarsdall. All in favor of the motion, say aye—all  
375 those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.  
376 Thank you very much, Mr. Blankinship. Okay, next item on the agenda.  
377  
378 Mr. Marlles - Madam Chairman, the next items on the agenda would be the  
379 requests for deferrals and withdrawals on the 7:30 agenda. Liz Via is going to present that list of  
380 deferrals.  
381  
382 Mrs. Elizabeth Via, Principal Planner - Thank you, Mr. Planning Director and Chairman  
383 Dwyer. We do have several deferral requests this evening. We have five for your 7:30 agenda;  
384 one that we'll need to take up prior to your 8:30 agenda. We do have one case at 8:30 p.m. that's  
385 been requested for deferral.  
386  
387 **C-72C-99 James W. Theobald for Dalriada, L. L. C.:** Request to  
388 conditionally rezone from RTHC Residential Townhouse District (Conditional) to M-1C Light  
389 Industrial District (Conditional), Parcel 58-A-48C, containing approximately 3.588 acres, located  
390 on the northwest line of Gaskins Road approximately 300' south of its southwest intersection  
391 with Three Chopt Road. A mini-storage warehouse facility is proposed. The use will be  
392 controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan  
393 recommends Urban Residential, 3.4 to 6.8 units net density per acre.  
394  
395 Mrs. Via - The first in the Tuckahoe District. The deferral request is to  
396 January 13<sup>th</sup>.

397  
398 Ms. Dwyer - Is any one in the audience opposed to the deferral of Case C-72C-  
399 99? There is no opposition to deferral. So, I move that we defer C-72C-99 to our January...

400  
401 Ms. Via - January 13, 2000.

402  
403 Ms. Dwyer - January 13, 2000 at the applicant's request.  
404 Mr. Vanarsdall seconded the motion.

405  
406 Ms. Dwyer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All  
407 those in favor of the motion to defer the case, say aye—all those opposed by saying nay. The  
408 vote is 5-0 (Mr. Donati abstained).

409  
410 Mrs. Via - The second case in the Varina District is C-73C-98.

411  
412 **Deferred from the September 9, 1999 Meeting:**

413 **C-73C-98 James W. Theobald for W. A. Robins, et. al., Redford 131,**  
414 **L.C., Edward M. Luck, Gerald A. Crigger:** Request to conditionally rezone from A-1  
415 Agricultural District to R-3AC One-Family Residence District (Conditional), Parcels 197-A-  
416 21A, 21B (part), 21C and 22 (part), Parcels 197-1-1-6 (part), 7 and 7A, and Parcels 197-4-A-1,  
417 2 and 3, containing 58.214 acres, located on the north line of Portugee Road (beginning in the  
418 Capes of Portugee Subdivision) approximately 280' east of the intersection of Portugee Road and  
419 Memorial Drive and on the east line of Memorial Drive (beginning in the Gaulding and Orange  
420 Subdivision) approximately 1890' north of the intersection of Portugee Road and Memorial  
421 Drive. A single family residential subdivision is proposed. The applicant has proffered a  
422 maximum density of 2.8 units per acre. The Land Use Plan recommends Rural Residential, not  
423 exceeding 1.0 unit net density per acre, and Environmental Protection Area. The site is also in  
424 the Airport Safety Overlay District.

425  
426 This deferral is to March 9, 2000.

427  
428 Ms. Dwyer - Is there any one in the ordinance opposed to the deferral of Case C-  
429 73C-98 as just read by Mrs. Via? No opposition. Are we ready for a motion?

430  
431 Mrs. Quesinberry - Yes, I'd just like to ask Mr. Theobald before the motion, could you  
432 just tell us briefly why you're asking for the deferral?

433  
434 Mr. Vanarsdall - That's way into the next century, Jim.

435  
436 Mr. James W. Theobald - Ladies and gentlemen, my name is Jim Theobald, here on behalf of  
437 the applicant. As you know, when this case began, we were in the midst of the Williamsburg  
438 Road Overlay District discussion, which were active for awhile and then inactive for awhile.  
439 And, given that Plan has not progressed at this point, we are a little bit at a loss as to how to plan  
440 our property. And, rather, than lose the application fee we had, we're trying to look for ways to

441 comply with whatever the plan is likely to be. And, so, we're trying to keep the application alive,  
442 in order to understand how that area might develop.

443  
444 Mrs. Quesinberry - Good enough.

445  
446 Mr. Theobald - Thank you.

447  
448 Mrs. Quesinberry - I'd like to make a motion to defer Case C-73C-98 to the March 9<sup>th</sup>  
449 agenda at the applicant's request.

450  
451 Mr. Vanarsdall seconded the motion.

452  
453 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall to  
454 defer the case. All those in favor of the motion to defer the case, say aye—all those opposed by  
455 saying nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.

456  
457 Mrs. Via - The next case is C-73C-99.

458  
459 **C-73C-99** **Dean E. Hawkins, ASLA, for Shamin RIC Hospitality, L. C.:**  
460 Request to conditionally rezone from M-1C Light Industrial District (Conditional) and B-3  
461 Business District to M-1C Light Industrial District (Conditional) and B-3C Business District  
462 (Conditional) part of Parcel 163-A-19D, containing 5.0 acres, located on the north line of  
463 Audubon Drive, approximately 500' from the east line of South Airport Drive (State Route 156)  
464 and on the east line of South Airport Drive (State Route 156). A hotel is proposed. The Land  
465 Use Plan recommends Light Industry. The site is in the Airport Safety Overlay District.

466  
467 This deferral has been requested to January 13, 2000.

468  
469 Ms. Dwyer - Is there any one in the audience opposed to deferral of Case C-73C-  
470 99? There is no opposition. We're ready for a motion.

471  
472 Mrs. Quesinberry - I'd like to make a motion to defer Case C-73C-99 to the January  
473 13<sup>th</sup> agenda at the applicant's request.

474  
475 Mr. Vanarsdall seconded the motion.

476  
477 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall to  
478 defer the case. All those in favor of the motion to defer the case, say aye—all those opposed by  
479 saying nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.

480  
481 Mrs. Via - The next case in the Fairfield District is Case C-58C-99.

482  
483 **Deferred from the October 14, 1999 Meeting:**

484 **C-58C-99** **Robert M Atack for Atack Properties, Inc.:** Request to  
485 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District  
486 (Conditional), Parcels 23-A-18 through 20 & Parcel 23-A-22, containing approximately 95.01  
487 acres, located on the north line of Woodman Road at the northern terminus of Jeb Stuart Parkway  
488 approximately 2,500 feet west of Brook Road (U. S. Route 1). A single family subdivision is  
489 proposed. The R-3 District requires a minimum lot size of 11,000 square feet. The Land Use Plan  
490 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

491  
492 The applicant has requested a deferral to February 10, 2000.

493 Ms. Dwyer - Is there any one in the audience opposed to deferral of Case C-58C-  
494 99 Atack Properties? There is no opposition to the deferral. We're ready for a motion.

495  
496 Mr. Archer - Madam Chairman, I move deferral of C-58C-99 to the February  
497 10<sup>th</sup> meeting at the applicant's request.

498  
499 Mr. Vanarsdall seconded the motion.

500  
501 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall to defer  
502 the case. All those in favor of the motion to defer the case, say aye—all those opposed by saying  
503 nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.

504  
505 Mrs. Via - Thank you, Madam Chairman. The last case to be deferred on the  
506 7:30 agenda also in the Fairfield District. This is in addition to the agenda in front of you is Case  
507 C-65C-99.

508  
509 **Deferred from the November 10, 1999 Meeting:**

510 **C-65C-99** **Donald L. Strange-Boston for Steven and Dody Tribble and**  
511 **Charles W. Sanders, Jr. and J. Sanders:** Request to conditionally rezone from B-3C Business  
512 District (Conditional) and R-4 One Family Residence District to B-3C Business District  
513 (Conditional), Parcels 52-A-55 and 56 and part of Parcels 52-A-53 and 54A, containing 1.5706  
514 acres, located on the west line of Mountain Road approximately 275 feet north of its intersection  
515 with North Run Road. Any permitted B-1 use, B-3 Office/Warehouse and Overnight Respite  
516 Care for Adults are proposed. The use will be controlled by zoning ordinance regulations and  
517 proffered conditions. The Land Use Plan recommends Commercial Arterial and Suburban  
518 Residential 2, 2.4 to 3.4 units net density per acre.

519  
520 This deferral has been requested to January 13, 2000.

521  
522 Ms. Dwyer - Is there anyone in the audience opposed to deferral of Case C-65C-  
523 99? There is no opposition to the deferral. We're ready for a motion.

524  
525 Mr. Archer - I move deferral of C-65C-99 to the January 13th meeting at the  
526 applicant's request.

527

528 Mr. Vanarsdall seconded the motion.

529

530 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall to defer  
531 the case. All those in favor of the motion to defer the case, say aye—all those opposed by saying  
532 nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.

533

534 Mrs. Via - Thank you. That concludes the deferrals for the 7:30 agenda. We  
535 will have one case for deferral at 8:30.

536

537 Ms. Dwyer - Which case is that?

538 Mrs. Via - It's also in the Fairfield District. That would be Case C-66C-99  
539 Ralph L. Axselle or Andrew Condlin for Windsor Enterprises. That's a residential single-family  
540 subdivision.

541

542 Ms. Dwyer - Thank you. We'll act on that at 8:30 p.m. All right, Mr.  
543 Secretary.

544

545 Mr. Marlles - Thank you, Madam Chairman. The first case of the evening is in  
546 the Varina District.

547

548 **Deferred from the November 10, 1999 Meeting:**

549 **C-61C-99 Neil Farmer for Willbrook LLC:** Request to conditionally rezone  
550 from A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcels  
551 216-A-55 and 100, described as follows:

552

553 Beginning at a point in the south line of Britton Road, said point being 0.37 miles east of the  
554 intersection of Britton Road and Darbytown Road, thence from said point of beginning along the  
555 south line of Britton Road N89°30'E, a distance of 165.69' to a point; thence leaving Britton  
556 Road S0°30'E, a distance of 435' to a point; thence N89°30'E, a distance of 150' to a point;  
557 thence N0°30'W, a distance of 145' to a point; thence N89°30'E, a distance of 150' to a point;  
558 thence N0°30'W, a distance of 80' to a point; thence N89°30'E, a distance of 210' to a point;  
559 thence S0°30'E, a distance of 80' to a point; thence N89°30'E, a distance of 310' to a point;  
560 thence N0°42'30"W, a distance of 299.71' to a point in the south line of Britton Road; thence  
561 leaving Britton Road N89°30'E, a distance 433'+- to the centerline of the creek; thence along the  
562 creek in a southerly direction as it meanders 1005'+- to a point; thence N83°11'W, a distance of  
563 1557' +- to a point; thence N6°55'E, a distance of 718' to a point in the south line of Britton  
564 Road and the point and place of beginning. said parcel containing 22.0+- acres.

565

566 Mr. Marlles - The staff presentation will be given by Mr. Lee Householder.

567

568 Ms. Dwyer - Good evening, Mr. Householder. Is there any one in the audience  
569 in opposition to Case C-61C-99 Neil Farmer for Willbrook, L.L.C.? We do have opposition.  
570 Thank you. Our procedure is to hear from staff first, and then from the applicant, and then from  
571 the opposition. So, we'll be calling on you later.

572  
573 Mr. Lee Householder, County Planner - Thank you, Madam Chairman. This request was before  
574 the Commission on November 10, 1999. At that time, many residents, in the surrounding  
575 properties spoke in opposition to the case, based upon their concerns about inadequate drainage  
576 in the area.

577  
578 I'd like to quickly recap where this is. I have an aerial shown up on the screen (referring to  
579 slide). It's 22 acres from A-1 Agricultural District to R-2AC One Family Residence District  
580 (Conditional) and it is requested for the development of a single-family subdivision. The property  
581 lies just above the Henry Ward Elementary School, which is pointed right there (referring to  
582 slide). And it includes five residential homes here (referring to slide). Mostly, the point I want  
583 to make is, all the surrounding properties are zoned A-1 currently.

584  
585 The applicant has submitted a preliminary layout for this case which shows their proposed  
586 subdivision. This is not a proffered layout, but it shows 22 lots and a 23<sup>rd</sup> lot that fronts on  
587 Britton Road. It also shows a 3.9-acre area of open space in the northeast corner of the property.

588  
589 Since the last Commission meeting, the applicant has met with surrounding property owners and  
590 residents in the area. Also, since the last meeting, the Public Works Department has had an  
591 opportunity to review the drainage in this area.

592  
593 Today, I received a memo, that was handed out to you all. It addresses a number of their  
594 concerns. I would like to go over some of the results of that.

595  
596 We're trying to zoom out. We have a map on the screen. In the pink area (referring to slide) is  
597 the proposed subdivision. And the structures, basically, you can see the footprints of the  
598 structures in the area. On Tuesday of this week, Public Works field checked this area, and they  
599 found an existing 15" concrete pipe that is located right in this location here.

600  
601 This pipe feels the drainage for 258 acres that flow, basically; all this area drains through this one  
602 pipe. They found that pipe to be clogged with debris at that time. And, they also noticed that this  
603 area (referring to slide) within the open space was full of debris in the drainage canal.

604  
605 They made a recommendation, obviously, that this pipe be cleaned out, and they recommended  
606 that the developer could re-grade the ditch in this area to better accommodate the flow of drainage  
607 in this area. The applicant, in this case, has agreed to that. They are currently in the subdivision  
608 process for this case. We've been to a Staff/Developer meeting where this was discussed.

609  
610 Also, this 258-acre area that I said drains in this area (referring to slide) actually includes in this  
611 258 acres includes the subdivision within that calculation. This proposed 22-acre development  
612 would only increase the Public Work's term which is "CFS" or "Cubic Feet per Second" of  
613 drainage. It would increase the CFS by only 2 percent.

614  
615 Public Works also recommended that curb and gutter should be constructed as a part of this

616 subdivision, because its easier to maintain.

617

618 With that said, that was the review of the drainage concerns that was done by the Public Works  
619 Department.

620

621 But, mostly, the most important issue that remains in this case is the requested R-2A zoning.  
622 Although this request generally conforms with density and use requirements of the 2010 Land Use  
623 Plan, staff feels that, because this site falls within the Expansion Area and there are limited public  
624 services and public utilities present in this area, that an R-2 zoning is more appropriate. We also  
625 feel that the R-2A, being north of Darbytown Road, would set a precedent for lot size and density  
626 in this area.

627 If the applicant can revise this request for R-2 zoning, we could recommend approval of the case.  
628 I'll take any questions you may have.

629

630 Ms. Dwyer - Thank you, Mr. Householder. Any questions by Commission  
631 members? I have one question. You just mentioned, there needs to be a re-grading of this area.  
632 Is that possible given the current conditions in the area?

633

634 Mr. Householder - Because it was a recommendation by the Public Works Department,  
635 I'd make that assumption, that, "Yes, it is possible."

636

637 Ms. Dwyer - They would not need to have any other approvals.....(comments  
638 unintelligible).

639

640 Mr. Householder - That's what I was told by Sam Amos, the Chief Drainage Engineer.

641

642 Ms. Dwyer - Thank you. Any other questions? Thank you, Mr. Householder.  
643 Would the applicant come forward, please?

644

645 Mr. Neil Farmer - Members of the Planning Commission, my name is Neil Farmer,  
646 for the record. I'll answer your question first. My engineer told me that we could pull a ditch  
647 through there. It was not a problem with wetlands or anything like that. So.

648

649 I'm the developer of this proposed single-family subdivision. And, I'd like to reserve some time  
650 at the end for any rebuttal, or any questions that you may have. I'm requesting to rezone 22 acres  
651 from A-1 to R-2AC single-family residential, with one of the proffers stating that there'll be no  
652 more than 23 lots. This is a density of 1.05 units per acre, which is well within the range of 1.0  
653 to 2.4 units per acre of the Suburban Residential 1 Land Use Plan of Henrico County.

654

655 The property is adjacent, as you can see, to the Henry Ward Elementary School, and other A-1  
656 properties. These A-1 properties were developed as A-1 parcels before water and sewer was  
657 available. I have also submitted additional proffers, which you have before you, which would  
658 ensure quality development.

659

660 One of the issues we discussed at the last meeting was a stub street at the western boundary of the  
661 property. I have agreed, and have no problem providing a stub street to the west, should Mrs.  
662 Quesinberry desire such. My engineers have met with the County Public Works Department, and  
663 determined that the development of this project will not adversely affect the adjacent property  
664 owners.

665  
666 I have also agreed to pull a ditch from the Britton Road pipe, approximately 200 feet to an  
667 adequate outfall, which I just answered, can be done. This was a Public Works recommendation.

668  
669 Therefore, since this proposal is consistent with the 2010 Land Use Plan, and the proffered  
670 number lots is well under the 2.4 units per acre range, I respectfully request that you approve this  
671 application. I'll be glad to answer any questions.

672 Ms. Dwyer - Any questions of Mr. Farmer by Commission members?

673

674 Mr. Farmer - Thank you.

675

676 Ms. Dwyer - Would the opposition come forward, please? You may all want to  
677 come forward and sit near the front...(Comments unintelligible-microphone not working). While  
678 you're coming forward, Mr. Secretary, would you mention our time limits for cases if there is  
679 opposition?

680

681 Mr. Marlles - Ladies and gentlemen, when there is opposition to a case, it is a  
682 policy of the Commission to grant 10 minutes to both the applicant and the opponents to present  
683 their case. That 10 minutes does not include any time responding to questions by the  
684 Commission. It is generally a good idea, if there are a large number of people opposing a case,  
685 to select a spokesman; persons, to present the ideas to cut down on any redundancy and make best  
686 use of the time.

687

688 Ms. Dwyer - Good evening. Would you state your name for the record, please?

689

690 Mr. Eugene Hicks, 3393 Britton Road - I'm a landowner, where one of the lots will be adjacent.  
691 I'm on the Britton Road side, and it is the third lot from where the land is right here (referring to  
692 slide). That's me right there. We did, as of the last meeting, we did have a meeting last Monday  
693 evening with the engineer and Mr. Farmer.

694

695 But, we're still a little disturbed with the water problem. We got a call yesterday from Sam  
696 Amos. And, he said that, "Yes, the ditch cleaning could be done." But he said, to have it  
697 effective, it would have to be done every two or three weeks, and the County does not have the  
698 manpower. So, that disturbs me, that, tonight, we hear "ditch cleaning," but one time is not  
699 effective. Leaves build up daily, usually. So, how often would that be done?

700

701 And, also, due to where you had showed the creek (referring to slide), running through here, the  
702 water coming up through here, this area, although we know that's it's affecting Henry Ward  
703 School, and we have a neighbor that is here tonight. These are pictures that were taken in last six

704 months of water problems that he has injected from the sewage from this. And, I cannot  
705 emphasize enough, I don't want this problem in my yard.

706  
707 Ms. Dwyer - These pictures were taken when?

708  
709 Mr. Hicks - Within the last six months. It's Mr. Robertson's property, which is  
710 adjacent to the Henry Ward School, which this creek here, Deer Run Creek. The water will run  
711 parallel to his property as well. So, that will be more water for him.

712  
713 And, as we were speaking earlier, talking about the ditch, the water coming down here, that ditch  
714 is on my side of Britton Road. And when this curve backs up, the water comes back up now.  
715 And, its half way up in my yard, now, when we have a heavy rain.

716  
717 So, my thing is, will it be in my front door, and will the County clean my house out? And this is  
718 why we're here. It's not the rezoning issue, because we know we can't fight development. We  
719 really don't want it, but we have to live with that. It's the water problem. Until you walk in the  
720 shoes and been there as a resident, you have no idea of the rain. It doesn't take a hurricane rain.  
721 It has been as high as four feet on that curve.

722  
723 And you see, its going west from the property, coming down here to the east. This is where it all  
724 backs up now. So, my thing is, it doesn't matter if you make runoff, where is the water going to  
725 go on flat land? We're not living in Albermarle County or anywhere like that. It's going to be  
726 land.

727  
728 And, also, if pleased to let me know, but I-895 is going to be coming not very far from there.  
729 Where is that runoff water going? Is that coming into the same area? So, that would be more  
730 water.

731  
732 And, like I said, you know, I love Varina. I've been a resident there for 40 years, and I am an  
733 owner of this property. It adjoins my parents. And it will sadden me greatly to see the water  
734 destroy it. Thank you.

735  
736 Ms. Dwyer - Thank you. Are there any questions for Mr. Hicks?

737  
738 Mr. Vanarsdall - Mr. Hicks, I have a question for you. Have you discussed any of  
739 this that you just discussed with us, with Mrs. Quesinberry and Mr. Donati?

740  
741 Mr. Hicks - Yes sir. I had not really discussed this with Jim Donati, because I  
742 felt like it had not got to this level. But, "yes," it was addressed with Mrs. Quesinberry and the  
743 engineer and Neil Farmer last Monday evening. Thank you.

744  
745 Mr. Archer - Mr. Hicks, did you want these pictures?

746  
747 Mr. Hicks - Yes. Please.

748  
749 Mr. Archer - Can you be a little bit more specific about when those were taken?  
750 You said within the last six months?  
751  
752 Mr. Hicks - Yes. The Robertsons said, "within the last six months."  
753  
754 Mr. Archer - About six months ago or?  
755  
756 Mr. Hicks - Yes.  
757  
758 Mr. Archer - Was it after a storm or?  
759  
760 Mr. Hicks - It was after a rain. Yes. Not a hurricane rain, but after a heavy  
761 rain.  
762 Mr. Archer - Okay.  
763  
764 Ms. Dwyer - Next speaker.  
765  
766 Mr. Shirley Hicks, Sr. - Good evening, members of the Board. My name is Shirley Hicks,  
767 Sr. I live at the same address that my son just spoke about it. I can give you a little more  
768 information than what he give you on it. I've been living there for 42 years. We've had a  
769 problem with water there for many, many years of having the County come out many times. And  
770 they increased the pipe. I've got a pipe running right underneath the road right at the middle of  
771 my property. And they put a bigger pipe. That didn't do no good.  
772  
773 Last week; no, this week, I talked to Mr. Amos. Right now, the south end of the pipe is full of  
774 water and the ditch is full of water. And he told me it was State and Federal laws regulating what  
775 you could do with wet land. And, then I also told him the west part of this property, I was there.  
776 When the log skidders come, the west end of this property of this development is so wet the log  
777 skidders had to cut trees and put in that path and mashed them down four or five feet in the  
778 ground in order to get the logs out. That's how wet that upper part is. And, that's why there's  
779 no much water comes out of there.  
780  
781 All the land is not on Mr. Farmer's. At least a full acre or more of it is, but it's at least six acres  
782 up there of real wet land. And all that water. They say 2 percent. I go down there sometimes  
783 after a heavy rain, and it's a creek running through there wider than that table there. And right  
784 now, its going to the brush and all slowing down. It's going to be the same amount of water  
785 there. But, you put a pipe in there, you're going to move it all down in that swamp land. It's got  
786 to back up worse even than what it is. That's my main concern.  
787  
788 Ms. Dwyer - Any questions by Commission members?  
789  
790 Ms. Gloria Foster - Good evening. My name is Gloria Foster. I live at 3451 Britton  
791 Road. I live on the part of the property that has the pipe that needs to be cleaned out, and the

792 ditches that run through there that need to be cleaned out. And, any water that backs up, will  
793 back up on my property. It is wet where the drainage is going to.

794  
795 And, in the past, people have had to come down the highway, we've had "High Water" signs put  
796 up when we have just a thunderstorm. And the "High Water" signs have to be put up. People  
797 have to back up into my driveway. The property continues to be very wet. My husband got his  
798 tractor stuck outside my backyard because of the amount of water that is backed up, even though  
799 its all a part of my property.

800  
801 The other thing that I'm concerned about, I'm not concerned as much about the development of  
802 the houses as I am that, if we take these trees off of, what's going to be there to suck up the  
803 water? And, if that's only a 2 percent increase, I mean, how can we calculate how much of an  
804 increase its going to be when there's no trees to take up the water and no grass, you know, that  
805 kind of thing until things like that start growing?

806  
807 Some of the other things, as I say, I'm concerned about, "Yes," we did meet with Mrs.  
808 Quesinberry and Neil Farmer. And, at that time, Mr. Farmer made commitments to the citizens  
809 that he would get back with us. And, I, for one, didn't hear anything from him prior to this  
810 meeting about anything related to the ditch or anything like that. And, I had left both my e-mail  
811 address. I left my U.S. Postal address. I left two phone numbers that have voice mail on it. And  
812 no attempt to contact me was made at all.

813  
814 And, I found out, tonight, when I asked other neighbors, had they heard from Mr. Farmer, that  
815 there had been calls made to the other neighbors even though I was part of the adjacent property.  
816 That is in question about where the water is going to be.

817  
818 I don't want my property destroyed. With the I-895 coming through, and the additional water, its  
819 going to increase the amount of water on the property. I don't want to be living in a swamp land  
820 where I can't even walk out in my backyard. And, if the wetlands are already that far up, based  
821 on what we've seen in the past, then, certainly, it will destroy my property. And, I am very  
822 concerned about that.

823  
824 My husband and myself, or his parents, have owned that property since 1946. And, you know,  
825 we would hate to have to move because we were swamped out. Are there any questions that I  
826 could answer for the members?

827  
828 Mrs. Quesinberry - Mrs. Foster, just to clarify, you are right in that curve on Britton  
829 Road?

830  
831 Mrs. Foster - Yes. I am, right where the drainage ditch is. That's correct.  
832 Anything else I could answer for anyone?

833  
834 Ms. Dwyer - Do you have any understanding of how the drainage problem could  
835 be managed if the development were to occur? Was that part of your discussion?

836  
837 Mrs. Foster - Part of the discussion was that, if he was going to put in drainage  
838 pipes that was going to allow the water to drain back into the creek, in that consideration, if the  
839 creek is already over flooding, it's like having a 5 gallon bucket that's full, and you add more.  
840 It's going to overflow and where's that water going to go? The only place for it to go is to the  
841 adjacent properties, because he's put pipe in to drain the property that he's developing.

842  
843 I guess, you know, to put a picture in place of what our concerns are, that's exactly what the  
844 concerns are. The creek is already overflowing. Additional water into that, now that trees are  
845 not going to be there, now that I-895 is going to be dumping additional water, is just going to  
846 overwhelm us with water.

847  
848 Ms. Dwyer - Thank you, Mrs. Foster. Any questions of Mrs. Foster?

849  
850 Mrs. Wade - Has the flooding gotten worse through the years?

851  
852 Mrs. Foster - The flooding has gotten worse through the years. Yes. It has.  
853 Part of that problem may be because of the ditch problem and the leaves with the trees around  
854 there. I think one of the other citizens had indicated that he has spoken with Mr. Amos. And,  
855 that he said, there's no appropriations to keep the pipe clean, the ditch, or any of that.

856  
857 You know, for me to say that, it's what's causing the problem, I can't. I've lived there for 26  
858 years, and we've had a problem for the 26 years that I've lived there. So, you know, as the  
859 leaves continue to fall, I guess that does make the ditch problem a little bit, you know, of  
860 concern.

861  
862 Ms. Dwyer - Are there other questions of Mrs. Foster?

863  
864 Mrs. Foster - Thank you. Any one else to speak on this case? Would the  
865 applicant come forward for rebuttal?

866  
867 Mr. Farmer - Yes. Just real quick, I'd like to apologize to Mrs. Foster if she  
868 didn't get my message. But, I did leave a message on your answering machine. And, if I didn't,  
869 I could have made a mistake, but I remember calling everybody that was on the list. And, I  
870 remember its Gloria and Lester Foster. And she has an e-mail that's Trigon.com. So, I'm sorry  
871 some of the other people got it. But, I did try that. The reason I could not get back with you,  
872 because I just got the note today from the Henrico Public Works Department.

873  
874 They had to go out there visually; look at the property, and do a physical inspection. I did not get  
875 the memo today, which can be verified by my engineer who got it, whose Delmonte Lewis, who  
876 is here. I'm not an engineer. If you all have any drainage problems, Delmonte is here and will  
877 answer any questions which you may have from an engineering standpoint.

878  
879 Ms. Dwyer - Mr. Farmer, what about the staff's concern about the zoning

880 classification of R-2A?

881  
882 Mr. Farmer - Well, that's the case that I filed for a proffered number of lots and  
883 minimum house sizes and everything. That's, you know, what I thought was, you know,  
884 following the Land Use Plan and some other recent zoning cases in that area. And that's what  
885 I've done; economic feasibility studies for R-2A. So, that's what I'm prepared to go forward  
886 with, develop that.

887  
888 Ms. Dwyer - Okay. Any other questions of Mr. Farmer?

889  
890 Mrs. Quesinberry - I just have one question. Can you speak to any of the issues about  
891 I-895 and additional water and drainage coming through this 200 plus acres?

892  
893 Mr. Farmer - No. I have not done anything on I-895. I know its in the  
894 watershed upstream, but I do not have the answer to that. Delmonte may or may not have the  
895 answer to that. He can answer any questions with the topo and, however, every thing flows,  
896 whatever, a lot better than I can. It seems to be the big problem out there.

897 Ms. Dwyer - Do you want to hear Mr. Lewis?

898  
899 Mrs. Quesinberry - No. I have already gone through that with Mr. Farmer and the  
900 engineer. But, I would like to save my question for Mr. Householder, if you got any information  
901 from Public Works on the I-895 issue, any additional watershed?

902  
903 Mr. Householder - No ma'am.

904  
905 Mrs. Quesinberry - Okay.

906  
907 Mr. Farmer - Any other questions?

908  
909 Ms. Dwyer - Thank you.

910  
911 Mr. Farmer - Thank you.

912  
913 Ms. Dwyer - Mrs. Quesinberry.

914  
915 Mrs. Quesinberry - Yes. This is kind of a difficult case because the residents are not  
916 opposed to development in this area. The concerns seem to be largely around a very longstanding  
917 drainage issue of significant proportions that doesn't seem to have been alleviated, even though  
918 Public Works has been aware of it and worked at it from time to time in various ways and  
919 identified various issues. The drainage is significant. There doesn't seem to be enough outflow  
920 at Deer Licking Creek. It backs up to Britton Road. It also backs up around the front side of that  
921 property, if you will. It still damages lots and residents around Henry Ward Elementary School.  
922 Even with curbing, gutters, and drainage coming through that property from west to east, moving  
923 water faster into the creek; the creek doesn't seem to have the capacity to hold it, and move it and

924 keep the water off of the residents.

925  
926 So, there are a couple of water dynamic issues going on here that seem to be a situation where it  
927 will be made worse to some extent, even with the calculations from Public Works on their cubic  
928 feet per second increase of 2 percent. If you have an increase of 2 percent of a very large  
929 number, you have a very large number. I can't see any relief for any folks in this area. In fact, a  
930 potential to make their situation worse, which is something we would not want to do.

931  
932 I'm also concerned with setting a precedent for higher zoning in that area that is surrounded by A-  
933 1 on all sides. And, again, the possibility of causing some significant damage to residents in that  
934 area. I think that some other solutions need to be looked at for less dense zoning and curb and  
935 gutter, and probably some other issues, too, with the ditching from Britton to the creek, and some  
936 others that will have to be addressed to make this some kind of a viable project.

937  
938 So, I would like to make a motion at this time not to recommend case C-61C-99.

939  
940 Ms. Dwyer - Shouldn't that be deny?

941  
942 Mrs. Quesinberry - Recommend denial.

943  
944 Ms. Dwyer - Motion by Mrs. Quesinberry. Is there a second?

945  
946 Mrs. Wade - Second.

947  
948 Ms. Dwyer - Seconded by Mrs. Wade. All of those in favor of the motion to  
949 recommend denial of this case to the Board, say aye—all those opposed by saying nay. The vote  
950 is 5-0 (Mr. Donati abstained). The motion carries. This case has been recommended for denial  
951 by the Commission. It will now go to the Board of Supervisors who will make the final decision.  
952 You may want to check with the Planning Office to determine the date this is to be heard by the  
953 Board of Supervisors.

954  
955 *REASON:* Acting on a motion by Mrs. Quesinberry, seconded by Mrs. Wade, the Planning  
956 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the  
957 request because it would likely set an adverse zoning and land use precedent for the area; it  
958 represents an increase in intensity which could influence future zoning and development of  
959 adjacent properties; and it would not be in the best interest of the health, safety, and welfare of  
960 residents in the vicinity.

961  
962  
963 **C-60C-99** **Andrew M. Condlin for Kenneth A. Germain:** Request to  
964 conditionally rezone from B-1 Business District to B-1C and B-3C Business Districts  
965 (Conditional), Parcels 148-A-18 and 148-13-B-B, described as follows:

966  
967 **PARCEL I:**

968  
969 Beginning at the point of intersection of the southern line of Mapleleaf Avenue (formerly Maple  
970 Avenue) and the western line of East Nine Mile Road, thence along the western line of East Nine  
971 Mile Road, South 32 degrees 33 minutes 45 seconds East a distance of 200.00 feet to a point;  
972 thence South 57 degrees 15 minutes 30 seconds West 150.00 feet along a line parallel with the  
973 southern line of Mapleleaf Avenue to a point lying on the eastern line of a 16.00 foot alley; thence  
974 along the eastern line of said 16.00 foot alley North 32 degrees 33 minutes 45 seconds West a  
975 distance of 200.00 feet to a point lying on the southern line of Mapleleaf Avenue; thence along  
976 the said southern line of Mapleleaf Avenue North 57 degrees 15 minutes 30 seconds East a  
977 distance of 150.00 feet to the point and place of beginning. Said parcel of land situate, lying and  
978 being in Varina Magisterial District of Henrico County, Virginia and containing 0.689 acres.  
979

980 **PARCEL 2:**

981  
982 Beginning at a point on the southern line of Mapleleaf Avenue (formerly Maple Avenue), said  
983 point also being the northernmost corner of Lot 23 as shown on the subdivision plat of Highland  
984 Terrace recorded in Plat Book 18, at page 162; thence from said point of beginning along the  
985 southern line of Mapleleaf Avenue North 57 degrees 15 minutes 30 seconds East a distance of  
986 64.76 feet to a point at the intersection of the southern line of Mapleleaf Avenue with the western  
987 line of a 16.00 foot alley; thence along said western line of 16.00 foot alley South 32 degrees 33  
988 minutes 45 seconds East a distance of approximately 250 feet to a point; thence south 57 degrees  
989 15 minutes 30 seconds West a distance of 63.36 feet to a point lying on the eastern line of Lot 19  
990 of the aforesaid subdivision of Highland Terrace; thence along the eastern line of Lots 19, 20, 21,  
991 22, and 23 of Highland Terrace North 32 degrees 47 minutes 45 seconds West a distance of  
992 approximately 250 feet to the point and place of beginning. Said parcel of land situate, lying and  
993 being in the Varina Magisterial District of Henrico County, Virginia and containing  
994 approximately .37 acres and being a part of the parcel designated as "Reserved" less and except  
995 the southern 170.00 feet thereof as shown on the aforesaid subdivision plat of Highland Terrace  
996 which is of record in the Henrico County Clerk's Office in Plat Book 18, at page 162.  
997

998 Mr. Marllles - The staff presentation will be by Mr. Lee Householder.  
999

1000 Ms. Dwyer - Okay. Is there any one in the audience in opposition to Case C-  
1001 60C-99 Andrew Condlin for Kenneth A. Germain? There appears to be no opposition. Mr.  
1002 Householder.  
1003

1004 Mr. Householder - The subject request would rezone .689 acres from B-1 Business District to  
1005 B-3C Business District (Conditional) and .37 acres from B-1 Business District to B-1C Business  
1006 District (Conditional). The requested use is a motorcycle sales and repair facility. The property  
1007 lies on the south line of Nine Mile Road at its southeast intersection with Mapleleaf Avenue) as  
1008 you can see on the diagram in front of you (referring to slide). This request consists, actually, of  
1009 two parcels; one being the B-3C that fronts on Nine Mile Road and, then the B-1 reserved  
1010 section, I'll show you there (referring to slide). There is, actually, on the site now a vacant

1011 commercial building and a parking lot located on Parcel 1, this piece (referring to slide), and this  
1012 reserved piece behind, zoned B-1C is actually wooded at this time.

1013  
1014 Both parcels lie within the commercial area of Highland Springs. This area is characterized by  
1015 development consisting of personal service facilities, professional offices and automobile related  
1016 businesses. The adjacent properties that front along Nine Mile Road represent a mixed  
1017 development, and the zoning in this area is a combination of B-1, B-2, B-3, and some conditional  
1018 zonings also. The property to the east of this site is within the actual Highland Springs  
1019 Subdivision, in this area, (referring to slide), and is zoned R-4.

1020  
1021 The applicant, in this case, has proffered that Parcel 2, this piece here that is wooded at this time,  
1022 (referring to slide), will remain in its current state. Staff feels, it's a 64 foot buffer is extremely  
1023 adequate and will act very effectively as a buffer between the commercial and residential uses.  
1024 This additional buffer proffered significantly improves this case.

1025  
1026 The 2010 Land Use Plan recommends Commercial Arterial and Suburban Residential 2. The area  
1027 designated Suburban Residential 2 is currently zoned B-1, and is that buffer parcel which is  
1028 proffered to remain that way. Considering the variety of uses in the area, and the many  
1029 automobile facilities, staff feels that this use for motorcycle sales and service is suitable for this  
1030 area.

1031  
1032 In the early 1990's, there was a study done of this area by Edward H. Winks Architecture. This  
1033 study was called A Revitalization Plan for Highland Springs. It involved the Planning staff,  
1034 community members, and business owners in the area. It recommended a variety of  
1035 improvements that focused on the appearance part of Highland Springs. While it does not make  
1036 any specific recommendations to this property, it did make many general landscaping and building  
1037 improvements that would enhance the overall appearance of the area.

1038  
1039 The applicant has submitted proffers that address some of the recommendations of the  
1040 Revitalization Plan. These include: parking lot lighting; screening of trash receptacles,  
1041 proffering signage to the B-2 zoning; proffering to not have any outdoor storage. And they also  
1042 proffered to paint *the exterior of the building within one year of issuance of a certificate of*  
1043 *occupancy*.

1044  
1045 Since the time of my staff report, they have also revised the proffers that have been handed out to  
1046 you, tonight. They've also further limited the uses allowed on this site and proffered that: All  
1047 vehicle repair work shall be performed within the enclosed building. And they've proffered to  
1048 landscape the perimeter and parking areas with brick planting boxes or something to be approved  
1049 at the time of POD.

1050  
1051 Overall, the B-3C zoning, and proffered B-1C are consistent with the 2010 Land Use Plan and  
1052 zoning of land and surrounding properties. In addition, staff feels the applicant has submitted  
1053 proffers that adequately address the appearance of the site. Overall, we recommend approval of  
1054 this request. I'll take any questions.

1055  
1056 Ms. Dwyer - Thank you. Any questions for Mr. Householder?  
1057  
1058 Mr. Vanarsdall - Yes, Mr. Householder, this is a question, B-3, and its for the  
1059 purpose of motorcycle sales. Why isn't automobile sales proffered out?  
1060  
1061 Mr. Householder - The applicant may be able to address that better than I, but right  
1062 now, we do not specifically mention motorcycle sales in our Code, and, by default to automobile  
1063 sales. So, therefore, by not proffering out motorcycle sales, they were afraid they may not be  
1064 able to do motorcycle sales since its not specifically mentioned in our code. And, I think its  
1065 reasonable, considering next door and across the street are automobile sales.  
1066  
1067 Mr. Vanarsdall - It could turn into an automobile dealership under the B-3.  
1068  
1069 Mr. Householder - It could.  
1070  
1071 Mr. Vanarsdall - I just wondered. Thank you.  
1072  
1073 Mrs. Wade - Under the landscaping, I was just looking at this. It says,  
1074 "Landscaping shall consist of brick planting boxes..."  
1075  
1076 Mr. Householder - I'll tell you where that proffer came from. We had a meeting on  
1077 the site and we were trying to come up with landscaping; a way to make the site look better. We  
1078 looked across the street, and I wish I had a picture of it. But, there's a brick planter box about  
1079 two feet high. We kind of just looked over at it and said, "Why don't you put some of those on  
1080 your site. They look really nice across the street." So, the applicant agreed at that time, and we  
1081 left in a little flexibility for the possibility of doing something else by leaving it up at the time of  
1082 development standard review.  
1083  
1084 Mrs. Wade - I assume there will be plants in the boxes?  
1085  
1086 Mr. Householder - Yes. That's the impression I would get.  
1087  
1088 Mrs. Quesinberry - Mrs. Wade, there's no area on this parcel; there's no dirt strips or  
1089 anything that you can plant. If the applicant is willing to plant something, but it required digging  
1090 up asphalt and concrete. It's pretty much concrete and asphalt to the curb, door to door. So,  
1091 we're just trying to come up with something that would add something to that area. And that was  
1092 the best we could come up with at the time.  
1093  
1094 Ms. Dwyer - Will the existing building be used for this?  
1095  
1096 Mr. Householder - Yes. It's very adequate for what they intend to do.  
1097  
1098 Ms. Dwyer - Any other questions of Mr. Householder?

1099  
1100 Mr. Archer - Mr. Householder, is this a franchise dealership or?  
1101  
1102 Mr. Householder - No. It's single owner – Ken's Cycle. He's here tonight. He's got  
1103 an existing establishment further down Nine Mile Road.  
1104  
1105 Mrs. Wade - Are other businesses down there open on Sundays?  
1106  
1107 Mr. Householder - You know I didn't look into that. I would imagine car sales. I  
1108 don't know. They seem to vary. Use car sales, I would say, "Yes." They are open on Sunday.  
1109  
1110 Ms. Dwyer - There's a B-3 site right next door that sells cars. Right?  
1111  
1112 Mr. Householder - Correct. And that's unconditional.  
1113  
1114 Ms. Dwyer - So that could be open 7 days a week?  
1115  
1116 Mr. Householder - (Referring to slide), it's B-3 right here. And across the street is B-  
1117 3C. The proffers are very limited for that case.  
1118  
1119 Ms. Dwyer - Any more questions? Would you like to hear from the applicant,  
1120 Mrs. Quesinberry?  
1121 Mrs. Quesinberry - I don't really need to hear from the applicant unless he feels like  
1122 talking. Don't feel like talking, Andy? Okay.  
1123  
1124 Ms. Dwyer - Any questions by Commission members for the applicant? Okay.  
1125 And there was no opposition. So, are we ready for a motion?  
1126  
1127 Mrs. Quesinberry - Ready for a motion. This is a distinct improvement in this area.  
1128 the existing vacant building is probably fair to say somewhat of an eyesore in an area that we  
1129 would like to see develop appropriately. And the applicant is a long term resident of the area,  
1130 renting property down the road. Now, he's going to be a property owner. So, he going to adopt  
1131 it and love it and care for it, and willing to do so things to bring it along so that it's a really  
1132 viable and attractive part of the community. There are obstacles like the paving from curb to  
1133 curb, but he's going to work around that and try to get some landscaping and appropriate brick,  
1134 you know; landscaping boxes and get a better look to that area. And, also, it's a very nice  
1135 addition to have the B-1 piece towards the back there, with the proffer to leave it as a buffer,  
1136 because there are residential homes right behind there. And, that does create a very nice buffer,  
1137 even this time of year, when I went out there, because it is wooded. Even with leaves falling, its  
1138 still a thick enough growth in that area. It still creates a very nice buffer between what will be  
1139 B-3 property and the residences in the back. So, that was a very nice thing to do and improves  
1140 the overall area and transition. So, I would like to make a motion, tonight, for a  
1141 recommendation for approval of C-60C-99 with the proffers that were presented and all the uses  
1142 and conditions for this type of development.

1143  
1144 Ms. Dwyer - And these proffers were within the time limit? All right, is there a  
1145 second?

1146  
1147 Mr. Archer seconded the motion.

1148  
1149 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Archer to  
1150 recommend approval of this case to the Board. All those in favor say aye—all those opposed by  
1151 saying nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.

1152  
1153 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Archer, the Planning  
1154 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the**  
1155 **proffered conditions and grant** the request because it reflects the intent of the Land Use Plan;  
1156 and the proffered conditions will assure a level of development otherwise not possible.

1157  
1158 **C-74C-99 E. Delmonte Lewis for Doran Development Corporation, L. L.**  
1159 **C.:** Request to conditionally rezone from A-1 Agricultural District to R-2AC One Family  
1160 Residence District (Conditional) and C-1 Conservation District, Parcel 227-A-2A, described as  
1161 follows:

1162  
1163 **PARCEL A –R-2AC**  
1164 Beginning at a point in the west line of Doran Road said point being approximately 5,000' north  
1165 of the intersection of State Route 5 and Doran Road, thence from said point of beginning along  
1166 the west line of Doran Road in a northerly direction along a curve to the left having a radius of  
1167 1192.64', a distance of 220.61' to a point; thence continuing along the west line of Doran Road  
1168 N29°22'35"E, a distance of 124.52' to a point; thence leaving Doran Road continuing in a  
1169 northwesterly direction along a curve to the right having a radius of 180', a length of 112.59' to a  
1170 point; thence N19°37'23"W, a distance of 444.23' to a point; thence along a curve to the right at  
1171 a radius of 180', a length of 8.89' to a point; thence N16°47'37"W, a distance of 123'+ - to the  
1172 100 year flood plain elevation; thence in a westerly direction along the 100 year flood plain  
1173 elevation 1300'+ - to a point; thence S28°00'28"W, a distance of 668'+ - to a point; thence  
1174 S47°00'23"E, a distance of 1234.88' to a point; thence N35°51'24"E, a distance of 959.22' to a  
1175 point; thence S47°58'56"SE, a distance of 253.58' to a point in the west line of Doran Road and  
1176 the point of beginning, said parcel containing 38.8+ - acres.

1177  
1178 **Parcel B – C-1**  
1179 Commencing at a point where the west line of Doran Road meets the northern line of State Route  
1180 5; thence along the west line of Doran Road approximately 5,000' to a point; thence along a  
1181 curve to the left having a radius of 1192.64', a length of 224.61' to a point; thence N29°22'35"E,  
1182 a distance of 124.52' to a point; thence leaving Doran Road continuing in a northwesterly  
1183 direction along a curve to the right having a radius of 180', a length of 112.59' to a point; thence  
1184 N19°37'23"W, a distance of 444.23' to a point; thence along a curve to the right having a radius  
1185 of 180', a length of 8.89' to a point; thence N16°47'37"W, a distance of 123' + - to the 100 year  
1186 flood plain and the point of beginning; thence from said point of beginning N16°47'37"W, a

1187 distance of 150' +- to the centerline of Four Mile Creek; thence along the centerline of Four  
1188 Mile Creek as it meanders in a northerly and westerly direction a distance of 1525' +- to a point;  
1189 thence S28°00'28"SW, a distance of 250' +- to a point in the 100 year flood plain; thence along  
1190 the 100 year flood plain in an easterly direction 1300' +- to the point and place of beginning.  
1191 Containing 7.0 +- acres.

1192  
1193 Mr. Marlles - The staff presentation will also be given by Mr. Lee Householder.

1194  
1195 Ms. Dwyer - Is there any one in the audience in opposition to Case C-74C-99  
1196 Doran Development Corporation? We do have opposition. You heard the drill for the earlier  
1197 case. So, we'll get to you in a moment. Okay, Mr. Householder.

1198  
1199 Mr. Householder - Thank you, Madam Chairman. This request would rezone 38.8 acres  
1200 from A-1 Agricultural District to R-2AC One Family Residence District (Conditional) an  
1201 additional 7.0 acres from A-1 Agricultural to C-1 Conservation. The requested use is a single-  
1202 family subdivision. And, as was said, it is located on the west line of Doran Road,  
1203 approximately 1940' south of its intersection with Ella Road. It's easily recognizable in this area  
1204 by a 100' wide Virginia Power easement that significantly divides this site.

1205  
1206 The property to the north of this site is zoned A-1 and is part of Dorey Park. To the west,  
1207 adjacent to the subject property, is Old Mill Estates, an A-1 subdivision. To the south and east,  
1208 there are a number of large acre parcels also zoned A-1. Across the street, the Four Mile Run  
1209 subdivision was a part of two recent rezonings; C-14C-93 and C-67C-97, and rezoned over 200  
1210 acres to R-2AC. This subdivision is currently under construction.

1211 The northern border of the property is the part that's requested to be rezoned to C-1. This  
1212 follows the Land Use Plan recommendation that any environmental protection area be rezoned to  
1213 C-1.

1214  
1215 The applicant submitted a tentative subdivision. And this was as a result of a tentative review  
1216 done by the Planning Office, an administrative review and made comments. The design is based  
1217 on staff's remarks. The applicant has submitted, but not proffered, this layout that's shown at this  
1218 time. The layout shows 64 lots with access from Doran Road and access from Kinvan Road. This  
1219 begin Kinvan Road (referring to slide). Kinvan Road is designated on our Major Thoroughfare  
1220 Plan as a minor collector. This layout shows how this road will be extended from its current  
1221 terminus point here (referring to slide) and through the subdivision. So, it addresses what the  
1222 Major Thoroughfare Plan recommends.

1223  
1224 Also, the layout shows how this subdivision will be developed around this 100 foot power  
1225 easement. It shows 21 homes that have rear lots lines adjacent to the easement. Staff has concerns  
1226 about the appropriateness of a development around a 100-foot wide easement. And the applicant  
1227 has attempted to address this concern by proffering a 25-foot buffer for these properties adjacent  
1228 to the easement and an additional 40 foot building setback. So, in essence, the buildings could be  
1229 no closer than 40 feet from the easement line. The 25-foot buffer would be within that area.  
1230 Does that make sense? Let me see if I can zoom in a little bit (referring to slide).

1231  
1232 (Referring to slide) Basically, this would be the easement line. A 25-foot buffer would be that  
1233 line. They wouldn't measure 40-feet from the buffer line. They would measure 40 feet from the  
1234 easement line to where their building line would be. That's because, we usually request a buffer,  
1235 in addition, to building setback. They are unable to accommodate that. So, with a 45-foot  
1236 setback being the R-2A standard, they've cut that by 5 feet to make it work for themselves. We  
1237 can get back to that when I've done my presentation. We feel like this is an adequate way to  
1238 address the setback.

1239  
1240 The applicant has proffered brick or stone foundations, no slab construction, no cantilevered  
1241 chimneys, no direct vehicle access to or from Doran Road, and a 25' buffer along Doran Road.  
1242 The applicant has also indicated that 65 percent of the houses will be two story or cape style  
1243 homes. And this is comparable to development standards in adjacent subdivisions.

1244  
1245 They've also proffered that no more than 65 residential lots will be developed. And this is  
1246 consistent with the proffered density recommendations of the 2010 Land Use Plan. Also they  
1247 have proffered that 80 percent of the lots developed on this property with have a minimum lot  
1248 width of 90 feet which is 10 feet larger than required by R-2A. Staff feels that a 100-foot lot  
1249 width, which is required in R-2, would be more appropriate.

1250  
1251 Although this request generally conforms with use and density requirements of the 2010 Plan,  
1252 staff feels that, because this site falls within the Expansion Area of the 2010 Land Development  
1253 Guide, R-2 zoning is more suitable for this area. In addition, considering that Kinvan Road is an  
1254 extension of an A-1 subdivision, Old Mill Estates, we feel that R-2 would be a more appropriate  
1255 transition between these two subdivisions.

1256 One point I forgot to make which has recently come up is, in this layout, they show these  
1257 extremely long lots backing up. They're almost 400 or 500 feet long. We've spoken with the  
1258 applicant. They've agreed that it might not be appropriate to have lots that long. And they're  
1259 thinking of making this some sort of common area for the subdivision, and they would provide  
1260 access to that.

1261  
1262 With that said, staff would prefer to see R-2 zoning, and if they can revise to meet that  
1263 recommendation, we would recommend approval of this request. I'll take any questions that you  
1264 may have.

1265  
1266 Ms. Dwyer - Any questions of Mr. Householder by Commission members?

1267  
1268 Mr. Archer - Mr. Householder, what's that in the rear of those extremely long  
1269 lots?

1270  
1271 Mr. Householder - That's Dorey Park.

1272  
1273 Mr. Archer - Is it useful land space or...

1274

1275 Mr. Householder - It's not buildable, by any means. It's floodplain, and its heavily  
1276 wooded. So, I would say it's not useable, from a property owner's perspective.  
1277  
1278 Mr. Archer - Is it in a protected area?  
1279  
1280 Mr. Householder - Yes. They're proposing to rezone it to C-1 as part of this case.  
1281  
1282 Mrs. Wade - (Comments unintelligible-microphone not working).  
1283  
1284 Mr. Householder - Yes. Up to this line right here (referring to slide).  
1285  
1286 Mrs. Wade - I see Dorey Park. And where is Four Mile Creek?  
1287  
1288 Mr. Householder - The County owns to this point here (referring to slide) to the edge  
1289 of the applicant's property.  
1290  
1291 Mrs. Wade - What about that land in that triangle?  
1292  
1293 Mr. Householder - Right here (referring to slide)? I'm not sure who owns that land.  
1294  
1295 Mr. Lewis - The County owns that, too.  
1296  
1297 Mr. Householder - They do? Mr. Lewis has informed me that the County also owns  
1298 that triangular piece there. It's a contiguous parcel.  
1299  
1300 Ms. Dwyer - Are there any issues relating to access. Basically, the access is  
1301 through this power line easement. Does that present any unique problems as far as staff is  
1302 concerned?  
1303  
1304 Mr. Householder - Only from an appearance standpoint. I mean, the entrance of this  
1305 subdivision is going to be...  
1306  
1307 Ms. Dwyer - Under the power line?  
1308  
1309 Mr. Householder - ...A power line. Yes.  
1310  
1311 Ms. Dwyer - Any other questions by Commission members for Mr.  
1312 Householder? You said, they're proposing to zone that floodplain to C-1? Would that  
1313 necessarily exclude that from the proposed lots?  
1314  
1315 Mr. Householder - It could still be a part of their lots. There would be split zoning on  
1316 those lots.  
1317

1318 Ms. Dwyer - We don't know what the plan is then, as far as including them or  
1319 not including them in the lots?  
1320  
1321 Mr. Householder - The applicant has said that they would probably not, at this point;  
1322 go ahead and leave it open space. It's area that's needed as a part of their overall calculations.  
1323 And, so, if they exclude it and didn't use as a part of this zoning, it would affect some of their  
1324 drainage calculations.  
1325  
1326 Ms. Dwyer - Well, let me get clear on this setback issue. The Code requires a  
1327 40-foot setback.  
1328  
1329 Mr. Householder - Forty-five (45) foot.  
1330  
1331 Ms. Dwyer - I'm sorry; 45-foot setback. And they're proposing a 40-foot  
1332 setback from the right-of-way line of the Virginia Power easement?  
1333  
1334 Mr. Householder - Correct. The easement would go over the person's property. And  
1335 they would be taking it from the easement line.  
1336 Ms. Dwyer - So, how much property is going to be in the easement? Is it the  
1337 same for all the properties?  
1338  
1339 Mr. Householder - Yes.  
1340  
1341 Ms. Dwyer - And how much would that be?  
1342  
1343 Mr. Householder - Fifty (50) feet, because it's a 100 foot easement.  
1344  
1345 Ms. Dwyer - So, they easily meet the setback?  
1346  
1347 Mr. Householder - But, we're concerned with the setback from the easement.  
1348  
1349 Ms. Dwyer - The edge of the easement?  
1350  
1351 Mr. Householder - They would address that by saying 40. They said 40. We  
1352 requested 45; the regular zoning setbacks. We wanted that from the buffer line, from the actual  
1353 25-foot buffer. So, you have 25 feet, and then you take your setback from the 25. So, an actual  
1354 house would be 45 plus 25 feet.  
1355  
1356 Ms. Dwyer - Okay. And where's the 25-foot buffer is going to be within the  
1357 easement?  
1358  
1359 Mr. Householder - Within the 40 feet.  
1360  
1361 Ms. Dwyer - Okay.

1362  
1363 Mr. Householder - We would hope that they would...  
1364  
1365 Ms. Dwyer - You have the power easement, and you have 40 feet to the house,  
1366 and 25 feet of that 40 feet...  
1367  
1368 Mr. Householder - Is a buffer.  
1369  
1370 Ms. Dwyer - Is a buffer?  
1371  
1372 Mr. Householder - Correct.  
1373  
1374 Ms. Dwyer - I'm clear on that now. Okay. Thank you. Any other questions  
1375 for Mr. Householder? Thank you. Would the applicant come forward, please?  
1376  
1377 Mr. E. Delmonte Lewis - (Gap in tape)...SR-1 designation and the 2010 Land Use Plan.  
1378 However, they feel that R-2A would be more appropriate because of the adjacent subdivision  
1379 being of larger lots.  
1380  
1381 To address our concerns, the applicant has proffered that no more than 65 lots would be  
1382 developed on this property. And that 80 percent of the lots would be 90 feet wide or greater at  
1383 the building line. R-2 requires a 100-foot lot width. R-2A is 80. So, we have gone kind of in  
1384 the middle of that to proffer 90 feet at the building line.  
1385  
1386 If the property was designed by R-2A standards, using 80-foot lots, you could really get 70 lots  
1387 on that. But, we have proffered no more than 65. In reality, the layout shows 64.  
1388  
1389 We have proffered no more than 65 lots. The adjacent subdivision was developed in 1987 with  
1390 individual wells and septic tanks. So, therefore, lots must be larger to accommodate the  
1391 individual facilities, such as septic tanks and the individual wells.  
1392  
1393 Staff's only concern is in reference to the 25-foot proffered buffer. The property is heavily  
1394 wooded with oaks and pine. We have looked at this very carefully, and, we feel very confident  
1395 that the 25-foot buffer will give them adequate screening.  
1396  
1397 The 40-foot setback from the edge of the easement is established so that we would have a  
1398 buildable area 55 feet deep which would allow us some flexibility to put the houses in there in a  
1399 situation so that it would be more aesthetically pleasing, so they would not be row housing, for  
1400 instance. And we have some houses that may be 52 feet deep, with the garage and what not, so  
1401 we need that window in there. And that's the reason for the 40-foot setback proffer.  
1402  
1403 The applicant will also agree to set aside approximately 10 acres of this parcel to the north,  
1404 adjacent to the creek, as open space and convey it to the homeowner's association at the  
1405 appropriate time.

1406  
1407 He has also agreed to provide pedestrian access from this development through to the County  
1408 property, so that the people living in here will be able to go through a pedestrian access to get to  
1409 County property once it is developed as a park.

1410  
1411 Four Mile Run Subdivision is to our east, which is zoned R-2AC. Although this request is for  
1412 R-2AC, I submit, through proffered conditions such as numbers of lots, and the lot widths, this  
1413 is an appropriate transition from the Four Mile Run to the Old Mill Estates.

1414  
1415 I, therefore, submit that this request is appropriate for the following reasons:

1416  
1417 R-2AC is consistent with the 2010 Land Use Plan that recommends SR-1 for this area. SR-1  
1418 calls for 1.0 to 2.4 units per acre. This proposal will develop into a maximum of 65 lots, by  
1419 proffer, which computes to 1.4 units per acre.

1420  
1421 Number 2, the development will be served by public sewer and public water.

1422  
1423 Number 3, the staff report states that the schools can accommodate the students generated by this  
1424 development.

1425  
1426 Number 4, single family development is logical and consistent with the development trends in the  
1427 area and meets the goals and objectives of the Land Use Plan.

1428  
1429 Number 5, because of the proffered conditions the applicant has submitted such as house sizes,  
1430 which are one story will be 1,500 square feet; and two-story will be 1,800 square feet of finished  
1431 floor area, no slab construction, brick or stone foundations, chimneys. Fifty (50) percent of all  
1432 garages will be rear or side entry. Restrictive covenants will be recorded with the first sections  
1433 of the subdivision, including such items as: consistent design and quality of all lamp posts and  
1434 mailboxes, paved driveways, electric garage openers, etc.

1435  
1436 I submit this will be a high quality residential development, and request that the Planning  
1437 Commission recommend approval of this request to the Board of Supervisors. I'd be glad to  
1438 answer any questions.

1439  
1440 Ms. Dwyer - Thank you. Are there any questions by Commission members? If  
1441 this open space is reserved for the common use of the residents, how will it be developed when  
1442 its turned over to the residents or the homeowners association?

1443  
1444 Mr. Lewis - Mrs. Dwyer, most of the 7 acres of it is in the flood plain. An  
1445 additional part of it is RPA, which we can't do anything with. We see it as passive recreation  
1446 such as, walking trails, and that sort of thing. We don't see any other type of recreation in that  
1447 area is needed because we have Dorey Park to our north, and Four Mile Run Park to the east.  
1448 So, we just think its appropriate to leave it in open space that everyone can enjoy rather than  
1449 have those deep lots go all the way back to Four Mile Creek.

1450  
1451 Ms. Dwyer - So, you would provide some sort of pedestrian access through or  
1452 between lots so the whole neighborhood would have...  
1453  
1454 Mr. Lewis - Yes ma'am.  
1455  
1456 Ms. Dwyer - And would you install the pedestrian walkways or would you leave  
1457 it in its natural state?  
1458  
1459 Mr. Lewis - We will install the pedestrian walkways where they impact the lots,  
1460 where they go between the lots into the open space. But, from there on, they can either have the  
1461 paths, repair the paths themselves or whatever.  
1462  
1463 Ms. Dwyer - Well, I just would make a statement. This happened in an older  
1464 subdivision in Tuckahoe, and the homeowners association deemed the land, basically, unusable.  
1465 It was floodplain. It was wet. And it was of no value ultimately to the homeowners. It was  
1466 simply a liability to them. They had to pay insurance for it to cover any injuries or damage that  
1467 might occur on the property and had to assess the homeowners for that. The homeowners,  
1468 because they got no use out of it, didn't want to pay that. And, it just ended up being a problem  
1469 for the homeowners association. My question really relates to that. I'm concerned, undeveloped  
1470 land, is this being turned over to homeowners because we can't do anything with it and then it  
1471 ends up being a liability to them?  
1472  
1473 Mr. Lewis - Well, Mrs. Dwyer, it is true, it is undevelopable, because not far  
1474 off of the transmission line is a very steep slope. Then it flattens out. But there is land that is a  
1475 part of the floodplain, but that doesn't mean it floods all the time and it is not wet back there.  
1476 But, approximately 100 feet from that flood plain is RPA. That is not in the flood plain  
1477 whatsoever, hardly. So, if we make our lots 200 feet deep, and take the balance of the property,  
1478 whether it is 10 acres or 11 acres, or whatever it may be, some of that will be useable for  
1479 passive recreation. It will not be wet all of the time.  
1480  
1481 Now, down by Four Mile Creek, I'll grant you, its kind of swampy back there. And this entire  
1482 tract, except for a little part right next to the entrance of Doran Road, is heavily wooded with  
1483 hardwood and pine.  
1484  
1485 So, to me, true, they would have some expense relative to insurance and relative to taxes, but I  
1486 think it would be better suited for that use rather than just let the property lines go all the way  
1487 back. And this particular subdivision, we've done the calculations on it. We will not have to  
1488 have a BMP here.  
1489  
1490 And, because of all the mass of land, and the proffered maximum of 65 lots, we will not have a  
1491 BMP. So, we don't have that hanging over the negotiation for a maintenance problem.  
1492  
1493 Ms. Dwyer - Are there any other questions for Mr. Lewis?

1494  
1495 Mr. Archer - Mr. Lewis, if land is located in an RPA, is it permissible for the  
1496 residents to disturb the land to make walking trails and so forth, or do they have to get  
1497 permission from the Corps of Engineers?  
1498  
1499 Mr. Lewis - I believe they can make walking trails. I believe they can clear  
1500 dead trees out, but they cannot build in there. Wetlands are not associated with an RPA. Where  
1501 the wetlands are, they will still be able to put walking trails as long as they don't impact that  
1502 wetlands by filling it, or something like that.  
1503  
1504 Ms. Dwyer - Any other questions by Commission members? Thank you, Mr.  
1505 Lewis. Will the opposition come forward, please. And all of those who'd like to speak, if you'd  
1506 move forward now so that...Even though you heard the buzzer go off, Mr. Lewis did not use a  
1507 lot of that time, because he was answering questions, which doesn't count against him.  
1508  
1509 Mr. Richard Crowder - Could someone put the proposed subdivision back up (referring to  
1510 slide)?  
1511  
1512 Ms. Dwyer - Would you state your name for the record, please, when you get  
1513 ready to talk?  
1514  
1515 Mr. Crowder - Madam Chairman, my name is Richard Crowder, members of the  
1516 Board. I live in the property, which would be here, right along the property, (referring to slide).  
1517 The property runs 300 feet back to Four Mile Creek.  
1518  
1519 This area that he's described here, back up here, follow this ridge line, that drops approximately  
1520 25 feet down. That area back to Four Mile Creek is wet and it stays wet. When we get a heavy  
1521 thunderstorm, that goes under water completely. Probably, starting at that ridge line back, two  
1522 feet and then back to the creek goes probably 6 feet deep for the most part. It stays like that  
1523 after a heavy storm for probably three or four days. I don't know what he's going to build back  
1524 there, because it's not going to be any walking trails, because its going down the stream.  
1525  
1526 He comes back up here and he's going to put houses; this is a tower. This is a tower where the  
1527 radio communications center that was just recently built as well. Those towers are 100 feet tall  
1528 for the main power lines coming off of Virginia Power. They're going to build houses directly  
1529 up under that. You would have many children in there. I think he proffered 56 kids increasing  
1530 for the schools in the District, if you look back through the packet that he's provided to you.  
1531  
1532 He says its not going to impact the schools. I don't think he's taking into consideration the Four  
1533 Mile Run Subdivision, as well, that hasn't been completely developed to capacity of the schools.  
1534  
1535 I think he increases the traffic flow on Kinvan Road, which is a very narrow road through a  
1536 subdivision, that's controlled by a 25 mph speed limit. That's 743 cars a day. That's a lot of  
1537 cars in a residential area where kids play out in the streets, or ride their bikes. I have three

1538 boys. I don't particularly want them out there riding around with that many cars up and down  
1539 the road that's cutting through.

1540  
1541 Kenvan goes all the way out into Strath Road, and would come back out into Doran Road. He's  
1542 got a secondary entrance that he's going to try to put in at some point here, (referring to slide),  
1543 as well as the subdivision entrance that he's designating down here to over in the project,

1544  
1545 I think he's trying, at some point further down the road here, (referring to slide) to put another  
1546 road back out here to rezone it. Four Mile Run already has several hundred houses in it that is  
1547 zoned with an A-2C, I believe. He's got it, that he's got on quarter acre lots. We're getting too  
1548 many houses out here. We're building much too fast. The project that you saw earlier with the  
1549 flooding problem, the gentleman mentioned, you know, that he needed to get so many houses for  
1550 the 2010 Plan. We're building too fast, just way too fast for out here.

1551  
1552 You don't have the school districts to hold it right now. You don't have enough, as far as the  
1553 elementary school, the high school or John Rolf Middle School. You're putting too many kids.  
1554 Osborne Heights is getting ready to build, or they're building, which will go into the schools as  
1555 well. You're overcrowding the schools. The traffic problems. Those are the issues that concern  
1556 me, as well as the problem of him putting those lots 300 foot deep.

1557  
1558 Mine's 300 feet deep and goes to Four Mile Creek. The creek, when it comes up, comes up to  
1559 the back of my property where I can see it out my back door. And its all wooded. And it floods.  
1560 It's gone. So, I don't know what he's planning, like I said, down there. I don't think those  
1561 people are going to have much of a lot, up in this area here (referring to slide), because this is  
1562 very shallow as far as the depth that it goes. And, this particular area through here is a relatively  
1563 active creek when it rains. That floods out the back of my property as well.

1564  
1565 I know he's going to put storm drainages out and run everything down here and drop it into Four  
1566 Mile Creek. Looking at the way the storm drains that run through this curve, and so forth, but  
1567 that's not going to alleviate the problem. Any questions?

1568 Ms. Dwyer - Thank you, Mr. Crowder. Any questions by Commission  
1569 members? Could you point out the location of your home again?

1570  
1571 Mr. Crowder - My house sits back over here. This property line that runs here  
1572 would be my property line adjacent to it (referring to slide).

1573  
1574 Ms. Dwyer - So, you're off Kinvan?

1575  
1576 Mr. Crowder - Yes ma'am. I am on the dead end. I am the last house on the left  
1577 hand side which would back up to Dorey Park. My property line and Dorey Park are adjacent.

1578  
1579 Ms. Dwyer - Any questions?

1580  
1581 Mr. Crowder - Thank you.

1582  
1583 Mr. Garret Ambrose, 2970 Kinvan Road - My name is Garret Ambrose.  
1584  
1585 Ms. Dwyer - Would you state your name again?  
1586  
1587 Mr. Ambrose - Garret Ambrose.  
1588  
1589 Ms. Dwyer - Ambrose? Okay. Thank you.  
1590  
1591 Mr. Ambrose - And I live on this lot right there next to the Crowders (referring to  
1592 slide). And if you'll notice, the 100-year floodplain running down through here. Okay. It runs  
1593 on through. All the lots in Old Mill Estates, all the way from Route 5, run back all the back to  
1594 Four Mile Creek. And when it rains, like he said, it fills up this whole flood plain. Just a heavy  
1595 thunderstorm. He's proposing to put in the water; his drainage is going to come right here. And  
1596 you have the other residential areas coming up over here backing up the creek. I mean, right  
1597 now, they're spring feed. Four Mile Creek is spring fed. There's water in it during a drought; at  
1598 least almost a foot of water. And I believe it goes on down to the James River and eel larvae  
1599 comes up in there also during the springtime.  
1600  
1601 Ms. Dwyer - What does?  
1602  
1603 Mr. Ambrose - Eel larvae. Okay. But my concern is my house here (referring to  
1604 slide), and the floodplain is right here. You put in water and sewage. Everybody is going to be  
1605 washing their cars, watering their grass. Extra water besides putting 48 acres of rain drainage  
1606 going right into this one little area right here. It's already absorbing all the water from Route 5  
1607 all the way back to Four Mile Creek. I believe something else needs to be done with the  
1608 drainage. At least, I'm not against development. The houses are nice. I mean, it sounds like a  
1609 nice development. But, I'm concerned that everybody washes their car on Saturdays. Big  
1610 thunderstorm, they start watering their grass. You're going to have excess water going down in  
1611 this area on top of rain. Like I said, when we get a heavy thunderstorm, it floods back there.  
1612 You can't even get to the creek within 50 feet. The water is already up that high.  
1613 As far as the road, y'all have the road for extension as it is now. But, through Old Mill Estates,  
1614 we have nine access roads all with yield signs. You increase the number of cars, potential traffic  
1615 hazard right now. There's nine other roads in Old Mill Estates that's going to Kinvan Road now.  
1616 If you increase the number of traffic in there, you would have to put up stop signs or, you know,  
1617 put up radar to keep the traffic from going so fast through there.  
1618  
1619 When the tree was fallen down during the hurricane in September on Strath Road, I mean people  
1620 were flying down towards the cul-de-sac at the dead end because we didn't have the sign at the  
1621 time. They were just flying down there trying to get through. And it's 25 mph speed limit. So,  
1622 that's about all I have to say. Any questions?  
1623  
1624 Ms. Dwyer - Thank you, Mr. Ambrose. Any questions by Commission  
1625 members?

1626  
1627 Mrs. Quesinberry - Mr. Ambrose, when you leave your property right now, do you go  
1628 from Kinvan to Strath? Is that how most people in that area do?  
1629  
1630 Mr. Ambrose - Yes. I do. Yes. Most people do. And, plus, we have people that  
1631 cut through Route 5 down Old Mill Estates, go down to Kinvan and cut over to Strath. Right  
1632 now, we do. There's a lot of traffic on that end of Old Mill Estates.  
1633  
1634 If you increase the other subdivision across, and they want to go over to Strath Road, they're  
1635 going to go right through there, and there's 200 acres worth more people going through there.  
1636 Thank you.  
1637  
1638 Ms. Dwyer - We have three minutes remaining.  
1639  
1640 Mr. George Shumate, 2910 Kinvan - I won't need that long. I'm George Shumate. My big  
1641 problem is the traffic and also water. Like the previous speakers said, I have a spring. I own two  
1642 lots. One lot has a 6-inch stream of water year around, no matter how hot it gets or how dry it  
1643 gets. So, its feeding it. And there's water in there all the time. It's swamp back there.  
1644  
1645 My big concern is the road. The traffic is bad now. The road is built up and down with ridges in  
1646 it. I come out of my driveway. I come out in a dip in the road. If I look to the right, I can't see  
1647 a car coming that's less than 500 feet away because I can't see over the hill. And, behind me, if I  
1648 look to the left, coming around the curve where the previous speakers live, you can't see them  
1649 until they're on top of you. The road is crocked. It's not level at all. And to add 700 through  
1650 there, its going to be very difficult. It's going to be unsafe.  
1651  
1652 You have people now coming through there to bypass the stoplights on Route 5. And, when you  
1653 build these, the new subdivision across the way from this subdivision, all those people will also  
1654 cut through there to save going to Route 5. Route 5 is not easy to get on and off of. So, they're  
1655 going to cut through Kinvan Road and come over and get on Strath Road and go up to Darbytown  
1656 and over to Laburnum to get into Richmond.  
1657  
1658 It's a major traffic problem. I moved there 10 years ago. I moved away from traffic to try to get  
1659 a quiet, secluded place, and I had it until now. My house is backed up to Dorey Park, and its  
1660 very enjoyable. But, adding 700 cars a day on a road that's built like that one, its not going to  
1661 take it, and it will be very unsafe. Thank you.  
1662  
1663 Ms. Dwyer - Thank you. Are there any questions for Mr. Shumate? Thank you,  
1664 sir. Any other speakers? Okay, Mr. Lewis, would you like to take your rebuttal time?  
1665  
1666 Mr. Lewis - Yes ma'am. Thank you. The first speaker spoke about the school  
1667 capacities. The statement I made relative to the Schools was taken directly out of the staff report  
1668 that said that the capacity for the schools was available.  
1669

1670 The stub road, that was mentioned going to the south, was a recommendation by staff, when we  
1671 had a preliminary staff review. We don't have any intentions of purchasing that land, certainly,  
1672 in the future. It was just a stub road put in there to have better circulation for a residential  
1673 subdivision. If you'll notice on the tentative plan, the other road that we have is a cul-de-saced  
1674 street.

1675  
1676 Mr. Ambrose, I believe was his name, lives in the second house away from our property. I  
1677 believe he's the gentleman that his front yard goes under the transmission line. I have to  
1678 commend him, because he has a very beautiful yard. It's manicured under the transmission line,  
1679 so I didn't even notice it was a transmission line when I was standing in Kinvan looking at it.

1680  
1681 Most of the concerns I hear are from drainage. And, I'd like to state two things: The drainage  
1682 from our property drains away from these people. It drains towards the creek, Four Mile Creek,  
1683 and it drains to the east. So, this drainage cannot impact any of them from this property.

1684  
1685 The floodplain that is shown on my tentative plan was taken from the floodplain study that was  
1686 done by the County of Henrico. True, that floodplain is a 100-year floodplain study. And when  
1687 a 100-year storm comes, it floods to that. And it's intended to do that, and that's the reason of  
1688 the floodplain. The property we're developing is a long ways from that floodplain. You certainly  
1689 do not intend and cannot develop into the floodplain.

1690  
1691 Kinvan is on the Major Thoroughfare Plan as a collector. And, I think staff had a reason to put it  
1692 on there as a collector to probably eliminate some of the traffic concerns that may be going to  
1693 Strath Road. Once this road is pushed all the way through to Doran, you know, it's very likely  
1694 that it will relieve some of that pressure to get on Doran, come down Doran to Route 5, and get  
1695 on I-295 and go to Richmond.

1696  
1697 When I go out there to visit the site, I usually go either Route 5 or I-295. Sometimes I go one  
1698 way out and go back the other, so I won't be seeing the same thing over, and over again. But, we  
1699 have worked very closely with the Transportation Department to try to do a subdivision that will  
1700 have limited curves in it, and limited access points in it, and to discourage fast traffic.

1701  
1702 You will notice, when you come off of Doran with our main entrance, we come so far. We turn  
1703 hard to the left. We stop at Kinvan, and then proceed either left or right, depending on where  
1704 you want to go in that direction.

1705  
1706 So, we have studied this thing very hard. I haven't heard anyone say that they're opposed to  
1707 development. We have certainly tried to transition from what is R-2AC with 80-foot lots, to their  
1708 homes. And, I think we've done a good job. I'd be glad to answer any questions. That's all the  
1709 rebuttal I have at this time.

1710  
1711 Ms. Dwyer - Any questions of Mr. Lewis by Commission members? Thank  
1712 you, sir. Mrs. Quesinberry.

1713

1714 Mrs. Quesinberry - This is a difficult piece of property, no doubt, with the power lines  
1715 going right through the middle of some of the other topography. And I'd really like to commend  
1716 Mr. Lewis for some very good proffers dealing with sizes of houses and quality and some of the  
1717 things that he's built into the plans for this neighborhood.

1718  
1719 And, having said that, I really would just like to recommend a denial for this case. At this  
1720 particular time, I don't see this as a good transition between the surrounding A-1 properties, and  
1721 considering this as an expansion area, I believe that R-2, or something less would be more  
1722 appropriate in this particular area. And, I am also concerned about the traffic on Kinvan, over  
1723 700 trips, and traffic generally heading from Kinvan onto Strath, which is a road, at this time,  
1724 you take your life in your hands to get out of. So, there are some issues there that I think make  
1725 this not an appropriate zoning at this time. And, my recommendation would be that we  
1726 recommend a denial on this case to the Board of Supervisors.

1727  
1728 Ms. Dwyer - Is there a second?

1729  
1730 Mr. Archer seconded the motion.

1731  
1732 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Archer. All  
1733 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
1734 The motion carries.

1735  
1736 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Archer, the Planning  
1737 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the  
1738 request because it represents an increase in intensity which could influence future zoning and  
1739 development of adjacent properties; and it would likely set an adverse zoning and land use  
1740 precedent for the area.

1741  
1742  
1743 Ms. Dwyer - Mr. Secretary, why don't we address the 8:30 p.m. deferral case  
1744 before we move on to the next case.

1745  
1746 Mr. Marlles - Mrs. Via will refer the deferrals for the 8:30 p.m. agenda.

1747 Ms. Dwyer - Thank you.

1748  
1749 Mrs. Via - Yes ma'am. We have one case that the applicant has requested  
1750 deferral for the agenda. That is C-66C-99 in the Fairfield District.

1751  
1752 **C-66C-99** **Ralph L. Axselle or Andrew M. Condign for Windsor**  
1753 **Enterprises:** Request to conditionally rezone from A-1 Agricultural District to R-2C One Family  
1754 Residence District (Conditional), Parcels 64-A-24 and 26, containing 34.4 acres, located at the  
1755 eastern terminus of N. Wilkinson Road and at the eastern terminus of Pilgrim Lane. A single-  
1756 family residential subdivision is proposed. The R-2 District requires a minimum lot size of

1757 18,000 square feet. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net  
1758 density per acre.

1759  
1760 The deferral request is to January 13, 2000.

1761  
1762 Ms. Dwyer - Thank you. Is there any one in the audience in opposition to the  
1763 deferral of Case C-66C-99 Windsor Enterprises? There is no opposition. We are ready for a  
1764 motion.

1765  
1766 Mr. Archer - Madam Chairman, I move deferral of C-66C-99 Windsor  
1767 Enterprises to January 13, 2000.

1768  
1769 Mr. Vanarsdall seconded the motion.

1770  
1771 Ms. Dwyer - At the applicant's request?

1772  
1773 Mr. Archer - At the applicant's request. Thank you so much.

1774  
1775 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All  
1776 those in favor of the motion for deferral, say aye—all those opposed by saying nay. The vote is  
1777 5-0 (Mr. Donati abstained). The motion carries. Next case.

1778  
1779 **Deferred from the November 10, 1999 Meeting:**

1780 **C-47C-99 Ralph L. Axselle or Andrew M. Condign for Pennies**  
1781 **Corporation:** Request to amend proffered conditions applicable to the Parham Place Office Park  
1782 and accepted with rezoning case C-113C-85, on Parcel 52-A-5, containing 20.11 acres, located on  
1783 the south line of Old Hungary Road at the intersection of Hungary Road and Benham Court and  
1784 also fronting on the north line of E. Parham Road. The proposed amendments are related to  
1785 access to Hungary Road and buffer area on the property. The Land Use Plan recommends  
1786 Office.

1787  
1788 Mr. Marlles - The staff presentation will be by Mr. Mark Bittner.

1789  
1790 Ms. Dwyer - Okay. Is there any one in the audience in opposition to C-47C-99  
1791 Penrose Corporation? We do have opposition. Thank you. We'll hear from you later in the  
1792 meeting, sir. Okay. Mr. Bittner.

1793  
1794 Mr. Bittner - Thank you, Madam Chairwoman. This application would amend  
1795 the proffers for C-113C-85 of the Parham Place Office Park. The site is zoned O-2C Office and  
1796 an office complex sits on the southeastern portion of the property. The remainder of the property  
1797 is undeveloped.

1798

1799 The Federal Bureau of Investigation is in the process of building a new headquarters building on  
1800 this site. The proffers currently prohibit vehicular access to Old Hungary Road, and also require  
1801 a 35-foot landscaped buffer along both roadways.

1802  
1803 The proposed amendment would allow a single vehicular access to Old Hungary Road through the  
1804 35-foot buffer. You can see that on this display right here (referring to slide). This is the  
1805 proposed location for the new access to Old Hungary Road on the north side of the site.

1806  
1807 The amendment would require a gated security system at this entrance. And only authorized  
1808 individuals would be able to use this access. The proposed amendment also states that the Old  
1809 Hungary Road entrance would be a contingency entrance, with the primary entrance being  
1810 Parham Road. The proffers further state the Old Hungary Road entrance could only be used if  
1811 the Parham Road entrance weren't available.

1812  
1813 The FBI has indicated that the old Hungary Road entrance would only be used when the Parham  
1814 Road entrance was blocked, or for rare situations such as when multiple witnesses were coming to  
1815 the facility, and they did not want to take a chance on the witnesses observing each other.

1816  
1817 The applicant has also proffered that, if the FBI were to ever leave this site, the Old Hungary  
1818 Road entrance would be closed. This would prevent any occupant of the site, other than the FBI,  
1819 from using the Old Hungary Road access. And, also a new proffer has come in this week, and  
1820 we just handed it out to you tonight.

1821  
1822 The applicant has additionally proffered that they would not request a vacation of the right of way  
1823 of Old Hungary Road, and that is along here (referring to slide). The reason for them doing that,  
1824 is there was some concern expressed by the neighbors that they were not going to try and keep  
1825 this area as much the way that it is right now. That would include leaving Old Hungary Road,  
1826 which is pretty wooded, and its not a normal up to standard type road.

1827 The residents were interested in not seeing any major traffic improvements back there. And, the  
1828 applicant has said they will not ask for the vacation of the right of way for Old Hungary Road to  
1829 meet that request.

1830  
1831 Vehicular access was restricted from Hungary Road and Old Hungary Road during the original  
1832 rezoning because these roads were mainly residential in character. The mixing of office traffic  
1833 with residential traffic is not desired in this area. And, because of this, the applicant has worked  
1834 to limit the impact of traffic on Hungary Road, through the proffered security system.

1835 Staff is confident that the FBI could implement a security access system. But, even with the  
1836 submitted proffers, there are some outstanding issues with this application. And these issues are:  
1837 Number 1, addressing the uncertainty of the frequency of use of the Old Hungary Road access.  
1838 Even with a gated security system, the County would not be able to physically enforce how many  
1839 cars access Old Hungary Road.

1840

1841 The applicant should consider a mechanism to allow the county to review the traffic going to Old  
1842 Hungary Road to determine if it is creating negative impacts. This review, for example, could  
1843 take place every 5 years or whenever deemed appropriate by the Planning Commission.  
1844

1845 The second issue is finalizing location of the Old Hungary Road entrance. Before any decision is  
1846 made on this amendment, the applicant should clarify exactly how and where access would be  
1847 achieved to Old Hungary Road. And the reason I bring that up is, they show in the display that it  
1848 would be here (referring to slide). They've previously showed a potential access here (referring  
1849 to slide). And, then, today, the applicant informed me that they are considering further back to  
1850 the west about 20 feet. And Andy Condlin, the applicant, will, I'm sure, speak to that when he  
1851 gets up.  
1852

1853 If the applicant could address the issues outlined in this report, staff could recommend approval of  
1854 this application. And, I'd like to point out that Todd Eure of our Department of Public Works is  
1855 here, tonight, and he can even explain some further information related to that entrance to Old  
1856 Hungary Road, if you'd like. I'd be happy to answer any questions you may have.  
1857

1858 Ms. Dwyer - Thank you, Mr. Bittner. Any questions by Commission members?  
1859 Would the applicant come forward, please?  
1860

1861 Mr. Andy Condlin - Madam Chair, members of the Commission, my name is Andy  
1862 Condlin. I have with me Doug Jones, and Jack Mullaney from the FBI to answer any specific  
1863 questions you may have about their operation.  
1864

1865 This piece of property, and I would like to reserve at least 4 minutes, or whatever I have, which  
1866 is greater, for rebuttal, if I may. This project is part of Parham Place Office Park which is 20  
1867 acres; this being an 11-acre piece, which the amendment applies only to the FBI facility, which  
1868 has already been approved, as you know, for POD.  
1869

1870 The FBI, to describe what they do, is a law enforcement agency of the Federal Government.  
1871 This building represents the most current prototype of facilities for the FBI, whose functions  
1872 include, being a fact finding organization. It goes out and gathers information. It's not like a  
1873 situation like a fire department, where they wait for a phone call to respond to events, but instead,  
1874 their agents are already out in the field doing investigative work. This facility is dedicated,  
1875 primarily, to very typical office-type use for administration and record keeping, but also some  
1876 specific for communications, analyzing evidence and support services for the agents.  
1877

1878 There are times that the agents are in the facility, but most agents most of the time are out in the  
1879 field conducting their investigative work. Part of the FBI's prototype facility would allow for a  
1880 contingency access in case there's a need to exit the facility when the main access or road is  
1881 unavailable. That's the reason for this request.  
1882

1883 This access is used only by the FBI in a specific and very rare necessary instance. In the event of  
1884 an emergency response, the FBI dispatches these agents from the field. They're not dispatched.  
1885 They do not have to call them in or leave from this facility since they're already out in the field.

1886  
1887 Only upon the happening of three circumstances, all at the same time, would this Hungary Road  
1888 access be used. When there's an emergency that the FBI has to respond to, the field agents who  
1889 need to respond are actually located at this facility, and Parham Road or the Parham Road  
1890 entrance is actually blocked from use. All three, individually, are very rare. All three, at the  
1891 same time, are even more so. And that's why we are here today, solely for that access for that  
1892 purpose.

1893  
1894 The proffers that have been provided have been negotiated and discussed at length with the  
1895 neighbors. And, we appreciate all the responsiveness by the neighbors, the time that they've put  
1896 in.

1897  
1898 The proffers include some significant points that it's only for the FBI use. And no other user,  
1899 only so long as the FBI is the sole occupant of this building. A single lane, 15-feet wide, with a  
1900 gated security system to prohibit any public access or any other user. Is to be screened from the  
1901 east and west sides of the property lines. And, we have specified the location. The reason for  
1902 this location; Mark, I'm going to pick on you again. If you could show the location piece  
1903 (referring to slide) is there is a substantial stand of trees right here (referring to slide).

1904  
1905 And, when we originally located the access along Old Hungary Road at this location, I think the  
1906 neighbors, and rightfully so, were concerned with it being seen. There was some concern at this  
1907 location. It's approximately 150 feet from this property line where Mr. Rowe and Brookland  
1908 Middle School is a little further down, to move it over slightly.

1909  
1910 That was requested, and we're prepared to move it, if the Commission so requests, 20 feet to the  
1911 west. There already is a 100-foot buffer right here on this property line (referring to slide), along  
1912 this line right here; 100-foot buffer right there. And then this is approximately 150 feet from the  
1913 property line. We have tried to specify by Exhibit B the actual look of the gate and by this  
1914 Exhibit A, the actual location.

1915  
1916 This ultimately, I think, is a pretty simple case that rear access is to be used for the benefit of the  
1917 community in the mission of the FBI in a very rare and unusual circumstance, but which is within  
1918 the realm of possibility. And, that is, that the front entrance on Parham Road is unavailable for  
1919 the FBI to use. And that someone needs to be called from the FBI to get out in the case of an  
1920 emergency.

1921  
1922 The bottom line is that this is to be a single-lane access, screened from view on Old Hungary  
1923 Road, for use only by the FBI, and only as a contingency means of access so long as Parham  
1924 Road, and only if Parham Road, is unavailable.

1925 We, respectfully, ask that you recommend this case for approval to the Board of Supervisors. I'd  
1926 be happy to answer any questions that you may have at this time.

1927

1928 Ms. Dwyer - Thank you, Mr. Condlin. Any questions by Commission

1929 members?

1930

1931 Mr. Archer - Mr. Condlin, the proffers that were submitted and dated November

1932 23<sup>rd</sup> are now the active proffers. Is that correct?

1933

1934 Mr. Condlin - Yes sir. That was, at the time of that location as you see it up on

1935 your screen, according to those proffers.

1936

1937 Ms. Dwyer - Any other questions? Thank you, Mr. Condlin.

1938

1939 Mr. Condlin - Thank you.

1940

1941 Ms. Dwyer - You have 5 minutes left for rebuttal. Would the opposition come

1942 forward, please?

1943

1944 Mr. Dan Rowe - My name is Dan Rowe. I live at 1823 Hungary Road, which is

1945 adjacent to the property, on the east side. I am opposed to the changing the proffer. I'm not

1946 opposed to the FBI being there. I think they would be a good neighbor. But, I am opposed to

1947 changing the proffer.

1948

1949 When the property was originally zoned in 1986, I believe there was a Proffer No. 4; that is the

1950 one they want to change. This says, and, as I have pointed out before, Madam Chairman, this

1951 proffer was carefully constructed by a highly trained and skilled member of the legal profession,

1952 you see. So, he got it like he wanted it. Now, this thing says that there will be no vehicular

1953 access to Hungary Road or Old Hungary Road during construction. He didn't stop right there.

1954 He said, "or permanently."

1955

1956 Now, whatever "permanently" means, you see. To me, I know what it means. I have maybe

1957 trouble giving you a definition of it, but I know what it means to me. "Permanently," it means

1958 that this property is not to be changed. You know, that's what we were given at that time.

1959

1960 Now, everybody knew what the proffers were when they first looked at the property, you see.

1961 We can't go out to Hungary Road, because its proffered that we cannot, and that proffer is

1962 permanent. It will not be changed, you see. That was my feeling all along. This is a proffer that

1963 cannot be changed.

1964

1965 Now, there is room on Parham Road to have another access to this property. I've never heard it

1966 discussed. I've brought it up before, but they just said, "We can't do that," you see. But, they

1967 can do that. They just don't want to do that. So, that's one thing. I do not think this proffer

1968 should be changed, and I am opposed to it being changed, because it was put in here. It was put

1969 in there permanently, you know. That's an important word in this proffer for me. Maybe it is

1970 not to anybody else. I hope that it is.

1971  
1972 Now, if this should happen, what's going to be the use? It can't be much. I'm not worried about  
1973 a traffic problem out there—a 15-foot roadway. But, as Mr. Bittner said, whose going to monitor  
1974 that? Who knows how many cars are going to go in and out of there a day?  
1975  
1976 In a September 21, 1999 letter here by Mr. Condlin. Yes, by Mr. Condlin. He says, "...Based  
1977 on similar FBI facilities elsewhere in the Country, such a secondary access is used, on average,  
1978 for less than five vehicles per week..." five vehicles per week. Well, that's not many vehicles.  
1979 But, if you take the other things which are brought up here, you know, this is going to be only,  
1980 you know, very, very limited use, three times. You know, one of them said to one another in  
1981 here, mentioned three situations where this can be used. One, where there's an emergency.  
1982 Two, - you know, three things have to exist at once for this to be used.  
1983  
1984 Two, is when the agents are in the office, and the third one, I don't remember exactly what it  
1985 was. But, there were three things. So, does that happen five times a week, you know? That's  
1986 much more than anybody is indicating here.  
1987  
1988 They mentioned witnesses. Well, that's not any emergency situation. They might have to bring  
1989 witnesses in this way, so if they have multiple witnesses, so that witnesses won't see each other.  
1990 Now, you know, what do they do? Do they bring these witnesses in, in convertibles, you know?  
1991 Or do they ever hear of tinted glass in vehicles? To me, that's a pretty lame reason.  
1992  
1993 Those witnesses are not going to see each other. If they waited two minutes on either end, they  
1994 wouldn't see each other anyhow. So, that's no reason to have this change in this proffer. I don't  
1995 see any reason. They could put this secondary entrance out to Parham Road. There's plenty of  
1996 room out there. There's no reason, that I can see, that it couldn't go out there.  
1997  
1998 Not, I wonder, I have to wonder about the planning that goes in over here. I don't know who  
1999 does it. That entrance, first it was on the western end of the property. Then it was brought to the  
2000 eastern end of the property. Now, they're moving it back. You know, if its going to be there, I  
2001 would prefer to have it somewhere in the middle. It doesn't have to be right on my end of the  
2002 property. But, I don't know. Whose doing the planning?  
2003  
2004 Now, I got a letter here dated December 1<sup>st</sup>. This isn't in regard to this. This is evidence to me  
2005 of the planning that's going on here. A letter dated December 1<sup>st</sup> from Christopher M. Penrose.  
2006 This is in regard to some parking variance that is going to be requested. And this is what it says,  
2007 "...A parking variance will allow us to keep more of the mature pines, which are presently  
2008 situated on the south side of the site..." Good. And there are, or there were a nice stand of  
2009 mature pines in there. This letter is dated December 1<sup>st</sup>.  
2010  
2011 Just about the time that this letter was being written, they were there in there tearing all of the  
2012 mature pines. They have leveled it except for one thin strain right on Hungary Road. All of  
2013 those mature pines are gone. But, yet, there's going to be hearing on, Thursday, December 16<sup>th</sup>

2014 about a variance for parking, so that they can keep the mature pines. Well, whose planning is  
2015 that? I don't know, you see. But, to me, you know, that's an evidence of the planning.

2016  
2017 Somebody could plan to put that secondary entrance right down, out to Hungary Road, and to  
2018 think that both of those entrances are going to be blocked at the same time is pretty far fetched.  
2019 But, now, one of the gentlemen at the FBI told me, in the meeting, that its conceivable that any  
2020 thing can happen. Well, you know, I guess I have to concede that point. It is conceivable that  
2021 anything can happen. You know. It's inconceivable that some things would. Okay. If he says  
2022 that, all right. I'll go along with that.

2023  
2024 If this proffer is going to be changed, then, they can change another proffer. The FBI can come  
2025 in and say, "Hey, we're in here now. We want to have an outdoor shooting range here so our  
2026 agents don't have to go to Quantico, to shoot here." Where are they going to shoot? They can't  
2027 shoot over towards Brookland or out towards Parham, or up towards the Post Office, or across.  
2028 There's only one place they can shoot, you see. And that's right over towards the east, you see.  
2029 You know, we're going to have a 20-foot berm there. Most of the bullets would probably go into  
2030 that, you see. Besides, its only one old man that lives over there. So, you know, it wouldn't  
2031 matter, you see. So, we can change the proffer.

2032  
2033 And, I've heard it said, its legal to change the proffer. Well, it may be legal, but that doesn't  
2034 make it right. It may have been legal to log incendiary grenades at a religious compound in  
2035 Waco, Texas, but that doesn't make it right. So, I hope that you will deny this request, and tell  
2036 them, "Put that thing out to Hungary Road." I welcome the FBI there, then. Thank you.

2037  
2038 Ms. Dwyer - Thank you, sir. Any questions for Mr. Rowe by Commission  
2039 members? Mr. Condlin, would you like to use your rebuttal time? Did we have any other  
2040 opposition?

2041  
2042 Mr. Condlin - I believe Mrs. Barrett. She can use some of my time. She said she  
2043 wanted to speak, just make a statement, whose across the street.

2044  
2045 Ms. Dwyer - In favor?

2046  
2047 Mr. Condlin - I'm not sure.

2048  
2049 Mrs. Gladys Barrett - Good evening, Chairman, and Commission members. My name is  
2050 Gladys Barrett, and I represent the 107 homes that are in the North Run Terrace Subdivision.  
2051 North Run Terrace is one of four subdivisions that surround the site that we are discussing here.  
2052 I live on Leslie Court which is within that subdivision a could quarter of a mile from where Leslie  
2053 Court comes out to where the proposed entrance/exit rather is supposed to be.

2054  
2055 We have met with the proponents of this request, rather, to change the proffer to allow an  
2056 entrance there. And, they been very responsive. They have certainly answered all my phone

2057 calls. They have certainly responded to all, and answered questions to all of the concerns that  
2058 we've had.

2059 In addition to that, several of us viewed the markers that were where the intended exit was to be.  
2060 We raised that question. That question was also answered. And, tonight, I took the liberty to  
2061 ride through there. They're gone. Those two markers at that time were 26 feet apart, rather than  
2062 the 15 discussed by Attorney Condlin. So, we're satisfied with that.

2063  
2064 And, I wanted to just make a statement because we, at North Run Terrace, don't oppose the  
2065 proffer change, but we don't support it either. Thank you so much.

2066  
2067 Ms. Dwyer - Thank you. Any questions for Mrs. Barrett by Commission  
2068 members? No questions. Thank you.

2069  
2070 Mr. Condlin - Very quickly, Madam Chair, members of the Commission, I'm  
2071 going to address of Mr. Rowe's points about first opposing the changing of the proffer. As you  
2072 know, circumstances change. And, when this case was originally rezoned, there was no way to  
2073 perceive the FBI and this type of need to come out at this location.

2074  
2075 The reason it can't go out to Parham Road, the whole reason for the need for this contingency  
2076 means of access, is if Parham Road is blocked for any reason, primarily, Parham Road is blocked  
2077 or the entrance to that. If there's two entrances to Parham Road, it doesn't do you any good, if  
2078 Parham Road is blocked. It's rare. You can't imagine that would happen, but it could happen  
2079 and that's the real reason for this contingency means of access. I've been told by our engineer  
2080 whose checked with the County that, it does not satisfy the distance requirements that would be  
2081 required for distance between the two, unless, you know, something that was otherwise approved,  
2082 contrary to the procedures of the Public Utilities.

2083  
2084 As to how many cars, I always hate writing letters and have them quoted on me, later, as to the  
2085 number of vehicles per week. That was written when the proffers, and before the proffer said,  
2086 "...only if Parham Road is unavailable..." That is one requested by the FBI was to bring  
2087 witnesses in, for example, from two different locations so they don't see each other. That's no  
2088 longer available.

2089  
2090 As to the monitoring, it can only be used if Parham Road is blocked. If Parham Road is not  
2091 blocked, they can't use it. I'm sure most of us would hear about it if Parham Road is blocked,  
2092 and only under those circumstances, may they then use it. Those are the only circumstances, and  
2093 that's why we view the circumstances and the problems have changed since my letter stating five  
2094 vehicles per week, at most. But, certainly, only if Parham Road is blocked.

2095  
2096 Finally, as to the parking variance, this facility will have less than 100 employees. In very rare  
2097 circumstances will they have more than 100 personnel at this location. An office facility of  
2098 similar size would have 400 to 500 people there, of course, with the cars. And that's the request  
2099 for the variance. We've gone through the POD to comply with the requirements of the parking.  
2100 It was, simply, to ask the BZA, for those reasons, and other technical reasons, to allow for

2101 reduction in parking. I can't speak to the trees, other than the fact, that some of those trees were,  
2102 I understand, a part of the dry pond; the requirements of the County for the drainage issues.

2103  
2104 Again, this is solely for contingency means if Parham is unavailable, and no other time. And, its  
2105 only for the FBI. So, when the FBI leaves, the County dictates how and when this access will be  
2106 closed. But, in the meantime, it can only be used and available when Parham Road is blocked.  
2107 Thank you.

2108  
2109 Ms. Dwyer - Any questions for Mr. Condlin by Commission members?

2110  
2111 Mr. Vanarsdall - Andy, could you shed some light on some of what Mr. Rowe said  
2112 about the entrances here today, and there tomorrow?

2113  
2114 Mr. Condlin - As far as the location goes?

2115  
2116 Mr. Vanarsdall - Yes.

2117  
2118 Mr. Condlin - When we originally had it, as I pointed out, it was in this location  
2119 (referring to slide). It was right at the corner, or the crux it seems as to Old Hungary and  
2120 Hungary. The concern was to get it where most of the mature trees, and I don't know if you've  
2121 got a slide that shows the trees. There is some missing here. But this is where the highest point  
2122 of the mature trees.

2123  
2124 You can see in this picture, this is somewhat of an open area with other mature trees. So, that we  
2125 tried to get it behind these trees as much as possible. And that's the reason for the location. And  
2126 we're willing to go from, and I can't point to where it is exactly, on this picture. But, from this  
2127 location, a little bit to the west towards the Hungary View Manor. But, if the Commission so  
2128 desires, again, the neighbors want it behind that stand. We want to try to assist Mr. Rowe and  
2129 move it out.

2130  
2131 I would say this, regardless of the location, it has to be screened. And if we put in the proffer.  
2132 "It has to be screened from view from both the east and west." Both these spots, the east and  
2133 west.

2134  
2135 Ms. Dwyer - Would you then need to amend proffer, I guess, it's 4-A, in  
2136 reference (unintelligible) on the site?

2137  
2138 Mr. Condlin - The request was made too late to get a rendering, or, you know a  
2139 relocation. But, I have 10 copies here of a proffer that would say, and I can write it in the  
2140 existing proffer that, "20 feet to the west of the location shown on Exhibit A." We can clean that  
2141 up before the Board of Supervisors, again, if the Planning Commission so chose. We're trying to  
2142 maintain the request of the folks that live off of Old Hungary Road, Benham Court, which is right  
2143 in this area here (referring to slide) to keep it from that area.

2144

2145 Mrs. Wade - (Comments unintelligible-microphone not working).  
2146  
2147 Mr. Condlin - I'm not sure, ma'am. Do you know, Mr. Rowe, or Jack, where  
2148 the pines were taken down for the...  
2149 Mr. Rowe - Right on Parham Road. May I? The whole area. And down in  
2150 this part of that. You see Parham Road. Right where the "P" is on Parham Road (referring to  
2151 slide). You can see the wooded area there—the whole wooded area. The old wooded area in  
2152 there. They are the mature pines that were referred to here, I'm sure. They're all gone. None of  
2153 them are there except for a few right on Parham Road. Otherwise, that area is cleared.  
2154  
2155 Mr. Condlin - Again, that was part of the requirements for the dry pond and  
2156 location of that where it needed to be, from my understanding, not from the construction of the  
2157 building or the access or anything.  
2158  
2159 Mr. Archer - I have one question of Mr. Condlin. And this is just so I  
2160 understand what the usage might be or might not be. But you're saying that these three conditions  
2161 that you enumerated all have to take place at the same time in order for anything other than the  
2162 Parham Road entrance to be used. That's an emergency, the agents are in the building, and  
2163 Parham Road is blocked? Not one, or two, but all three have to be in place?  
2164  
2165 Mr. Condlin - Yes sir. That would be a combination of the proffers that were  
2166 submitted and the use generated by the FBI. They normally don't respond to certainly like a fire.  
2167 But they do respond to certain emergencies. The people that do respond to whatever might be  
2168 defined as an emergency the FBI needs to respond to are usually, the response gets called out of  
2169 this center, and agents in the area would have to then respond to that area. It's very rare.  
2170  
2171 Jack, I think you've said before, like it was four or five agents at a time, at the most, would be at  
2172 the facility at any given time. Usually, they're not there. They report directly. They might pick  
2173 up some paper work, and do their investigations that they're working on. And, then, even if  
2174 those circumstances occur, there's an emergency the FBI has to respond to, the people that need  
2175 to respond to it, are in this facility, not out in the field. And, then they can respond by getting  
2176 onto Parham Road. Then, and only then, if Parham Road is blocked, would they then use the  
2177 Old Hungary Road access. Again, it's a combination of both the proffers and the practical use  
2178 made by the procedures of the FBI.  
2179  
2180 Ms. Dwyer - Any other questions for Mr. Condlin? Thank you. Okay. Do you  
2181 need other information, Mr. Vanarsdall?  
2182  
2183 Mr. Vanarsdall - No.  
2184  
2185 Ms. Dwyer - Okay. Ready for a motion.  
2186

2187 Mr. Vanarsdall - Let me start from the beginning. The FBI had several locations  
2188 around the County and the metropolitan area, and they chose this one over the rest of them. And  
2189 the only problem we ever had was the changing of this proffer.  
2190

2191 This proffer was put on the original zoning case because there could be six more buildings  
2192 developed on this property in the 1984 zoning. And, it would have opened up the flood waters to  
2193 Hungary Road. Well, the FBI has no intentions of using it except for what Mr. Archer just asked  
2194 Mr. Condlin.  
2195

2196 We've had a series of community meetings. I've talked to Mr. Rowe several times. The  
2197 entrance was moved. It was moved just recently by Mr. Condlin because I went out and looked  
2198 at it and saw it right beside Mr. Rowe's property. But, I had a letter from Mr. Condlin saying,  
2199 because I wasn't at the last community meeting. I don't believe Mr. Archer was either. Mr.  
2200 Archer and I have been working together on this, because the building sets in Brookland, but  
2201 impacts the people in Farifield.  
2202

2203 Mr. Condlin's letter to me was that Mr. Rowe had no problem with where they had chosen to put  
2204 the exit. I called Mr. Rowe and he said, "Absolutely, not. I do have a problem with it.  
2205 Absolutely, I have a problem with it." He told me three times. So, I got with Mr. Condlin,  
2206 moved it 20 feet west.  
2207

2208 Jack is the FBI agent sitting in the audience, tonight, I believe. You told us you spent 25 years in  
2209 the New Jersey and New York area. Right?  
2210

2211 Mr. Jack Mullaney, FBI Agent - Right.  
2212

2213 Mr. Vanarsdall - And never saw the exit used once. Isn't that right, Mr. Archer.  
2214

2215 Mr. Archer - That's what I heard.  
2216

2217 Mr. Vanarsdall - Also, I think we had in the beginning, had a double lane, and Mrs.  
2218 Barrett asked about that. We reduced that to 15 feet. That's all it is, a 15-foot road. Then we  
2219 came to the problem, well, the FBI says, "We don't want to curb and gutter Old Hungary Road."  
2220 That's the little strip that comes down by Hungary. So, I went to Bob Pinkerton, whose the  
2221 Deputy County Manager, in charge of Public Works, and sat down with him and told him the  
2222 problem. My questions was, "If we approve this with no curb and no gutter, can Public Works,  
2223 at some point in time, come back, and do it?" He said, "Well, if the Board of Supervisors  
2224 approves it, it will stay like it is."  
2225

2226 Mr. Rowe wanted it to stay like this. All the people over in the subdivision wanted it to stay like  
2227 it is as I speak. And, so, we got over that hurdle. So, they're going to leave the Old Hungary  
2228 Road the way it is, just like it is right now. Going to put a 15-foot exit. You just heard the  
2229 conditions on which it could be used. It certainly won't open the flood gates. Mr. Bittner tells us

2230 its going to be monitored. And we don't have to wait five years to monitor it. We can monitor it  
2231 every week, if we want to.

2232  
2233 I don't know of a better, a safer neighbor than any of us could have than the FBI. A certain  
2234 amount of trust has to be in everything. I don't know of anything else we could do to improve the  
2235 case. I appreciate all the input from the neighborhood, and from Mr. Rowe. I appreciate all  
2236 Andy Condlin has done on it and the staff. I appreciate working with Mr. Archer on this. He  
2237 may want to say something before I finalize this.

2238 Mr. Archer - I think you've adequately covered everything. I guess one thing  
2239 that we might need to reiterate is the fact that the Plan of Development has been approved. The  
2240 building is going to be built. And, certainly, from my standpoint as a citizen, if this rare  
2241 emergency where all three of these conditions should exist at one time, should occur, and my  
2242 health, safety, and welfare was concerned, I would certainly want the FBI to be able to get to  
2243 where ever they had to go. So, that's about all I have to say about it.

2244  
2245 Mr. Vanarsdall - Thank you. I wanted to say that the letter that Mr. Rowe received,  
2246 not from us. It was from the Board of Zoning Appeals, from BZA, and it simply states that the  
2247 FBI came back and said, "We don't think we need all the parking spaces that we thought we did,  
2248 so we'd like to have a variance not to use it for parking; won't pave it." So, they had to go to the  
2249 Board of Zoning Appeals to get a variance, because we don't handle variances.

2250  
2251 And, I will say one more time, the reason they need another exit is because they may have two  
2252 witnesses. They don't want them to see each other. They may be in the building working, and  
2253 minding their own business, and get a call that there's a terrible bank robbery. They have to get  
2254 out of there, and Parham Road is being constructed or closed, or a wreck or anything. So, this is  
2255 a very valid reason.

2256  
2257 With that, I recommend C-47C-99 be recommended to the Board of Supervisors for approval.

2258  
2259 Mrs. Quesinberry seconded the motion.

2260  
2261 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry.  
2262 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
2263 abstained). The motion carries. This case will be heard by the Board of Supervisors on January  
2264 25<sup>th</sup>.

2265  
2266 Mr. Vanarsdall - Thank you for coming.

2267  
2268 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Quesinberry, the Planning  
2269 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the**  
2270 **amended proffered conditions** imposed with **C-113C-85** because it was determined to be  
2271 reasonable; and the changes do not greatly reduce the original intended purpose of the proffers.

2272  
2273

2274 **C-76-99** **Clement Tingley for Affton L. L. C.:** Request to rezone from R-  
2275 4AC One Family Residence District (Conditional) to C-1 Conservation District, part of Parcels  
2276 85-A-2 and 3, described as follows:

2277  
2278 **Parcel A**  
2279 Beginning at a point located on the Northeast corner of the property running North 77°15'11"  
2280 West 1,148 feet more or less to a point in a creek; thence in southerly direction along the  
2281 centerline of an unnamed creek 1,174 feet more or less to a point; thence South 61°45'05" East  
2282 4.0 feet more or less to a point; thence South 51°50'56" East 189.00 feet to a point; thence North  
2283 16°37'07" West 8.58 feet to a point; thence North 16°37'07" West 63.36 feet to a point; thence  
2284 North 12°15'10" West 65.29 feet to a point; thence North 00°30'49" East 77.97 feet to a point;  
2285 thence North 06°29'40" East 76.94 feet to a point; thence North 14° 17'06" East 70.81 feet to a  
2286 point; thence North 15°57'40" East 130.01 feet to a point; thence North 13°39'09" East 146.98  
2287 feet to a point; thence North 03°01'34" West 142.74 feet to a point; thence North 22°46'22" East  
2288 138.08 feet to a point; thence North 67°52'48" East 138.08 feet to a point; thence South  
2289 67°00'47" East 138.08 feet to a point; thence South 21°54'22" East 138.08 feet to a point; thence  
2290 South 30°42'28" West 46.70 feet to a point; thence South 79°01'32" East 613.84 feet to a point;  
2291 thence North 05° 15'46" East 323.62 feet to the Point of Beginning, containing 10.0 acres, more  
2292 or less.

2293  
2294 Mr. Marlles - The staff presentation will be by Mrs. Elizabeth Via.

2295  
2296 Ms. Dwyer - Is there any one in the audience in opposition to C-76C-99 Affton  
2297 LLC? There is no opposition. Mrs. Via.

2298  
2299 Mrs. Via - Thank you, Madam Chair, and Mr. Marlles. This is very simply a  
2300 request to take the unused portion of the property noted here, (referring to slide) in this area to  
2301 fulfill a proffer of the original zoning, and take it from R-4AC to C-1. It is the unused portion of  
2302 the site. It's a little bit unusual in that it is not floodplain, but it is steep ravine and steep slopes  
2303 and other environmental sensitive area. The Comprehensive Plan recommends it be set aside for  
2304 conservation area. This area will be maintained by the homeowners association and pedestrian  
2305 access will be constructed to the area. Are there any questions?

2306  
2307 Ms. Dwyer - Will this land, in your view, be useable by the homeowners?

2308  
2309 Mrs. Via - I don't believe it will be all that useable. (Referring to slide) This  
2310 area right here to the west of the site here is very steep. You may be able to do some hiking and  
2311 what not back into the ravine in this area. It evens out a little bit more out here, but its mostly  
2312 passive recreation and open space. I don't believe it would be very useable. One thing is that this  
2313 area will be outside the platted lots of the subdivision. It will all be dedicated open space.

2314  
2315 Ms. Dwyer - May I make a request of staff? This is something that has come up  
2316 several times. It came up in an earlier case tonight. I think that we're developing a pattern of,  
2317 certainly, zoning to C-1 is appropriate. But, I'm just concerned, generally, about unusable land

2318 being deeded over to homeowners, who may, in the future, experience it as a liability, and not as  
2319 a use for a recreational parcel. I'm not sure what we should do about that in the County, or if we  
2320 should do anything, but it might be something that we should look at.

2321  
2322 I'm saying that, because we've had problems, in reality, in the Tuckahoe District, situations like  
2323 this. So, its not just a speculative matter. It's something that has proven to be a problem,  
2324 because of (unintelligible) in the past.

2325  
2326 Mrs. Via - If it's not useable recreation area, it can become a liability. It is a  
2327 maintenance. Someone does have to maintain it. There can be problems with children, and  
2328 people being back there, and just the maintenance.

2329  
2330 Ms. Dwyer - Loitering, setting fires, trash, that kind of stuff.

2331  
2332 Mrs. Via - Yes. It is a real issue.

2333  
2334 Mrs. Wade - (Comments unintelligible-microphone not working).

2335  
2336 Ms. Dwyer - Well, it could be very nice. This looks like it might be more  
2337 useable, than some of the others, that are actually wet.

2338  
2339 Mrs. Via - Yes. This area is not wet. There is a creek. (Referring to slide)  
2340 But you can see some of the water that runs through, which is the creek. And, as I mentioned,  
2341 this is very steep here, but it flattens out somewhat in this area. But, the applicant is not  
2342 proposing any active recreation at this point.

2343  
2344 Ms. Dwyer - There will be access to it, though?

2345  
2346 Mrs. Via - There will be access. It was actually required by the County during  
2347 the Plan of Development process, through lots in generally this area here (referring to slide).

2348  
2349 Ms. Dwyer - Thank you. Any questions of Mrs. Via?

2350  
2351 Mr. Archer - Mrs. Via, more or less, this would just be maintained in its natural  
2352 state? Is that correct?

2353  
2354 Mrs. Via - It would be maintained in natural open space. Yes. The problem  
2355 you find is that sometimes there is illegal dumping and trash and littering that has to be maintained  
2356 by the homeowners association.

2357  
2358 Mr. Archer - And, the other problem, I guess, is the problem that Madam  
2359 Chairman was referring to also. I think it's a little bit worse situation, when it may become the  
2360 property of the homeowners. In this case, the individual lots won't belong to anybody. So, I do  
2361 agree with that. That does help. Go ahead, sir.

2362  
2363 Mr. Marlles - For the purposes of your question, would you like staff to comment  
2364 on the usability of the open space for recreational purposes in future staff reports?  
2365

2366 Ms. Dwyer - I think that would be helpful. It would also be good to sit down  
2367 and have a discussion about what options there might be for landowners, what options might be  
2368 out there for them to do with this property. Should we keep it as open space if its not particularly  
2369 useable? Should it be a part of lots? Should it be something else? I'm not sure right now what to  
2370 suggest. But, I think this is something that we should look into.

2371 Mrs. Via - We can talk about this tomorrow with the zoning staff to see if they  
2372 have any ideas, and we may also want to talk to the Parks staff. I know there's numerous  
2373 jurisdictions that have "Greenway" programs, where the open space is actually dedicated to the  
2374 jurisdiction, who then assumes the liability and the maintenance. But, that is a cost factor to the  
2375 jurisdiction, and I don't know whether our County has looked at that at all. I'd have to do some  
2376 research.

2377  
2378 Ms. Dwyer - Any other questions for Mrs. Via? There was no opposition to the  
2379 case? Would you like to hear from the applicant, Mr. Archer.

2380  
2381 Mr. Archer - I don't think so, and he's not here.

2382  
2383 Ms. Dwyer - Ready for a motion on the case.

2384  
2385 Mr. Archer - Madam Chairman, you did raise a good point. However, I think  
2386 this request is fulfilling a proffered condition that was accepted in the original case. And, being,  
2387 as we don't seem to have a policy right now in place that addresses that, although, we probably  
2388 do need to do something about it, I move to recommend to the Board approval of C-76-99.

2389  
2390 Mrs. Wade seconded the motion.

2391  
2392 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mrs. Wade to  
2393 recommend this case to the Board for approval All those in favor of the motion, say aye—all  
2394 those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.

2395  
2396 REASON: Acting on a motion by Mr. Archer, seconded by Mrs. Wade, the Planning  
2397 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the  
2398 request because it conforms to the recommendations of the Land Use Plan; and is a logical form  
2399 of zoning for this portion of the planned residential subdivision.

2400  
2401 **Deferred from the November 10, 1999 Meeting:**

2402 **C-68C-99** **Glenn R. Moore for Retlaw 100, LLC:** Request to amend  
2403 proffered conditions accepted with C-19C-94, C-56C-94 and C-49C-96, on part of Parcels 18-A-  
2404 15A, 21 and 22B, containing 19.23 acres, located at the southwest intersection of Nuckols Road

2405 and Old Nuckols Road. The amendment is related to outparcel restrictions. The Land Use Plan  
2406 recommends Commercial Concentration and Environmental Protection Area.

2407  
2408 Mr. Marlles - The staff presentation will be by Mr. Eric Lawrence.

2409  
2410 Ms. Dwyer - Good evening, Mr. Lawrence.

2411  
2412 Mr. Lawrence - Good evening.

2413  
2414 Ms. Dwyer - Is any one in the audience in opposition to C-68C-99 Retlaw 100,  
2415 LLC.? We do have opposition. Okay.

2416 Mr. Lawrence - Thank you, Madam Chairman. As was pointed out, this  
2417 application was heard by you in November, last month. There were a number of issues that staff  
2418 had raised, and the applicant had raised, so the applicant offered to defer it to this month. Staff  
2419 has worked with the applicant, and feels we may have achieved an agreement as to the issues we  
2420 had, and the goals that they had in mind. One thing that was significant issue-wise, was the  
2421 staff's concern that the proposed development did not assimilate the high quality development  
2422 characterized by Wyndham and the proposed Twin Hickory area.

2423  
2424 Based on that, there were concerns that a standard traditional shopping center may not be  
2425 appropriate here. The applicant was looking for more of a "village center." Staff felt that was  
2426 appropriate. And, in working with the applicant, we feel that we've got some design elements  
2427 that have been proffered, just in a scenario that we feel is acceptable.

2428  
2429 What I'd like to do, they've submitted a conceptual master plan, if you will, that we can use as a  
2430 guideline. This layout has been proffered. You have the proffers that were just handed out to you  
2431 tonight. You received the proffers on Monday, and we also received some this afternoon. I  
2432 believe it was Item #22 that was received this afternoon. The time limit on that particular one  
2433 will have to be waived, if it is felt to be appropriate.

2434  
2435 Looking at the layout, the items have been proffered that initially had concerns, and the applicant  
2436 has been able to address them with the greenbelt issue along three roads. What has been  
2437 proffered is a 25-foot greenbelt along Old Nuckols Road and Twin Hickory Road. This would be  
2438 measured from the ultimate right of way.

2439  
2440 Previously, there was talk about a greenbelt, but was measured from the existing right of way,  
2441 which, when you put turn lanes in and other features, what was felt to be a 30-foot greenbelt was  
2442 actually only about 8 to 10 or 15 feet in depth. So there would be a 25-foot greenbelt along the  
2443 two roads to either side. Along Nuckols Road, they have proffered a 30-foot greenbelt, to about  
2444 this far (referring to slide). Based on the layout they have, they were only able to proffer 20 feet  
2445 along the last 300 feet of Nuckols Road where it meets Twin Hickory, if you will. Because it is  
2446 10 feet smaller than the 30 foot, they have proffered to put additional landscaping as necessary. so  
2447 it helped to lessen the impacts there.

2448

2449 Through the greenbelt proffers, they have also proffered to put in landscaping to shield headlamps  
2450 from shining off of the property. It's actually the west of the property, but, looking at this  
2451 diagram, it is along the top of the property. You've got this subdivision down here, Avery  
2452 Green. And the applicant has proffered a 50-foot buffer along that area. The 25 foot buffer,  
2453 closest to the residents, would be undisturbed and would remain in the natural vegetation that is  
2454 currently there, and then the remaining 25 feet against the shopping center could be disturbed for  
2455 shopping center development, but would remain as an open space. And no construction items; no  
2456 parking lots, no buildings would be constructed. So, it would be a 50- foot buffer.

2457  
2458 As for particular features, you will notice that there are some circles on the site plan, little x's, if  
2459 you will. That element is what is considered a paving element; a decorative paving feature. Staff  
2460 likes it because it gives some identity to the shopping center. While it is a brick paving section, it  
2461 is inside. It's in the pavement. You notice it. Traffic would drive over it, but it also slows down  
2462 traffic. And, it also is part of the linkage of a pedestrian system.

2463  
2464 It is a little difficult to see in the image here, (referring to slide), but there is a red line system,  
2465 which actually circulates around the property. And that is actually a sidewalk system that has  
2466 been proffered. So, we feel that the layout here gives a number of design elements that weren't  
2467 proffered earlier, and we feel that it adds to the shopping center.

2468  
2469 The amendment was initiated because the property owner was interested in increasing the number  
2470 of outparcels that were allowed. Under today's current proffers, which were adopted a number of  
2471 years ago, there was a limitation of four outparcels. The applicant felt that there was a need to  
2472 increase that number.

2473  
2474 Staff initially was concerned that increasing the number would lose all the design. The realities of  
2475 the shopping center would be more of a piecemeal development versus a master planned layout.  
2476 So, we feel that, what has been submitted as a conceptual master plan, achieves a master plan  
2477 layout. It does allow unlimited parcels, if you will, but because of the design elements, if you  
2478 will notice the two entrances on Nuckols. They've got design elements with brick paving sections  
2479 in addition to landscaping.

2480  
2481 So we feel all of the elements involved bring the shopping center together, so that it is not a piece-  
2482 meal ala carte development where they just came in and individually rezoned property. But we  
2483 have looked at the big picture, and staff feels that it is an appropriate proposal.

2484  
2485 With that said, I would be happy to answer any questions and the applicant is here, and Mrs.,  
2486 Foster is here from the neighboring residential community.

2487  
2488 Ms. Dwyer - Thank you, Mr. Lawrence. Are there any questions of Mr.  
2489 Lawrence by Commission members?

2490  
2491 Mrs. Wade - (Comments unintelligible-microphone not working).

2492

2493 Mr. Lawrence - Right. It is staff's belief and there's a number of positive elements  
2494 with this proposal. That any foreseeable negatives, if you will, to the outparcel is well over  
2495 balanced, if you will. The benefits far exceed the negative aspects.  
2496  
2497 Mrs. Wade - They still would have to have a separate POD on it?  
2498  
2499 Mr. Lawrence - Right.  
2500  
2501 Mrs. Wade - And, of course, maximum building coverage per acre.  
2502  
2503 Mr. Lawrence - Right. The previous proffers had, what, I am not going to venture,  
2504 8,000 square feet?  
2505  
2506 Mrs. Wade - (Comments unintelligible-microphone not working).  
2507  
2508 Mr. Lawrence - Right.  
2509  
2510 Mrs. Wade - (Refers to existing POD application, area to be sold).  
2511  
2512 Mr. Lawrence - Phase 1, I believe it is sort of this area (referring to slide). That's  
2513 right.  
2514  
2515 Mrs. Wade - This includes the largest.  
2516  
2517 Mr. Lawrence - It includes that building. One thing that I would like to point out  
2518 also is that they also proffered pedestrian-scale lamp posts, that would be unique to the property,  
2519 and also some park benches to add the neighborhood flair, if you will. The lamp posts, it is  
2520 proffered that they would be along the parking lot area.  
2521  
2522 Mrs. Wade - (Unintelligible.) I think that is all I have.  
2523  
2524 Ms. Dwyer - This number of outparcels, I am wondering, since we don't have all  
2525 of the proffers in front of us tonight, is there an adequate dumpster screening proffer? What I  
2526 have found is that we have an outparcel...  
2527  
2528 Mr. Lawrence - It is my understanding that it is already required by the zoning  
2529 ordinance. I don't believe...  
2530 Ms. Dwyer - Is it going to be screened with masonry material, or something  
2531 other than a wood fence? It is hard to find a place for a dumpster in an outparcel like this, that is  
2532 kind of out of sight, because it really has a view from all four sides. Sometimes that is an issue.  
2533 So, I was just wondering, since we are increasing outparcels, I thought maybe we could take that  
2534 into account.  
2535

2536 Mr. Lawrence - It was previously proffered in 1994 that central trash receptacles,  
2537 not including convenience cans, shall be screened from public view at ground level in a manner  
2538 approved at the time of the POD review.

2539  
2540 Ms. Dwyer - It doesn't say anything about materials though?

2541  
2542 Mr. Lawrence - It doesn't say anything about materials.

2543  
2544 Ms. Dwyer - Are there any other questions for Mr. Lawrence? Thank you. Will  
2545 the applicant come forward, please?

2546  
2547 Mr. Glenn Moore - Madam Chairman, Ms. Dwyer, my name is Glenn Moore. I am an  
2548 attorney, and I am here this evening on behalf of Relaw 100, the owner of this property. And I  
2549 am not going to go into a full-fledged presentation on this case, unless you'd like me to do so,  
2550 because it was presented at the last meeting. I do think, that the reason for the deferral, as I  
2551 understood it at the last meeting, was to come up with a plan of the kind that we have before us,  
2552 and some commitments for the quality features that are shown on that plan. And, I think that we  
2553 have accomplished that, and I think it is indicated by the fact that the staff is now recommending  
2554 approval of the case, with the new proffer with respect to the plan.

2555  
2556 I also added an additional proffer, that you all didn't receive until this evening. Mrs. Wade had  
2557 requested it after the proffers of Tuesday were submitted. It had to do with, if there were going  
2558 to be any external sound systems on the property, that would be controlled so that the sound  
2559 would not be audible beyond the boundaries of the property. That is a fairly standard condition to  
2560 have when you have outparcels, or anything that could have outdoor sound systems, and we  
2561 gladly added that proffer.

2562  
2563 I also wanted to state that, I have talked with Mrs. Foster, who is an adjoining property owner, to  
2564 the rear of this property. And, my client, Mr. Goode, met with a number of the residents prior to  
2565 the time the POD was filed to discuss the screening that would be in place, and, generally,  
2566 describe the type of development that was proposed by the plan of development. And, at that  
2567 time, they talked about having evergreen screening supplemented the existing planting, which is  
2568 what our proffer says we will do.

2569  
2570 Mrs. Foster has indicated that the neighbors may now wish to prefer a fence or a combination of  
2571 a fence and landscaping, and that is certainly something that we will consider. And, I am sure  
2572 that we can come to an agreement with the neighbors. And that is a matter that will be back  
2573 before you at the time of landscape plan review. I will state, for the record, that we're willing to  
2574 use a fence for screening, if that's the preference of the neighbors, in conjunction with some  
2575 landscaping, rather than just landscaping.

2576  
2577 Mrs. Wade - (Comments unintelligible-microphone not working).

2578

2579 Mr. Moore - I tell you, Mrs. Wade, if you took the proffered conditions that I  
2580 have, I think, if you look at the last sentence of proffered condition, well, it's 9B. It is on the  
2581 second page. It's really my first condition. It says "the buffer area." This is referring to the  
2582 buffer area adjacent to the residences. "The buffer area shall be landscaped as required by the  
2583 Planning Commission at the time of landscape plan review." I think that proffer could be revised  
2584 to say "The buffer area shall include additional screening as required by the Planning Commission  
2585 at the time of landscape plan review." I think that would cover it, because the screening could be  
2586 a fence. It could be landscaping, or it could be a combination of them, as you all accept and  
2587 approve at the time of landscape plan review.  
2588

2589 Mrs. Wade - (Comments unintelligible-microphone not working).  
2590

2591 Mr. Moore - To read it again the way I think it could be stated, I don't know that  
2592 it needs to be changed, but, I'm happy to change it, if everybody feels more comfortable with it.  
2593 "The buffer area shall include additional screening as required by the Planning Commission at the  
2594 time of landscape plan review." instead of saying "...shall be landscaped..." If you feel that is an  
2595 improvement, I will be happy to change it now.

2596 Mrs. Wade - (Comments unintelligible-microphone not working).  
2597

2598 Mr. Moore - That is a condition that exists on the property now. That is not a  
2599 new condition. And what it means, I think, it is up to the Planning Commission. I think the  
2600 Planning Commission has the ability to determine whether or not the architecture is  
2601 complimentary. So, each time a building comes in, it is up to you all to decide if, in fact, the  
2602 architecture is complimentary, or if it is not, that a deviation is acceptable to you. So, I believe it  
2603 is up to you all to determine that.  
2604

2605 Mrs. Wade - (Comments unintelligible-microphone not working).  
2606

2607 Mrs. Dwyer - Mrs. Wade, what was the IHOP language that we had a discussion  
2608 on? Was that complimentary?  
2609

2610 Mrs. Wade - ...I have forgotten what it was.  
2611

2612 Mr. Moore - I always felt, with proffers like this, that you, basically, we are  
2613 saying that we are willing to trust the Commission to be reasonable, and we have to meet the test.  
2614 It has always seemed to work...  
2615

2616 Ms. Dwyer - Could we have a basic architectural style that we are working with  
2617 or...? Well, we have a POD that is coming up next Wednesday. I don't know. Do you have a  
2618 copy of that?  
2619

2620 Mrs. Wade - (Comments unintelligible-microphone not working).  
2621

2622 Ms. Dwyer - What would be the materials on these buildings?

2623  
2624 Mr. Moore - What's the predominant materials on the first phase? Do you  
2625 know, Read?  
2626  
2627 Mr. Read Goode - Mixed masonry, brick masonry, dryvit.  
2628  
2629 Ms. Dwyer - Would you be willing to make a statement about the dumpster  
2630 enclosures that they would be masonry and match those buildings that they are affiliated with?  
2631  
2632 Mr. Moore - I am going to have to consider that. I'm not willing to make it  
2633 right now. That proffer says that the trash receptacle areas have to be screened in a manner  
2634 approved at the time of development review. So you all get the approval location of the dumpster  
2635 and the dumpster containers.  
2636  
2637 Ms. Dwyer - Sometimes it is hard to find a good location when you have an  
2638 outparcel like this.  
2639  
2640 Mr. Moore - Yes. Of course, that is why they are required to be screened,  
2641 because they are located in a way...  
2642  
2643 Ms. Dwyer - But you know, like a wooden screen is very unsightly in about a  
2644 year or two. And that is the kind of thing we tend to try to avoid especially in a highly visible site  
2645 like this. Yes. That would be my...  
2646  
2647 Mrs. Wade - (Comments unintelligible-microphone not working).  
2648  
2649 (Mr. Moore talking to applicant) Mr. Moore - You won't agree to masonry at this point?  
2650  
2651 Mr. Goode - On the POD, it's the same material as the building. If Kevin  
2652 Wilhite were here, he'd say that the detail...  
2653  
2654 Mr. Moore - Well, I know, but you won't agree on the other.  
2655  
2656 Mr. Goode - We're already doing it on the shopping center.  
2657  
2658 Mr. Moore - Are you willing to say that one would be masonry, for example?  
2659  
2660 Mr. Goode - Compatible with the building? The same material as the building?  
2661  
2662 Mr. Moore - Yes. We would be willing to say that it is the same materials as the  
2663 building.  
2664  
2665 Ms. Dwyer - Does that mean it might be dryvit?  
2666

2667 Mrs. Wade - (Comments unintelligible-microphone not working).  
2668  
2669 Mr. Moore - We will agree to masonry...  
2670  
2671 Ms. Dwyer - Any other questions of Mr. Moore by Commission members?  
2672  
2673 Ms. Wade - One other thing (unintelligible), you have got...  
2674  
2675 Mr. Moore - We don't need to clear any more than half of it, and we may not  
2676 need to clear that much of it. We know that we need to begin this, to some extent, to do the  
2677 grading for the drive aisle that abuts the buffer.  
2678  
2679 Mrs. Wade - (Comments unintelligible-microphone not working).  
2680  
2681 Mr. Moore - It looks to me like that probably will be the way to go.  
2682  
2683 Mrs. Wade - (Comments unintelligible-microphone not working).  
2684  
2685 Mr. Moore - At the time the landscape plan comes back for the first POD, either  
2686 the evergreens or the buffer, trees, or a combination of those two items will have to be installed  
2687 for that first phase.  
2688  
2689 Mrs. Wade - ...I have no other questions. It has gotten a little bit complicated  
2690 with the proffer changes.  
2691  
2692 Ms. Dwyer - Any more questions for Mr. Moore? Will the opposition come  
2693 forward, please?  
2694  
2695 Ms. Betsy Foster - I am Betsy Foster, at 11405 Brockton Place. And, as I told Mrs.  
2696 Wade, this isn't really opposition because it is going to be here anyway, but our concern is the  
2697 fencing. And I just want to talk to the gentleman here tonight, but we wanted it in the  
2698 neighborhood to let it be known that our concern is that we do want the fencing. That is a  
2699 concern that we have. I know there are ways to take care of it, but we didn't want to reach the  
2700 point where someone said, "Oh, you should have spoken up earlier." I appreciate the  
2701 consideration that everybody has given us, in working with you people, but I think that a wooden-  
2702 type fence, and I think the County allows 7 feet, but, basically, not only for sight, but for security  
2703 for our neighborhood. And there are a lot of trees. And, hopefully, they will stay and more will  
2704 be added. But security, being that close to our neighborhood, would be important. So, we  
2705 appreciate that it is on record and I thank you all.  
2706  
2707 Ms. Dwyer - Ms. Foster, are you interested in a specific fence that completely  
2708 blocks the view?  
2709

2710 Ms. Foster - I think so, at this point. But, you know, what the alternatives are.  
2711 Currently, we are not hard set on anything, but anything that would block (the view). And I don't  
2712 want that on the record as my knowledge of what can be done. But, certainly there could be  
2713 other possibilities where you'd want a chain link. And we are sure that would keep people from  
2714 coming over, but it would be unsightly in the neighborhood. I am not asking for a 7-foot wooden  
2715 fence, but something that, certainly, you know, would block as much as we could visually.  
2716

2717 Ms. Dwyer - Thank you. Are there any other questions for Ms. Foster? Thank  
2718 you.

2719  
2720 Mrs. Wade - I was not surprised when this issue came up, but I am surprised we  
2721 haven't heard from any more than we have, because generally this type of situation...

2722  
2723 Ms. Foster - When we met with the developers this summer, the woods were  
2724 full and, you know, it was lovely. And now it is fall, and leaves are coming down and, all of a  
2725 sudden, I am smacked in the face and you see what is going to be there. So, we did meet with  
2726 them. But life goes on, and things change and becomes more of a reality of what is going to  
2727 happen afterwards, and we just wanted this to be known.

2728  
2729 Ms. Dwyer - Okay, Mrs. Wade. We need to waive the time limit

2730 Mrs. Wade - I move that we waive the time limit.

2731  
2732 Mr. Archer seconded the motion.

2733  
2734 Ms. Dwyer - We have a motion by Ms. Wade and a second by Mr. Archer to  
2735 waive the time limits on this case. All in favor of the motion say aye--all opposed say no. The  
2736 vote is 5-0 (Mr. Donati abstained). The motion carries.

2737  
2738 Ms. Dwyer - Are we ready for a motion on this case?

2739  
2740 Mrs. Wade - All right. I think this whole project has been improved and the  
2741 additions I have heard for several months and many improvements have been made as a result of  
2742 the proffers. And, in terms of buffering and general overall design. If it is done properly,  
2743 (unintelligible), so I would move that Case C-68C-99 be recommended for approval.

2744  
2745 Mrs. Quesinberry seconded the motion.

2746  
2747 Ms. Dwyer - We have a motion by Mrs. Wade and a second by Mrs.  
2748 Quesinberry. All in favor of the motion to recommend approval to the Board say aye--all  
2749 opposed say nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.

2750  
2751 REASON: Acting on a motion by Mrs. Wade, seconded by Mrs. Quesinberry, the Planning  
2752 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the**  
2753 **amended proffered conditions** imposed with **C-19C-94, C-56C-94, and C-49C-96** because the

2754 proffers continue to assure a quality form of development with maximum protection afforded the  
2755 adjacent properties.

2756  
2757

2758 **C-77C-99 Gloria L. Freye for Fidelity Properties, Ltd.:** Request to  
2759 conditionally rezone from A-1 Agricultural District to R-3AC One Family Residence District  
2760 (Conditional), Parcels 37-A-17 and 18, described as follows:

2761  
2762  
2763  
2764

SADLER GREEN  
THOMAS GREEN PARCEL

2765 Beginning at a point on the north line of Sadler Road, said point being 235.00' east of the east line  
2766 of Wonder Road (Private); thence from said point of beginning and continuing along the north  
2767 line of Sadler Road along a curve to the left with a radius of 275' and a length of 235.00' to a  
2768 point; thence leaving the north line of Sadler Road and continuing along the east line of Wonder  
2769 Road (Private) N 13° 17' W, 566.77' to a point; thence N 17° 27' W, 255.56' to a point; thence  
2770 leaving the east line of Wonder Road (Private) N 55° 15' 04" E, 324.01' to a point; thence S 34°  
2771 45' E, 467.00' to a point; thence S 55° 15' W, 400.00' to a point; thence S 34° 45' E, 210.00' to  
2772 the point and place of beginning containing 5.026 acres of land.

2773

2774 **(All testimony heard under Case C-78C-99).**

2775

2776 **C-78C-99 Gloria L. Freye for Fidelity Properties, Ltd.:** Request to  
2777 conditionally rezone from A-1 Agricultural District to R-3AC One Family Residence District  
2778 (Conditional), Parcels 27-A-14A, 27, 28, 29 and 31, described as follows:

2779

2780

Sadler Green

2781

2782 Beginning at a point in the centerline of Wonder Road (Private), said point being approximately  
2783 1,426' north of Sadler Road; thence from said point of beginning and continuing along the center  
2784 of Wonder Road (Private) N 62° 50' W, 528.00' to a point; thence leaving the centerline of  
2785 Wonder Road (Private) N 27° 17' 30" E, 802.42' to a point on the south right-of-way line of  
2786 Interstate Route 295; thence continuing along the south right-of-way line of Interstate Route 295  
2787 in a northeast direction along a curve to the left with a radius of 11,309.16' and a length of  
2788 753.74' to a point; thence leaving the south right-of-way line of Interstate Route 295 S 42° 30'  
2789 00" E, 95.26' to a point; thence S 89° 06' 13" E, 173.77' to a point; thence S 13° 51' 03" E,  
2790 263.36' to a point; thence S 42° 30' E, 42.49' to a point; thence S 25° 37' 30" W, 387.71' to a  
2791 point; thence N 53° 46' 45" W, 400.69' to a point; thence S 27° 17' 30" W, 222.72' to a point;  
2792 thence S 53° 59' 50" E, 408.30' to a point; thence S 24° 27' 30" W, 279.32' to a point; thence  
2793 N 62° 42' 30" W, 417.39' to a point; thence S 27° 17' 30" W, 344.96' to the point and place of  
2794 beginning containing 21.158 acres of land.

2795

2796 Mr. Marlles - The next two cases, which will be heard together, are C-77C-99  
2797 Gloria L. Freye for Fidelity Properties, Ltd. And C-78C-99. Ms. Jo Ann Hunter will be making  
2798 the staff presentation.

2799  
2800 Ms. Dwyer - Good evening, Ms. Hunter. Thank you. Is there any one in  
2801 opposition to either of these Cases C-77C-99 or C-78C-99? We do have opposition. Thank you.

2802  
2803 Ms. Jo Ann Hunter, County Planner - Good evening, Madam Chairman, members of the  
2804 Commission. I'm going to speak first about C-77C-99 and the move on to C-78C-99. C-77C-99  
2805 is a request to rezone 5.26 acres from A-1 to R-3AC One Family Residence District for a single  
2806 family subdivision. The property has limited frontage along Sadler Road, and the majority of the  
2807 frontage is adjacent to Wonder Road, which is a private road. The applicant currently does not  
2808 have title to Wonder Road.

2809  
2810 The majority of the surrounding property is zoned A-1 Agricultural District. The property to the  
2811 north, which you can see better here (referring to slide) is under the same ownership. This  
2812 property was zoned earlier this month, and is under the same ownership of these two subject  
2813 rezoning requests.

2814  
2815 The 2010 Land Use Plan designation for the property is SR-1 1.0 to 2.4 units per acre. Based  
2816 on revised proffers, the applicant has reduced the density from 2.97 to 2.92. This density is

2817 consistent with the Sadler Green Subdivision. However, it does exceed the recommended  
2818 density range on the Land Use Plan. There's considerable vacant A-1 land in the immediate  
2819 vicinity. Staff is concerned that, if current trends continue, this area could develop at a much  
2820 higher density than was anticipated by the 2010 Land Use Plan.

2821  
2822 The school planner has already indicated that the elementary schools are well over capacity, and  
2823 additional rezonings, at high density, will only compound the problem. The applicant should  
2824 consider a density that is consistent with the 2010 Land Use Plan.

2825  
2826 Sadler Road is a narrow curvy road. The applicant is proposing to make some improvements to  
2827 Sadler Road. It is a little bit different than what Public Works had originally proposed. It would  
2828 take this one curve, as you come down here, (referring to slide), currently, the road curves  
2829 around very sharply here, and what the applicant is proposing is to come in and put a "T"  
2830 intersection there.

2831  
2832 The Public Works plans were much different. They, at one time, showed correcting Sadler  
2833 Road something like this (referring to slide) and that would have a much greater impact on a  
2834 greater number of properties. So, Public Works has reviewed the plans for the "T" intersection,  
2835 and has determined that to be an acceptable alternative.

2836  
2837 The applicant has proffered a minimum finished floor area of 18,000 square feet; quality  
2838 building materials; brick or stone foundations; and no cantilevered chimneys. The applicant has  
2839 also proffered no stem-shaped flag lots.

2840  
2841 While residential development of the subject site is reasonable, staff is concerned that the  
2842 rezoning of this site is piecemeal. Because this site is small and awkwardly shaped, it is not  
2843 likely that this will develop as a five-acre subdivision, but will eventually be combined with other  
2844 properties.

2845  
2846 The site should be developed in a coordinated fashion with the adjacent property. Through a  
2847 comprehensive review of the larger acreage, better site development standards could be met. If  
2848 additional properties could not be acquired, this area will continue to be gradually developed in a  
2849 uncoordinated fashion.

2850  
2851 Staff is concerned that the density is not consistent with the Suburban Residential 1 designation  
2852 of the 2010 Plan, and staff would recommend deferral of this request until adjacent properties  
2853 could be acquired and development could occur in a coordinated manner.

2854  
2855 If you don't have any questions, I can move on into C-78C-99 and we can talk about both of  
2856 them afterwards if the Commission is comfortable with that. This case is also an R-3A request  
2857 for a 21-acre piece. The applicant has recently just submitted a zoning proposal for this property  
2858 (referring to slide) also asking for R-3A and that could be before the Commission as early as  
2859 January.

2860

2861 This site has a 140-foot telecommunications tower located right here (referring to slide) adjacent  
2862 to the interstate. And, staff is recommending a setback of 110 percent from the height of the  
2863 tower to any houses. And, the applicant has revised their proffers to address a 154 foot setback.  
2864

2865 The applicant has also provided an additional 25 feet, in addition to required setbacks, along  
2866 Interstate 295, as recommended by staff. This site had no public road frontage. Access to this  
2867 site would be provided through a stub road from Sadler Green, right here (referring to slide).  
2868

2869 Sadler Green is proposed to have 30 lots with one point of access. The rezoning of this  
2870 additional 21 acres would allow 62 homes. The Planning Commission has a policy of no more  
2871 than 50 lots with a single point of access.  
2872

2873 The applicant has attempted to address access concerns by proffering that a second point of  
2874 access shall be provided after 100 lots. But, as an interim solution, they are providing  
2875 emergency access by either Wonder or Trexler Roads. Both of these are private roads. And,  
2876 they have agreed that those private roads be upgraded to standards, acceptable to the fire chief,  
2877 for emergency access.  
2878

2879 The Public Works Department has indicated that two points of access provides better cross  
2880 connection of adjacent subdivisions; provides for good traffic circulation in neighborhoods,  
2881 especially for school buses; and provides for better traffic distribution and emergency vehicle  
2882 access. Therefore, staff would continue to recommend the two points of access when this  
2883 proposal exceeds 50 lots.  
2884

2885 Residential development of this site is also reasonable. However, again, the proposed density  
2886 would set a precedent for the future development in the Sadler Road corridor. Staff could  
2887 support the R-3AC request if the applicant could reduce the density to fall within the SR-1 range.  
2888 Staff is concerned about the 100 lots on a single point of access, and would recommend deferral  
2889 of this request until the applicant could pursue options that would allow for a second means of  
2890 access by either obtaining additional properties, or to obtain ownership of one of the private  
2891 roads. Access issues need to be adequately addressed before this case can be approved. I'd be  
2892 happy to answer any questions.  
2893

2894 Ms. Dwyer - Are there any questions of Ms. Hunter?  
2895

2896 Mrs. Wade - How much land would you estimate...(Comments unintelligible-  
2897 microphone not working).  
2898

2899 Ms. Hunter I think I can show it to you on the aerial. It's considerable land. I  
2900 was trying to do some quick numbers before. I think I had come up with 200 acres. It would be  
2901 several hundred acres in that corridor, probably about 200 acres in and around this development  
2902 that's vacant, zoned A-1.  
2903

2904 Mrs. Wade - (Comments unintelligible-microphone not working).

2905  
2906 Ms. Hunter Just on either side of this development. As you can see (referring  
2907 to slide), there's a large vacant area to both the north and south, or east or west, depending on  
2908 how you want to look at it; a large area all the way down almost to Broad Street, that the Land  
2909 Use Plan shows Suburban Residential 1 development, and, the majority of it is currently vacant.  
2910  
2911 Mrs. Wade - The whole area...  
2912  
2913 Ms. Dwyer - Ms. Hunter, would you recommend R-3, or R-2A; a specific  
2914 zoning category in mind?  
2915  
2916 Ms. Hunter - R-2A is the top of our zoning recommended for the Suburban  
2917 Residential 1. I think there could be an argument made for a smaller lot size as they get closer to  
2918 the interstate. Our concern is more with the number of lots.  
2919  
2920 Ms. Dwyer - Of course, the zoning designation does set a precedent as you  
2921 mentioned. Any other questions for Ms. Hunter? Thank you. Would the applicant come  
2922 forward, please?  
2923  
2924 Ms. Gloria Freye - Good evening. My name is Gloria Freye. I am an attorney here  
2925 on behalf of the applicant. Also, here this evening, is Webb Tyler, and Ned Massie who are the  
2926 partners of Fidelity Properties, who have this property under contract, and would like to develop  
2927 it. I'm glad that we can discuss these cases generally together, but then I will speak to the  
2928 specific proffers of each case separately later.  
2929  
2930 Basically, the two cases that we're discussing this evening, the zoning that we're seeking is really  
2931 to duplicate the zoning that the Board of Supervisors approved in March of this year. On the plat  
2932 that is on the screen over here (referring to slide), the case that was approved in March is  
2933 property that is shown in the pink area (referring to slide), Sadler Green. That's the 10-acre piece  
2934 that was approved in March. And, that is, at this point in time, in the subdivision approval  
2935 process - tentative approval, and construction on those houses is expected to begin next summer.  
2936  
2937 Since then, the developers have been able to get their property under contract; the parcels in green  
2938 (referring to slide), are the parcels that are the subject of the hearing this evening. But, you'll  
2939 also see that there are three other parcels in the orange that they also now have under contract.  
2940 So, they are well on their way to assembling the rest of the property that's needed to pull this  
2941 together to do the coordinated planned development that Ms. Hunter was referring to.  
2942  
2943 Fidelity is asking for the same R-3A zoning that has been approved with the density that was  
2944 approved by the Board. It is comparable to the density of the existing developments in the area.  
2945 It is less density than The Cedars has at Innsbrook. Their density is 2.978. It is a little bit more  
2946 than Sadler Woods, which is 2.88. But, basically, it calculates out to a one percent increase in  
2947 density. But, when you look at the fact that you're moving toward the Interstate, which  
2948 traditionally, and commonly you see a lot higher density residential uses going against an

2949 interstate, what this zoning does is it keeps it the single family, the same quality houses, the same  
2950 size lots that already exist in the neighborhood.

2951 There are 16 proffers that have been recommended for the 21-acre parcel, and 18 for the five.  
2952 Ms. Hunter went over those. I do have a blackline that's been passed out to you all with the  
2953 revisions that were made in response to the comments in the Staff Report, and also in response to  
2954 our discussions with the Planning Commissioner. And the only one that she didn't talk about that  
2955 we did add to the proffers there before you is No. 15 on the 21-acre parcel. And that we have  
2956 offered to phase the development to the extent that we would not seek any occupancy permits on  
2957 those homes until January 1, 2001. And what that would do would minimize the impact on the  
2958 schools, and allow the elementary school at Twin Hickory to be constructed and open which is  
2959 expected to happen in September of 2000. I'll be glad to discuss any of the other proffers in  
2960 detail, but that really gives you a review of the revised proffers that Ms. Hunter went over.

2961  
2962 We did mail letters to all of the adjacent landowners. We did have a meeting with the  
2963 representatives of The Cedars. We did have an opportunity this evening to meet two ladies that  
2964 have come to the hearing this evening I think in response to having seen the zoning advertising  
2965 sign.

2966  
2967 We do have permission from The Cedars to represent to you that they are not opposed to the case.  
2968 However, they did ask me to share with you their concerns about the safety of Sadler Road. As  
2969 Ms. Hunter explained, it is a very narrow road that doesn't have good shoulders, good design,  
2970 and most of the people, the representatives of The Cedars, anyway, were saying that they felt that  
2971 it was unsafe and that they would encourage the County to make improvements to that road as  
2972 soon as they could, and to move it up on the priority list for improvements.

2973  
2974 In speaking with individual adjacent landowners, both along Trexler and Wonder and Sadler,  
2975 those people also expressed real concerns about the safety of Sadler Road. They did not oppose  
2976 this case, the people that I spoke to. Actually, one lady said that she was very much in favor of  
2977 the case because, if it was going to make any improvement to Sadler Road, then she would be for  
2978 that.

2979  
2980 We do ask that you recommend approval of these rezonings. The zoning and the proffers that are  
2981 before you are consistent with those that have been approved just several months ago in March by  
2982 the Board. The development will bring gas and sewer improvements to this area. The developer  
2983 has committed to make a significant improvement to Sadler Road, it's design and functioning by  
2984 that "T" intersection there where it comes into Wonder Road. This will be a benefit to the entire  
2985 community, and improve the safety of everyone that travels that road.

2986  
2987 With the assemblage that is proposed by Fidelity, you will have a planned, coordinated  
2988 development with two points of access. And, with the proffer that we've worked out with the  
2989 input of the fire marshal, a satisfactory solution for immediate emergency access. And, then,  
2990 once these other properties are acquired, then we will have the opportunity to provide a second  
2991 public road to the development.

2992

2993 One thing I'd like to point out along this area of Wonder Road, there are three parcels are needed  
2994 to make this connection to be able to make that commitment for the secondary road that really is  
2995 only about 300 feet. And, we have every hope and expectation that we're going to be able to  
2996 assemble those parcels and provide that secondary access at that point. We have written the  
2997 proffer the way we have now is because we can't make that commitment at this point in time.  
2998 But, we do expect to be able to provide that. This zoning that we've asked for keeps this area as  
2999 a single family community that's comparable with homes that are the same size and lots that  
3000 already exist there.

3001  
3002 For these reasons, we ask that you recommend approval of both these cases and we'll be glad to  
3003 answer any questions that you may have.

3004  
3005 Ms. Dwyer - Any questions of Ms. Freye by Commission members?

3006  
3007 Mr. Archer - Ms. Freye, what restrictions currently exist on those two private  
3008 roads in terms of who can use them and when?

3009  
3010 Ms. Freye - Wonder Road, as I understand it, we really are in the midst of  
3011 continuing the research on the exact ownership, and the extent of ownership of that road or the  
3012 underlying feed, but it serves all those properties that it abuts, where that heavy dashed line goes  
3013 along Wonder (referring to slide). All those properties use that road. But it is unimproved.

3014  
3015 Trexler, on the other hand, is owned by GTE Mobilnet. And we have talked with GTE, who just  
3016 has, today, gave us the affirmative answer that they had no problem with us improving that road  
3017 to the 20-foot width that the fire marshal asked for with a gravel base to support the 8,000 pound  
3018 of their largest fire truck would be accommodated if we improved the road and maintained it year  
3019 round to that standard.

3020  
3021 Mrs. Wade - How far ....is the up Wonder...?

3022  
3023 Ms. Freye - The distance from the "T" intersection?

3024  
3025 Mrs. Wade - Well, actually, it would be up to that stub road.

3026  
3027 Ms. Freye - I'm not sure where you mean, Mrs. Wade?

3028  
3029 Mrs. Wade - From the "T" intersection.

3030  
3031 Ms. Freye - From the "T" intersection up to this point (referring to slide)?

3032  
3033 Mrs. Wade - No. On around.

3034  
3035 Ms. Freye - Up to this point (referring to slide)? Up to this?

3036

3037 Mrs. Wade - To the green (referring to slide).  
3038  
3039 Ms. Freye - This point?  
3040  
3041 Mrs. Wade - Up to the road.  
3042  
3043 Mr. Webb Tyler, Engineer - Approximately 1,500 feet.  
3044  
3045 Ms. Freye - Approximately 1,500 feet. Here (referring to slide).  
3046  
3047 Ms. Dwyer - Were there any extenuating circumstances for the R-3A density for  
3048 the other adjacent parcel that you're using the precedent for this zoning?  
3049  
3050 Ms. Freye - Yes.  
3051  
3052 Ms. Dwyer - Were there limits on the number of lots? I can't recall on that case.  
3053 Do you know?  
3054  
3055 Ms. Freye - I really don't know exactly other than, when we were looking at  
3056 this, we did look, along with the help of the staff, look at the approved subdivision plats and how  
3057 many lots were actually approved, or could be developed in each one of those. And, that's how  
3058 we came up with the calculations that is recited.  
3059  
3060 Ms. Dwyer - Do you remember, Mrs. Wade?  
3061  
3062 Mrs. Wade - I was going to comment on all three of the cases...  
3063 Ms. Dwyer - As being precedent?  
3064  
3065 Mrs. Wade - (Comments unintelligible-microphone not working).  
3066  
3067 Ms. Freye - One of the things that I'd like to point out is that, from the very  
3068 beginning, in talking with staff about this whole area, the whole area that's outlined in this yellow  
3069 area up to the Interstate over to this, I think that's called, "McDonalds Small Farm," and then  
3070 back over to Sadler, and wrapping around these existing homes that are fronting on Sadler, is that  
3071 the developer has been very, very freely giving information about what his goals and objectives  
3072 are. So that, even with the discussion when the first phase of this was approved in Sadler Green,  
3073 was to show how the developers wanted to assemble the property; how they wanted to have it be  
3074 a coordinated development. And, that we would match or exceed the proffers of the existing  
3075 development. That we would be compatible with both the quality and value of those homes, and  
3076 make this be a cohesive neighborhood.  
3077  
3078 Mrs. Wade - (Comments unintelligible-microphone not working).  
3079

3080 Ms. Freye - Yes ma'am. And, every proffer that we have is in direct response  
3081 to a comment in the staff report. I know that you've expressed some concern about the secondary  
3082 access, and the language in that proffer. But, that proffer was put in directly, as an attempt, that  
3083 even though we couldn't make a commitment at this point in time for that secondary access, to  
3084 build in a point in time where you knew that that access would be provided, and that in the  
3085 interim, provide the emergency language that the fire marshal felt comfortable with. Actually, I  
3086 think we have addressed every issue that has been raised as far as we possibly can.

3087  
3088 Mrs. Wade - (Comments unintelligible-microphone not working).  
3089

3090 Ms. Freye - Yes ma'am. And he was very candid with us. The Traffic  
3091 Engineer's statement, that's the policy, and he needs to stick to that in every case. He recognizes  
3092 that, as Mrs. Dwyer said, there may be extenuating circumstances or situations or facts of cases  
3093 that might cause you to vary from that policy. But, that's always the policy that he's going to  
3094 support. He did not have any objections, or express objections to us, about the language for the  
3095 emergency access. He just still thinks that the County should stick to that 50-lot policy, even  
3096 though there have been several examples of developments that have been approved that don't  
3097 provide a second access for developments even that have 99 lots in them, and even have an  
3098 emergency access.

3099  
3100 Materially, I think that our case, and the proffers that we've presented, are a great improvement  
3101 over a lot of other developments that have been approved contrary to that policy. Even though  
3102 we couldn't meet the letter of the policy, we have come up with a proffer that addresses it and  
3103 provides a secondary immediate access.

3104  
3105 I didn't ask to reserve any time, but if there is any left...

3106  
3107 Ms. Dwyer - Any other questions for Ms. Freye. Would the opposition come  
3108 forward, please? I don't know if you were here earlier when we explained the time limits. It's  
3109 10 minutes per side for the applicant, and then 10 minutes for the opposition.

3110  
3111 Mr. Teresa Rasnick - My name is Teresa Rasnick. And I live on the corner of  
3112 Thorncroft and Sadler Roads. I'm opposed to this. I'm not accustomed to speaking in front of  
3113 people, so y'all will have to excuse me. I'm opposed to this development. I do not feel that  
3114 Sadler Road can accommodate all this traffic, even though I spoke to Mr. Tyler, that he would  
3115 straighten out some of the curves. I think it would take a much more overall on the north end of  
3116 Sadler Road to accommodate this development. And, I think part of my land, I think, would be  
3117 shaved off as a result if this, and I don't want to see that happen, even though, I'm sure the  
3118 houses would look nice. And I believe you said they would be something like \$250,000 homes to  
3119 \$300,000 homes compared to some that are \$70,000 up to \$100,000 homes that are on the north  
3120 end of Sadler Road.

3121

3122 And, then I would be hesitant to say maybe that the taxes would, you know, be raised really—real  
3123 estate taxes would be reassessed. And I think we've seen all of the development that we can see  
3124 out in this secluded subdivision.

3125  
3126 I wasn't opposed to Innsbrook because that was more towards Broad Street, and the traffic was  
3127 focused towards Broad Street, the exits and what have you, Dominion Boulevard. But, even  
3128 though I think some of this would go out towards Nuckols and Sadler Roads, half of it would still  
3129 come out on my end of Sadler Road. I think that's about all I have to say. Thank you.

3130 Ms. Dwyer - Thank you, Ms. Rasnick. Any questions of Ms. Rasnick?

3131

3132 Mrs. Wade - Which house is it you are in - 39?

3133

3134 Ms. Rasnick - That's it (referring to slide).

3135

3136 Ms. Dwyer - Okay. Any one else to speak to the case? Would you like to come  
3137 forward please? Good evening.

3138

3139 Mrs. Violet Young - Good evening. My name is Violet Young. I live at 4558 Sadler  
3140 Road. The property in the yellow here (referring to slide) that is being talked about, or discussed,  
3141 is my father's estate. We have been trying to get the taxes straight and paying on the taxes to get  
3142 it straight. Mr. Jackson, the Commissioner for Henrico County, I'm not sure whether he's still it  
3143 now. He had a meeting. We was briefly in a meeting. We recessed. And when we came back  
3144 from recess, Mr. Jackson didn't have the meeting anymore. He said he would have another at a  
3145 later date. Mr. Jackson have not done that so far as I know.

3146

3147 The property right here (referring to slide), my home is right here on Sadler Road. The property  
3148 behind me, my sister owned the property right beside me. Her home is there. The property  
3149 behind us, the 4. some acres is my daddy's estate that he wanted us to have, and we was trying to  
3150 get it straight.

3151

3152 Also, this property is my father's estate. I don't know why they're so anxious on making our  
3153 property like that, and trying to build a whole lot of houses on it. It's a very narrow road, Sadler  
3154 Road, and if they're going to widen the road, and all that type thing, and take our property like  
3155 that, it's not in the best interests of the neighbors.

3156

3157 My attorney, who's handling this for us, we got the notice about this meeting. I think it was  
3158 12/4/99. And before then, someone had mentioned it to us. And my attorney had previous  
3159 commitments. Also, some of the other landowners, they could not be at this meeting. And I  
3160 would like to have it postponed to another meeting with some more of the members, and certainly  
3161 my attorney could be here, because I don't understand everything that's going on. We haven't  
3162 been thoroughly, you know, know about what's going on - the family of this property. And, in  
3163 other words, they had said something about buying the property. It was not for sale. We're  
3164 trying to get the taxes straight on it. And the money that they wanted to even offer for the

3165 property is not a good going price, I don't believe, for it, because we're right at Innsbrook and  
3166 right at CarMax.

3167  
3168 And one of my neighbors just sold some of his land, and he got much more for his property than  
3169 they're offering us. And he is not two miles from where I live. As a matter of fact, it if wasn't  
3170 for Sadler Road being so curvy, I could see his house from my house. I can see Innsbrook.

3171  
3172 Mrs. Wade - I'm not sure. Which is yours?...

3173  
3174 Mrs. Young - My sister's property is right beside mine.

3175 Ms. Freye - This is Mrs. Young (referring to slide).

3176  
3177 Mrs. Wade - (Comments unintelligible-microphone not working).

3178  
3179 Mrs. Young - My house and my sister's house. And the property right beside my  
3180 sister's house is my father's estate. And, also, right behind there is my father's estate. And I  
3181 would love to have that property. I don't want anybody coming right that close under me. We  
3182 have been there for years. It was my fathers before him, his fathers, and his fathers. And, I  
3183 certainly don't want to see it get away, and I don't want to have anybody that close to me.

3184  
3185 If anybody has any questions, I'll certainly try to answer them, but I would rather my attorney be  
3186 here.

3187  
3188 Ms. Dwyer - Thank you, Mrs. Young. Any questions of Mrs. Young by  
3189 Commission members?

3190  
3191 Mr. Archer - Mrs. Young, you mentioned, are the taxes delinquent or...

3192  
3193 Mrs. Young - Some of them. Yes. I have receipts here. We have been paying  
3194 on the property when we could. And, Mr. Jackson was supposed to have another hearing where  
3195 we could discuss the property, about the taxes or whatever. And, like I said, we went on a break,  
3196 and as soon as we came from break, Mr. Jackson, who was the Commissioner of Accounts for  
3197 Henrico County, he convened the meeting, and said, "We'd have it at a later date." Mr. Jackson  
3198 has not done that, to my knowledge. And, I believe, if he has, that I would have known about it.  
3199 And the people here, McGuire, Woods, Battle and Boothe or whatever, they know we have an  
3200 attorney that's trying to get it straight for us. And they did not even send him notice about this  
3201 hearing or another meeting they had, you know, we were going to have it. They did not let him  
3202 know about it. I informed them about it. That's when he had a previous commitment for being  
3203 out of town and to come and let you all know this.

3204  
3205 Ms. Dwyer - Is there any one else here in opposition?

3206  
3207 Mrs. Young - All in the area where my father's estate is, you know, black  
3208 neighbors. I don't know whether its because of that reason they want to come in there and give

3209 us what they want, or build all these houses or what have you. Sadler Woods is directly across  
3210 from where I live. And already so much traffic, more traffic, and congestion and the road is real  
3211 narrow and what have you. We don't need all that. Thank you.

3212  
3213 Ms. Melinda Roberts - I am Melinda Roberts, and I live on Thorncroft Drive, and I have  
3214 lived out there since 1963. And, I think we have got just about as much volume traffic as we can  
3215 possibly take now. It is really getting bad. I think there is a shortage of schools, and it's a lot of  
3216 things out there that needs...I just think its too much on that place. Now, if they had another  
3217 outlet to go out, which they say they can do on Nuckols Road, if they had another way to go out,  
3218 but if they don't, it will just constantly be a traffic jam. Because, you can go up now, from  
3219 Sadler on up to Dominion Boulevard and work hours, 5:30 in the evening, 6:00, you can not get  
3220 out of there. Take all these volume of cars, where are they going? Can anybody give me an  
3221 answer to that?

3222  
3223 Mrs. Wade - Going home.

3224  
3225 Mrs. Roberts - They're going home if they can get there.

3226  
3227 Mrs. Wade - (Comments unintelligible-microphone not working). You realize  
3228 the way the road improvements work here, it generally is done with development in order to get  
3229 the roads improved...

3230  
3231 Mrs. Roberts - Thank you.

3232  
3233 Ms. Dwyer - Ms. Freye.

3234  
3235 Ms. Freye - Thank you, Ms. Dwyer. I think one thing I'd like to just explain a  
3236 little bit as far as Mrs. Young; her home and her sister's home on Sadler Road. This property  
3237 that is subject of this zoning case is part of the estate from her father. There were four sisters  
3238 who claim this property. And, unfortunately, there was not agreement among the family about  
3239 how the property should either be held, sold, or developed. During the course of a 15-year legal  
3240 dispute over that property finally ended up in two of the sisters petitioning the court for a partition  
3241 suit. And, Mrs. Young was one of the sisters that opposed that partition suit.

3242  
3243 The result of that suit was for the Judge to order the property to be sold together - the 21 acre -  
3244 not the 21-acre, but the piece in the back, and then the piece behind Mrs. Young. The Judge, in  
3245 his order, accepted the contract that Fidelity Properties placed on the property. All that was  
3246 negotiated. Actually, the negotiations on that took two years. The attorney for Mrs. Young and  
3247 her sister was very much aware of the zoning contingency in the contract, and the use that was  
3248 being proposed.

3249  
3250 One of the things that came out during the hearing was that, Mrs. Young and her sister thought  
3251 that this property should be sold and developed as Office development, which would not have  
3252 been consistent with the Land Use Plan at all.

3253  
3254 So, it is understandable that Mrs. Young, who is opposed to this petition, from the very  
3255 beginning, would be opposed to the zoning, and we understand that. But, she did received the  
3256 notice as an adjacent landowner. We invited, in that letter, for her to call and ask any questions,  
3257 you know, that she might have. And, of course, her attorney was aware that we were proceeding  
3258 with this zoning, pursuant to the Court's order.

3259  
3260 In response to Mrs. Rasnick and Mrs. Roberts, Fidelity Properties does not disagree with them at  
3261 all. We understand that Sadler Road, and according to, even the comment they made, has been a  
3262 problem road for years, and years, and years, as long as they've lived there. And everybody else  
3263 out there complains that it is a poorly designed road. It's not a safe road, and that it does need  
3264 improvement.

3265 One of the things that impressed me, in talking with the Traffic Engineer, is the problem with  
3266 Sadler Road is not the volume. He, actually, reports that in the Staff Report. Volume is not the  
3267 problem. The problem is the design of the road; the curves, the narrow shoulders, and the way  
3268 the road is situated. And, the only way to improve that is, typically, in the County, is that the  
3269 roads like this get improved in sections by developers, as development occurs.

3270  
3271 And the Traffic Engineer has blessed the "T" intersection as being an improvement and an  
3272 acceptable alternative to what the County would have proposed that it might do some time in the  
3273 future, but not having allocated any funds to make those improvements. So, here we have a  
3274 developer who is in the position, uniquely, to provide the one acre of land and to make the  
3275 financial investment to put in the "T" intersection and to create a safer section of that road.

3276  
3277 And that is what the people that we talked with at The Cedars who said that's what they were  
3278 interested in, is having this road improved. And the individual people that I talked to that were  
3279 interested in having the road improved, and the other improvements that would be brought to this  
3280 area.

3281  
3282 I would like to point out that there are 19 adjacent landowners. And the only adjacent landowner  
3283 that has spoken against this is Mrs. Young.

3284  
3285 From the beginning, Mr. Tyler has been very forthcoming with the vision for assembling these  
3286 properties; doing a planned, coordinated development, that was shared with the staff and Planning  
3287 Commission in the Sadler Green case. And, then, also with the Board of Supervisors when the  
3288 Sadler Green case was approved in March. So, it was understood that, as these properties were  
3289 brought under contract, we would want to have the same kind of proffers and standards that were  
3290 approved with Sadler Green.

3291  
3292 We are simply following through with the commitments that we made to the Planning  
3293 Commission and the Board with the approval of the Sadler Green case. And, we're asking to be  
3294 allowed to continue to do that and to bring a quality development here that's consistent with what  
3295 exists in the area right now. Thank you.

3296

3297 Ms. Dwyer - Thank you, Ms. Freye. Any questions? No questions. Ready for  
3298 a motion, Mrs. Wade?  
3299  
3300 Mrs. Wade - On C-77C-99, pretty much the same thing applies in both of these  
3301 cases.  
3302  
3303 Ms. Hunter - Mrs. Wade, I just want to remind you, that the time limit needs to  
3304 be waived.  
3305  
3306 Mr. Archer - Madam Chairman, I have one question I want to ask. I'm sorry.  
3307  
3308 Mrs. Wade - No. Go ahead.  
3309  
3310 Mr. Archer - Are we to understand that this property that Mrs. Young referred to  
3311 has been ordered to be sold by the Court?  
3312  
3313 Ms. Freye - That is correct, Mr. Archer. It is under court order to be sold with  
3314 the contract with Fidelity Properties. And, we're having them as companion cases because the  
3315 Court has tied the parcels together in that contract.  
3316  
3317 Ms. Dwyer - Any other questions by Commission members?  
3318  
3319 Mrs. Young - May I say something?  
3320  
3321 Ms. Dwyer - Mrs. Wade, its up to you.  
3322  
3323 Mrs. Wade - I think we have pretty well covered...  
3324  
3325 Ms. Dwyer - I think so.  
3326  
3327 Mrs. Wade - everything. We directly aren't real involved in that aspect of it.  
3328  
3329 Mrs. Young - I'd like to say its not true what she said that I'm the only one  
3330 opposed.  
3331  
3332 Ms. Dwyer - Ma'am, that's not an issue for us. We can't take that into account,  
3333 the ownership of the property.  
3334  
3335 Mrs. Wade - However, we recommend, it goes to the Board of Supervisors, and  
3336 you have another month...Unless there are objections, I move that the time limit to receive...the  
3337 proffers...  
3338  
3339 Ms. Dwyer - Do I have a second?  
3340

3341 Mr. Vanarsdall - Second.  
3342  
3343 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall to waive  
3344 the time limits for proffers on Case C-77C-99. And they are the proffers dated today, Mrs.  
3345 Wade? Dated December the 9<sup>th</sup>.. All those in favor of waiving the time limit, say aye—all those  
3346 opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
3347  
3348 Mrs. Wade - ...the argument that its like others in the area only serves, in a  
3349 way,...about the precedent. And then I hear the same on the other 200, 400, or 600 acres that are  
3350 available...area. And, it is, in fact, the SR-1 Suburban Residential category. And this is over it,  
3351 and another one is a little over it and so on.  
3352  
3353 Because of the employment opportunities in the area, I assume that this land probably...but  
3354 they've been conscious about upholding the Comprehensive Plan I think for a number of reasons.  
3355 It's predicated on the number of services and things that are available; the roads, the schools, and  
3356 so forth and utilities...There is no question about who has the rights to use the road and so  
3357 forth...There are...I-295 and Staples Mill toward the interstate...This, I can't see anything but  
3358 being single family, given the Land Use Plan...but, this case, I feel needs some improvement. I,  
3359 therefore, would move that C-77C-99 be recommended for denial.  
3360  
3361 Mr. Archer seconded the motion.  
3362  
3363 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer to  
3364 recommend the case for denial to the Board of Supervisors. All those in favor say aye—all those  
3365 opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). The motion carries.  
3366  
3367 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Archer, the Planning  
3368 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the  
3369 request because it would likely set an adverse zoning and land use precedent for the area; and it  
3370 does not conform to the recommendation of the Land Use Plan nor the Plan's goals, objectives  
3371 and policies.  
3372  
3373  
3374 Mrs. Wade - It's pretty much the same thing. I move we waive the time limit to  
3375 accept the proffers on C-78C-99.  
3376  
3377 Ms. Dwyer - Do I have a second?  
3378  
3379 Mr. Vanarsdall seconded the motion.  
3380  
3381 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall to waive  
3382 the time limits for the proffers submitted December 9<sup>th</sup> for C-78C-99. All in favor of that motion,  
3383 say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). The motion  
3384 carries.

3385  
3386 Mrs. Wade - Most of the same things apply on this one. Probably, even more  
3387 so, in terms of the back parcel which has even more possibility for...I was concerned with the  
3388 proffer that mentions the 100 homes on a single point of access...(Comments unintelligible-  
3389 microphone not working). Anyway I move that Case C-78C-99 also be recommended for denial.

3390  
3391 Mrs. Quesinberry seconded the motion.

3392  
3393 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mrs. Quesinberry. All  
3394 those in favor of the motion to recommend denial for the case to the Board of Supervisors, say  
3395 aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). The motion  
3396 carries.

3397  
3398 Mrs. Wade - If the Board feels that increased density is a good idea...(Comments  
3399 unintelligible-microphone not working), they will act otherwise...  
3400 REASON: Acting on a motion by Mrs. Wade, seconded by Mrs. Quesinberry, the Planning  
3401 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the  
3402 request because it would likely set an adverse zoning and land use precedent for the area; and it  
3403 does not conform to the recommendation of the Land Use Plan nor the Plan's goals, objectives  
3404 and policies.

3405  
3406  
3407 Mrs. Wade - I apologize to everybody who is still here, Mr. Secretary. Because  
3408 the Three Chopt cases were last on the agenda last month when you all were here, and Three  
3409 Chopt cases should have been first this time. But somehow they got mixed up.

3410  
3411 Ms. Dwyer - I think they liked Tuckahoe best, because we've been first. All  
3412 right, next case, Mr. Secretary.

3413  
3414 **C-79C-99 Jay M. Weinberg for Bon Secours-St. Mary's Hospital, Inc.:**  
3415 Request to conditionally rezone from R-3 One Family Residence District to R-5C General  
3416 Residence District (Conditional), Parcels 114-A-10, 11, 12 and 13 (legal description includes all  
3417 of the 16-foot alley immediately adjacent to the east line of these lots), described as follows:

3418  
3419 Beginning at the northeast corner of the intersection of Maple Avenue and Bremono Road, being the  
3420 point and place of beginning; thence along the eastern right-of-way line of Maple Avenue, N00-  
3421 31-10E 364.72' to a point, being the southeast corner of the intersection of Maple Avenue and  
3422 Hampstead Avenue; thence leaving the eastern right-of-way line of Maple Avenue and proceeding  
3423 along the southern right-of-way line of Hampstead Avenue, N71.35-20E 34.99' to a point; thence  
3424 along a curve to the left, having a radius of 1014.43' and a length of 48.43' to a point; thence  
3425 leaving said southern right- of way line of Hampstead Avenue and proceeding along the eastern  
3426 line of a 16 foot alley, S20-14-26E 160.80' to a point, said point being the northeastern corner of  
3427 the intersection of two 16 foot alleys which have been vacated; thence S11-51-41W 20.16' to the  
3428 southeastern corner of the same intersection of two 16' alleys; thence S00-31-10W 187.98' to a

3429 point; thence leaving the eastern line of said 16 foot alley, proceeding along the northern right-of-  
3430 way line of Bremono Road, along a curve to the right, having a radius of 1323.24' and a length of  
3431 124.73' to a point; thence S78-08-00W 11.38' to the point and place of beginning, being all of  
3432 lots 53, 54, 55., and 56 of Westview, Section "C" and in addition, all of the 16 foot alley  
3433 immediately adjacent to the east of the above described lots. All of the above being located in the  
3434 Three Chopt District, Henrico County, Virginia. The above description was compiled from the  
3435 Westview, Section "C" subdivision plat and contains approximately 1.027 acres. The above lots  
3436 and alley have been vacated and are no longer part of Westview, Section "C".

3437  
3438 Mr. Marles - The staff presentation will be by Mr. Eric Lawrence.

3439  
3440 Ms. Dwyer - Good evening, Mr. Lawrence. Is there any one in opposition to C-  
3441 79C-99? No opposition. Mr. Lawrence.

3442  
3443 Mr. Lawrence - I hope not. Thank you. This application is a request to rezone just  
3444 over an acre of land from R-3 to R-5C. This would accommodate the St. Mary's Hospital  
3445 Hospitality residence.

3446  
3447 Essentially, the hospitality residence is typically a facility that provides lodging for families of  
3448 patients and outpatients at the hospital. St. Mary's Hospital is currently located in an established  
3449 residential area, but, yet, the hospital's an established medical facility. So, you have two uses that  
3450 are living together.

3451  
3452 Ms. Dwyer - Co-habiting.

3453  
3454 Mr. Lawrence - Thank you. Because the two uses are sitting and living together  
3455 right now, this proposed use is actually a good transition from the hospital's parking deck (Gap in  
3456 tape).

3457  
3458 Staff has worked with the applicant to resolve these previously identified issues. It appears that  
3459 staff's concerns have been addressed by the revised proffer statement submitted by the applicant.

3460  
3461 Staff had identified a number of issues in the staff report. The applicant has submitted a revised  
3462 proffer statement that was handed out to you this evening, which addresses all of staff's concerns.

3463  
3464 The proffered conditions, that were handed out to you this evening, address preservation of  
3465 mature trees, the structure setbacks, site and building layout, parking lot lighting, and it defined  
3466 what the hospitality residence actually is. With that said, staff feels the application is appropriate  
3467 and recommends it for approval.

3468  
3469 Ms. Dwyer - Thank you, Mr. Lawrence. Any questions of Mr. Lawrence by  
3470 Commission members? Thank you.

3471  
3472 Mr. Lawrence - Thank you.

3473  
3474 Ms. Dwyer - Would you like to hear from the applicant, Mrs. Wade?  
3475  
3476 Mrs. Wade - (Comments unintelligible.)  
3477  
3478 Mr. Vanarsdall - He's been here so long. It would be a shame for him not to speak.  
3479  
3480 Mrs. Wade - (Comments unintelligible.)  
3481  
3482 Mr. Vanarsdall - It is four houses behind St. Mary's. And that takes the whole  
3483 block.  
3484  
3485 Mr. Weinberg - That's right. It's these four lots right here (referring to slide),  
3486 Bremono, Maple, Hampstead. It is a, basically, one-story hospitality house, specifically for  
3487 relatives or parents or friends of a patient in the hospital who is there for some intensive care.  
3488 Usually, it is people from out of town. It's virtually on the hospital grounds.  
3489  
3490 These four houses have actually been used for that purpose for a number of years by the hospital.  
3491 They're owned by the hospital. But, Number 1, by putting the one building; the main thing is  
3492 with a central great room, it provides an opportunity for mutual support of families. If they're in  
3493 separate houses, they have to go outside in inclement weather.  
3494  
3495 And, while they can support each other as a family, all of the families can get together or  
3496 relatives. That's the primary purpose for it. What you see here, we, specifically, proffered.  
3497  
3498 I'm happy to go through the case or answer any questions. Mrs. Wade, I think you did ask me a  
3499 question. I told you, I'd get back to you, but I don't remember if I did.  
3500  
3501 There are sidewalks on Bremono and Maple, and curb and gutter, both.  
3502  
3503 Mrs. Wade - And, would you identify yourself.  
3504  
3505 Mr. Weinberg - I'm sorry. I'm Jay Weinberg, and I represent Bon Secours, along  
3506 with Penny Koch, and Dean Forrest represents the hospital.  
3507  
3508 Ms. Dwyer - Are sidewalks included in the proffers?  
3509 Mr. Weinberg - They're already in. They were installed as part of a prior POD.  
3510  
3511 Ms. Dwyer - Okay. And the buildings exterior building materials? I see the  
3512 standard proffer that this will be brick.  
3513  
3514 Mr. Weinberg - It's brick, because we're proffered the elevation here which is  
3515 brick. And that other standard proffer is simply to provide that all four sides will be of the same  
3516 material.

3517  
3518 Ms. Dwyer - Any other questions for Mr. Weinberg?  
3519  
3520 Mrs. Wade - (Comments unintelligible).  
3521  
3522 Ms. Dwyer - There's no opposition. Are you ready for a motion, Mrs. Wade?  
3523  
3524 Mrs. Wade - All right. (Comments unintelligible). I move that C-79C-99 be  
3525 recommended for approval.  
3526  
3527 Mr. Vanarsdall seconded the motion.  
3528  
3529 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Vanarsdall to recommend  
3530 the case to the Board for approval. All those in favor say aye—all those opposed by saying nay.  
3531 The vote is 5-0, Mr. Donati abstained. The motion carries. Thank you.  
3532 Mr. Weinberg - Thank you very much.  
3533  
3534 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
3535 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the**  
3536 **proffered conditions and grant** the request because it would not adversely affect the adjoining  
3537 area if properly developed as proposed; it is reasonable; and the proffered conditions will assure  
3538 a level of development otherwise not possible.  
3539  
3540  
3541 Mr. Archer - That was Mrs. Wade's last zoning motion.  
3542  
3543 Ms. Dwyer - Where are the fireworks. All right, we have some calendar dates to  
3544 set and some minutes to approve. I think you should hire yourself out as a consultant, Mrs.  
3545 Wade. The thing to do, Mary, is to get paid by the hour.  
3546  
3547 Mr. Archer - Well, now, you've got one more POD to go through, so.  
3548  
3549 Ms. Dwyer - All right. The Number of January Zoning Cases, whose going to  
3550 speak to us about that?  
3551  
3552 Mr. Marlles - Madam Chairman, I think you were handed a copy of the number  
3553 of new rezoning cases that we received. We have received a total of 14 new cases. I think, in  
3554 addition to that, we've also discussed that we have several work sessions and possibly a public  
3555 hearing that we need to schedule.  
3556  
3557 Of course, the Commission's rule is that no more than nine new cases be heard. It does take an  
3558 action by the Commission, if you do want to deviate from the rule. I would add that, of the nine  
3559 cases, the first nine cases, there are two major significant rezoning cases included within that  
3560 nine.

3561  
3562 Mr. Vanarsdall - You deferred four, tonight, Madam Chairman.  
3563  
3564 Mr. Marlles - Right.  
3565  
3566 Mr. Vanarsdall - So that makes 13.  
3567  
3568 Ms. Dwyer - We deferred four to January?  
3569  
3570 Mr. Vanarsdall - Four for January. And also, Madam Chairman, for the 13<sup>th</sup> of  
3571 January, we have to take up the approval of the Rules and Regulations, and any other  
3572 housekeeping, and then we have to elect a new Chairman and Vice-Chairman. So, that will take  
3573 up some time.  
3574  
3575 Ms. Dwyer - So, the new Chairman will have to talk fast.  
3576  
3577 Mr. Vanarsdall - And, also, we're starting a new century. And, I think we should  
3578 maybe start sticking to the nine cases.  
3579  
3580 Ms. Dwyer - I agree with you. I want everyone to speak up on this.  
3581  
3582 Mrs. Quesinberry - I think that, you know, especially, since we've come under  
3583 criticism for long meetings, and other associated matters, at the very least to make meetings  
3584 accessible to the public and amenable, we ought to do what we can do. And, some of that is  
3585 looking at our own rules and limiting the amount of cases; new cases, and overall cases would  
3586 certainly allow everybody to be heard in a reasonable amount of time and allow us to give  
3587 attention to those cases. So, I agree with what Mr. Vanarsdall said and Mrs. Dwyer.  
3588  
3589 Ms. Dwyer - That will give us 13 cases in January; at least two of which we can  
3590 expect to be lengthy. It would be just like tonight. There wasn't a lot of opposition, in terms of  
3591 numbers of people here, but almost every case had some opposition which causes the case to be  
3592 lengthy.  
3593  
3594 Mrs. Quesinberry - We're suggesting we take nine, according to the rules.  
3595  
3596 Mrs. Wade - Put five onto the next one.  
3597  
3598 Mr. Marlles - Four deferrals and nine new cases.  
3599  
3600 Mrs. Via - Right. If you defer the five to February, so we'll only take four  
3601 new cases for February.  
3602  
3603 Ms. Dwyer - So, they don't count as deferrals, then?  
3604

3605 Mrs. Via - If you'll notice the Wilton case, which is Number 1, is, actually,  
3606 the case that you bumped off. It was the 10<sup>th</sup> case from November. So, if you look on your  
3607 chart, 10, 11, 12, 13, and 14 will become your first five cases in February. So, the first four in  
3608 the door for the February meeting will be the new cases.  
3609

3610 Mr. Vanarsdall - If you need a motion, I'll be glad to make it.  
3611

3612 Ms. Dwyer - We don't need a motion.  
3613

3614 Mr. Marlles - You're following your rules.  
3615

3616 Ms. Dwyer - We'd need a motion if we were going to deviate from that...  
3617

3618 Mr. Vanarsdall - Wonderful.  
3619

3620 Ms. Dwyer - We've already decided to hear the BZA Amendment at our POD  
3621 meeting on January 26<sup>th</sup>.  
3622 Mr. Marlles - Staff is suggesting that we hear that Ordinance Amendment at 9:00  
3623 a.m. on the 26<sup>th</sup>. There doesn't seem to be a lot of citizen interest in it. So, we can probably  
3624 handle it the first thing on the agenda.  
3625

3626 Ms. Dwyer - Do we want to do that one, so we can advertise it at a specific  
3627 time?  
3628

3629 Mr. Silber - (Comments intelligible).  
3630

3631 Mr. Vanarsdall - Mr. Secretary, when you say 9:00 o'clock, that means we do the  
3632 deferrals and withdrawals and the expedited agenda first?  
3633

3634 Ms. Dwyer - No sir.  
3635

3636 Mr. Vanarsdall - Okay. So, we'll do this first.  
3637

3638 Ms. Dwyer - We will start our cases at 9:30 a.m. or 9:45 a.m., the deferrals and  
3639 withdrawals, and the expedited agenda.  
3640

3641 Mr. Marlles - And you want to talk about the W. Broad Street Land Use Study?  
3642

3643 Ms. Dwyer - How much time do we need for this BZA thing?  
3644

3645 Mr. Marlles - Half an hour.  
3646

3647 Ms. Dwyer - Thirty minutes. So, we hear our cases at 9:30 a.m. All right, now  
3648 the W. Broad Street.

3649  
3650 Mr. Marlles - Our suggestion, at this point, is have the hearing on the W. Broad  
3651 Street Land Use Study at 6:00 p.m. on the 13<sup>th</sup>.  
3652  
3653 Mr. Vanarsdall - 6:00 p.m.?  
3654  
3655 Mr. Marlles - Yes sir.  
3656  
3657 Mr. Vanarsdall - ...on the 13<sup>th</sup>?  
3658  
3659 Mr. Marlles - Yes sir.  
3660  
3661 Ms. Dwyer - And then begin our cases at 7:00 or 7:30? 7:00?  
3662  
3663 Mr. Marlles - Well, that's a good question. We are expecting citizens to  
3664 participate and, probably want to speak. The question is whether we do it an hour or do we need  
3665 an hour or an hour and a half?  
3666  
3667 Mr. Silber - I suggest doing this at 7:00.  
3668  
3669 Ms. Dwyer - So, on our Zoning Meeting in January, first we'll hear the W.  
3670 Broad Street Study.  
3671  
3672 Mrs. Wade - Where are all these Hunt cases for January?  
3673  
3674 Ms. Dwyer - You don't have to worry about those anymore.  
3675  
3676 Mr. Archer - Let her worry if she wants to.  
3677  
3678 Mr. Vanarsdall - You have worried about it for many years. We know that. You're  
3679 going to wake up at night worrying about them, Mary.  
3680  
3681 Mrs. Via - The first two, Mrs. Wade, Case 1 and Case 2 are actual proffered  
3682 fulfillments to a C-1 Conservation.  
3683  
3684 Mrs. Wade - (Comments unintelligible.)  
3685  
3686 Mrs. Via - Right. We will need to resolve the Chairman's issue about liability  
3687 and open space and, actually, that's a good question. If you want us to address that, perhaps, as a  
3688 part of the zoning cases, because we do have them coming, or would you rather have us bring  
3689 that back in a work session?  
3690  
3691 Ms. Dwyer - What do you think? Is anybody else concerned about that?  
3692

3693 Mr. Archer - Madam Chairman, I am concerned about that. I think probably we  
3694 do need to have a work session.  
3695  
3696 Ms. Dwyer - I think we would like the benefit of staff's opinion on that issue in  
3697 the meantime.  
3698  
3699 Mr. Archer - Now, we could do it a long time. I don't see that it's a critical  
3700 hurry, but we need to do something about that.  
3701  
3702 Mrs. Via - We'll do some research and some preparation for the cases. And,  
3703 if we find if there's some more detail we need to go into, we can set up a work session for you.  
3704  
3705 Ms. Dwyer - I don't know if there is a resolution.  
3706  
3707 Mr. Archer - It might not be.  
3708  
3709 Ms. Dwyer - Any other business? Oh, the minutes. W. Broad Street is a public  
3710 hearing, right? Do we need a motion to set a public hearing?  
3711  
3712 Mr. Marlles - I think we have done that in the past.  
3713  
3714 Mr. Silber - Probably so.  
3715  
3716 Ms. Dwyer - Let's have a motion on the W. Broad Street Land Use Study for  
3717 January 13<sup>th</sup> at 6:00 o'clock.  
3718  
3719 Mrs. Quesinberry - I'd like to make a motion that we consider the W. Broad Street  
3720 Study at our meeting on January 13<sup>th</sup> at 6:00 p.m.  
3721  
3722 Mr. Vanarsdall seconded the motion.  
3723  
3724 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
3725 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
3726 abstained).  
3727  
3728 The BZA is just a continuation of our public hearing. We just continue that?  
3729  
3730 Mr. Marlles - We're going to have to re-advertise because of the new section.  
3731  
3732 Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Quesinberry, the minutes of November  
3733 10, 1999 were approved as corrected.  
3734  
3735 Mrs. Quesinberry - I have one more item before you all take off. This is just a "think  
3736 about it." On our February agenda, February of 2000 agenda, if you look on the sheet we just

3737 had, the State Fair—Atlantic Rural Exposition; Nos. 13 and 14 is scheduled then for the February  
3738 agenda. And what I'd like for you all to think about is, perhaps, starting that meeting early and  
3739 hearing that case first, because we're expecting hundreds of people. And, perhaps, just to  
3740 expedite things, we could put it first on the agenda and get everyone out the door. There are  
3741 certainly other alternatives, but that seems the least intrusive. We don't need a decision, tonight.  
3742 I just want you to think about it. I'm putting it out there. We can decide in January.  
3743  
3744 Mr. Silber - Debra, would you like to start in late afternoon, like 3:00 p.m.?  
3745  
3746 Mrs. Quesinberry - I'd like to limit the time to no more than two hours and maybe start  
3747 our meeting at 5:00 p.m. if we had to - 5:00 to 6:30.  
3748  
3749 Ms. Dwyer - Start at 4:00. 4:00 to 6:00 and eat dinner.  
3750  
3751 Mr. Silber - Should we do it outside this building? Is this room large enough to  
3752 accommodate...  
3753  
3754 Mrs. Quesinberry - I don't know if this room is going to be large enough or not, but  
3755 my other concern is, I don't want to give the appearance that we're giving the State Fair some  
3756 special treatment, hearing or anything like that. If we could plug them in to our usual customary  
3757 good service.  
3758  
3759 Mr. Vanarsdall - We should have it as a normal meeting, then, and start early or  
3760 anything?  
3761  
3762 Ms. Dwyer - I think starting early helps us.  
3763  
3764 Mrs. Quesinberry - That would be a lot of people here, initially, early for a case and  
3765 then they would clear out and we could get on to our other business. I don't mean starting really  
3766 early.  
3767  
3768 Mr. Archer - We'll still adhere to the same rules and regulations as we normally  
3769 do. We'll still have our same rules and regulations.  
3770  
3771 Mr. Vanarsdall - I know it.  
3772  
3773 Mrs. Quesinberry - If we started at 6:00 and give everybody time to get here and not  
3774 start the rest of our agenda until 7:30 or so.  
3775  
3776 Mr. Vanarsdall - We've had packed houses before.  
3777 Mrs. Quesinberry - This is going to be packed. Like you wouldn't believe packed.  
3778

3779 Ms. Dwyer - Well, suppose we did it, allotted 4:00 p.m. to 6:00 p.m., and then  
3780 have dinner, and started our regular meeting at 7:00 p.m.? That would really give people time to  
3781 clear out.  
3782  
3783 Mr. Archer - Well, the problem is, if we do it at 6:00 p.m., we are going to be  
3784 criticized. People will say, "We can't get off from work to get here."  
3785  
3786 Mr. Vanarsdall - They're going to think we did that on purpose. They will get Mr.  
3787 Donati at the ballot box next time.  
3788  
3789 Mrs. Quesinberry - I thought they were going to carry him off bodily last night...  
3790  
3791 Ms. Dwyer - Should we limit the time and say no more than two hours? Is that  
3792 too much or not enough?  
3793  
3794 Mrs. Quesinberry - I think that's enough. I'd be saturated after two hours. I certainly  
3795 wouldn't want to hear any more than that.  
3796  
3797 Mrs. Wade - Now, what new could anybody say.  
3798  
3799 Ms. Dwyer - If we do 6:00 p.m. to 8:00 p.m. for the Fairgrounds, and we start  
3800 at 8:00 we could be here to 1:00 a.m. or 2:00 a.m. in the morning.  
3801 Mrs. Quesinberry - Depending on what the rest of the February agenda looks like.  
3802  
3803 Ms. Dwyer - You know, I think that we're back to normal by having...We don't  
3804 know what the February agenda looks like, yet, do we?  
3805  
3806 Mr. Silber - My guess would be Sotherlyn would likely be on that agenda.  
3807  
3808 Ms. Dwyer - But Sotherlyn's on January.  
3809  
3810 Mr. Silber - Yes. But I'd be surprised if we...  
3811  
3812 Mrs. Wade - We don't want to have those two on the same night.  
3813  
3814 Ms. Dwyer - We might need to start early though.  
3815  
3816 Mr. Marlles - Do you want staff to look at that?  
3817  
3818 Mrs. Quesinberry - I think Mrs. Wade should have to come back and listen between  
3819 4:00 p.m. and 6:00 p.m. and make a recommendation.  
3820

3821 There being no further business, acting on a motion by Mr. Vanarsdall, seconded Mrs.  
3822 Quesinberry, the Planning Commission adjourned its meeting at 11:45 p.m. on December 9,  
3823 1999.

3824

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Elizabeth G. Dwyer, C.P.C., Chairwoman

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John R. Marlles, AICP, Secretary

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