Minutes of the above case from the monthly meeting of the Planning Commission of the County of Henrico held in the County Administration Building in the Government Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. Thursday, January 14, 2010.

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

Also Present: Ms. Jean M. Moore, AICP, Assistant Director of Planning
Mr. James P. Strauss, CLA, Principal Planner
Ms. Rosemary Deemer, AICP, County Planner
Mr. Roy Props, County Planner
Mr. Benjamin Sehl, County Planner
Ms. Jamie Sherry, County Planner
Ms. Lisa Taylor, County Planner
Mr. Mike Jennings, Traffic Engineer
Ms. Sylvia Ray, Recording Secretary

Mr. David Kaechele, the Board of Supervisors' representative, abstains on all cases unless otherwise noted.

Mrs. Jones - I'd like to call this meeting to order and ask that you stand to **Pledge of Allegiance to the Flag**.

Thank you. Welcome to the January 14, 2010 Rezoning meeting for the Henrico County Planning Commission. This is not to single anyone out, but I do always ask that cell phone be muted or turned off as a courtesy to others. Thank you very much.

I'd like to welcome you here tonight. There are a lot of you here and I know we have only a few cases on the agenda. I think that really speaks to your level of involvement in your community. I really appreciate the time that everybody takes to come out and be part of proceedings like this. It's not easy to carve time out of your busy scheduled. So thank you to everybody who's here with us this evening.

I'd like to welcome Dave Kaechele, who is the member from the Board of Supervisors who'll be sitting with the Planning Commission this year. Nice to have you with us.

Mr. Kaechele - Thank you, Madam Chairman. I'm pleased to be here for the calendar year, representing the Board for this year. I think it's been maybe five years since I had this opportunity. The Commission hasn't changed very much.

Mrs. Jones - Maybe older and wiser, I don't know.

Mr. Kaechele - Well, I was going to say that.

Mr. Archer - Just wiser.

Mr. Kaechele - Anyway, I appreciate and respect what this Commission does for the community and for the Board of Supervisors and our citizens, as well as the staff and working with the community in the development that's going on. It's a big assist to the Board of Supervisors, the work that you all do. So I thank you for what you do, and the same goes for the staff of the Planning Department, and the Director. You do a good job and I'm pleased to be here. Thank you.

Mrs. Jones - Thank you for those kind words; we appreciate it.

Mr. Kaechele - And also, I'm going to follow the same rule that Board members usually abstain on votes of decisions that will come before the Board of Supervisors.

Mrs. Jones - All right, that'll be noted for the record. Thank you.

Do we have a member of the media here? No one from the media here tonight, okay. So then I will turn the meeting over to our secretary, the Director of Planning, Joe Emerson.

Mr. Emerson - Thank you, Madam Chair. The first items on your agenda tonight are Requests for Withdrawals and Deferrals. Those will be presented by Mr. Jim Strauss.

Mr. Vanarsdall - Good evening, Mr. Strauss.

Mr. Strauss - Good evening. Staff is aware of one deferral in the Varina District. That's on page 1 of the agenda. That's C-31C-09. This is a request to conditionally rezone from A-1 Agricultural District, R-5 General Residence District and M-1 Light Industrial District to the R-5C General Residence District. A multi-family development and retail business uses are proposed. The applicant has requested deferral to the February 11th meeting.

C-31C-09 **Andrew M. Condlin for White Oak Crossing Acquisition, LLC**: Request to conditionally rezone from A-1 Agricultural District, R-5 General Residence District and M-1 Light Industrial District to R-5C General Residence District (Conditional) and M-1C Light Industrial District (Conditional), Parcels 811-719-8863, 812-719-1130, 811-718-1589 and part of Parcel 813-720-9405, containing approximately 30.9 acres, located at the northwest intersection of S. Laburnum Avenue and Interstate 64, south of the Southern Railway right-of-way. The applicant proposes a multi-family development of no more than three hundred fifty (350) dwelling units and retail/business uses. The R-5 District allows a maximum gross density of 14.52 units per acre. The uses will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Planned Industry and Environmental Protection Area. The site is in the Airport Safety Overlay District

Mrs. Jones - Mr. Strauss, is your mike on?

Mr. Strauss - Can you hear me?

Mrs. Jones - I guess it is. Is that on?

Mr. Strauss - I can repeat that information if you like. I thought it was on.

Mrs. Jones - Let me ask, is there anyone here with us this evening in opposition to the deferral of case C-31C-09, White Oak Crossing? There is no opposition.

Mr. Jernigan - Madam Chair, with that, I will move for deferral of case C-31C-09, Andrew M. Condlin for White Oak Crossing Acquisition, LLC, to February 11, 2010, by request of the applicant.

Mr. Vanarsdall - Second.

Mrs. Jones - We have a motion by Mr. Jernigan, a second by Mr. Vanarsdall. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

At the request of the applicant, the Planning Commission deferred C-31C-09, Andrew M. Condlin for White Oak Crossing Acquisition, LLC, to its meeting on February 11, 2010.

Mr. Emerson - Madam Chair, if the Commission does not have any deferrals they wish to request at this time, that would take us to the expedited items, which will also be presented by Mr. Jim Strauss.

Mr. Strauss - Thank you. The first expedited request for approval is on page 2 of the agenda. That is P-12-09. It is for New Cingular Wireless PCS, LLC. It's located on the east line of Pump Road approximately 640 feet north of Three Chopt Road at the Short Pump Park. This is a request for a provisional use permit in order to extent the height of an existing telecommunication's tower from 150 feet to 169 feet. This request is to provide an additional co-location opportunity and extend wireless service within the area. Staff is recommending approval with the 17 conditions listed on page 3 of the staff report. Note that Condition 17 has been revised. You should have received the revised condition earlier in your packet. Staff is not aware of any opposition.

P-12-09 Gloria L. Freye for New Cingular Wireless PCS, LLC: Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to extend the height of an existing telecommunications tower from 150 feet to 169 feet, on part of Parcel 739-760-8865, located on the east line of Pump Road approximately 640 feet north of Three Chopt Road (Short Pump Park). The existing zoning is A-1 Agricultural District. The Land Use Plan recommends Open Space/Recreation. The site is in the West Broad Street Overlay District.

Mrs. Jones - Before we move to a vote, Mr. Emerson, would you, for the benefit of folks who are here, just say what an expedited item is on the agenda?

Mr. Emerson - Yes ma'am. Expedited items are items where applications have been made that meet with staff approval and there is no known opposition to the case. Therefore, the Commission takes them up in an expedited fashion to move the meeting along to other items where there is more interest.

Mrs. Jones - All right. Is there anyone here in opposition to P-12-09, Gloria L. Freye for New Cingular Wireless PCS, LLC? No opposition.

Mr. Branin - Madam Chair, then I'd like to move that P-12-09, Gloria L. Freye for New Cingular Wireless PCS, LLC, be approved on the expedited agenda with conditions that were recommended and included.

Mr. Vanarsdall - Second.

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

REASON: Acting on a motion by Mr. Branin seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the request because when properly developed and regulated by the recommended special conditions, it would not be

detrimental to the public health, safety, welfare and values in the area, and it would provide added services to the community.

Mr. Strauss - The second request for expedited approval is on page 2 of the agenda. That's P-1-10, Advance Auto Parts. This is located on the east line of Gaskins Road approximately 400 feet north of West Broad Street. This is a request for a provisional use permit in order to allow auto part sales in an existing commercial building. Staff is recommending approval with the six conditions listed on page 2 of the staff report. Staff is not aware of any opposition.

P-1-10 Jeffrey D. Mahler for Advance Auto Parts: Request for a Provisional Use Permit under Sections 24-58.2(c), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to allow auto parts sales in an existing commercial building, on part of Parcel 752-759-9472, located on the east line of Gaskins Road approximately 400 feet north of W. Broad Street. The existing zoning is B-2C Business District (Conditional). The Land Use Plan recommends Commercial Arterial.

Mrs. Jones - Is there anyone with us tonight in opposition to this case, P-1-10, Jeffrey D. Mahler for Advance Auto Parts?

Mr. Branin - Madam Chair, then I'd like to move that P-1-10, Jeffrey D. Mahler for Advance Auto Parts, be approved on the expedited agenda with the six conditions included.

Mr. Vanarsdall - Second.

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

REASON: Acting on a motion by Mr. Branin seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the request because it is reasonable in light of the surrounding uses and zoning and the recommended conditions should minimize the potential impacts on surrounding land uses.

Mr. Strauss - Those are the expedited requests for approval that we know of.

Mrs. Jones - Thank you, Mr. Strauss. All right. We have a bit of housekeeping with us this evening. I'm going to turn this over to Mr. Emerson. This is the election of our chairman and vice chairman. This happens—the reorganization of the Commission—every January at our first meeting. So that happens to be tonight, and he will conduct the election for chairman and vice chair.

Mr. Emerson - Thank you, Madam Chair. As you know, your regulations do require you on a calendar year basis to elect a chair and vice chair for that calendar year. Tonight is the evening for that. Thank you for the opportunity. This is the one time of the year that this placed in front of me, so I have made a little note for myself here so hopefully we'll run it smoothly.

Madam Chair and I had discussed that it might be easier this year to elect the officers as a slate. So what I plan to do is request nomination for chair for the year 2010, and then, of course, we'll have to have a second, and then we'll have to have a motion to close. Then I will request a nomination for vice chair, and again a second and close, and then a vote, a motion to elect, and then, of course, a vote on the election of the officers. So if that meets with everyone's concurrence, I will open the floor for nominations for chairman for the calendar year 2010.

Mr. Jernigan - Mr. Secretary, I would like to nominate Ernest B. Vanarsdall for chairman for the year 2010.

Mr. Emerson - Is there a second for that?

Mr. Branin - Second.

Mr. Emerson - Are there any other nominations?

Mr. Vanarsdall - I move the nominations be closed.

Mr. Emerson - Do I hear a second on that?

Mr. Branin - Second.

Mr. Emerson - Now I'll ask for a nomination for the vice chair for calendar year 2010.

Mr. Branin - Mr. Secretary, I'd like to make a motion that vice chair be Chris Archer.

Mr. Jernigan - Second.

Mr. Emerson - Are there any other nominations? Hearing none, can we have a motion to close the nominations?

Mr. Branin - I move for closure.

Mr. Jernigan - Second.

Mr. Emerson - All in favor. Now I would ask for a motion for the election of the slate of officers for the 2010 calendar year.

Mrs. Jones - I so move.

Mr. Emerson - Is there a second?

Mr. Archer - Second.

Mr. Emerson - All in favor say aye. All opposed say no. The ayes have it; the motion passes.

Congratulations, gentlemen.

Mrs. Jones - We appreciate your patience as we take care of these housekeeping tasks.

Mr. Emerson - We'll now play musical chairs.

Mrs. Jones - Yes, now we move.

Mr. Emerson - Mr. Chairman, that takes us to the next item, on which I believe you may have some remarks.

Mr. Vanarsdall - It's in the Fairfield District, C-32C-09. Before we do that, one of the nice things of being chairman is to award someone who's been a good chairman. So, I'll go down to the microphone.

[Blank section on recording.]

Mr. Vanarsdall - It is a pleasure to do this and Mrs. Jones has been an outstanding chairman for us the past year. When she first started, we didn't know what to call her. We didn't know whether she wanted to be called chair lady, chair woman, chairman, chair. So she told all of us to just "call me anything you want to," and that's what we've been doing for a year. Just kidding. You have done a good job and we appreciate your leadership.

Mrs. Jones - I appreciate that; thank you.

Mr. Vanarsdall - I know everybody wants to see what it is.

Mrs. Jones - I'm not very comfortable with this kind of thing.

Mr. Vanarsdall - Come on around here. I hope it's not something [inaudible].

Mrs. Jones - With this crew, I don't know. This has been a pleasure for me. It has been a distinct honor and I hope it's been a good year for the Planning Commission. It's been a hard year; it always is because all cases are difficult in some way. But we're moved them through. We've had a Comprehensive Plan that's come into play this year. It's been a very interesting year. I appreciate it; thank you. Let me see what's in here. Figure out how to get into a box. It has to be protected; that's lovely. Oh, how beautiful. Oh, my. Excuse me; I'm almost taken aback by this. This is a beautiful [inaudible] for my desk. Thank you. Thank you all.

Mr. Vanarsdall - All right. Thank you, Mrs. Jones. Now, Mr. Secretary, I'll turn it over to you.

Mr. Emerson - Yes sir, thank you, Mr. Chairman. As you know, now we head into your regular agenda. You have three cases to be heard. They are public hearings, so just to quickly go over the public hearing rules so people will be aware. Once we get into public comment, the applicant is allowed ten minutes to present a request. Time may be reserved for responses to testimony. Opposition is allowed ten minutes to present its concerns. Any questions from the Commission do not count into the time limits of either the applicant or the public, and the Commission may waive the time limits for either party at its discretion. With that said, your first case is on the first page of your agenda, C-32C-09.

C-32C-09 John J. Hanky, III for Barrington Investors LTD and Elder Homes Corporation: Request to amend proffered conditions accepted with Rezoning Case C-65C-06, on Parcels 799-732-4991, 799-733 -5351, -7350, -7644, -7938, -8231, -8525, -8819, -9113, -9209, -9504, -8204, -7808, -7513, -7318, -7023, -6728, -6533, -6338, -6143, -4535, -4830, -5025, -5223, -5419, -5614, -5810, 799-732-8887, -8597, and -6697, located between the east line of the Chesapeake and Ohio Railway right-of-way and the west line of Barrington Road at its intersection with Springton Road. The applicant proposes to amend Proffer 2 related to exterior materials, Proffer 3 related to foundations, Proffer 12 related to garages and Proffer 21 related to compliance certification. The applicant also proposes to delete Proffer 18 related to the walking trail. The existing zoning is R-5AC General Residence District (Conditional). The Land Use Plan recommends Suburban Residential 2, density should not exceed 3.4 units per acre, and Environmental Protection Area.

Mr. Vanarsdall - Anyone in the audience in opposition to C-32C-09, John J. Hanky, III for Barrington Investors LTD and Elder Homes Corporation? Good evening, Ms. Deemer.

Ms. Deemer - Good evening Mr. Chairman, members of the Commission.

This request is to amend proffers accepted with rezoning case C-65C-06 located on the west line of Barrington Road, south of Dill Road. Trinity Baptist Church and the established Brentwood neighborhood are to the north and east, with undeveloped R-4 One-Family Residence and M-2 General Industrial zoned land located to the south. The CSX railway is located to the west.

The property was rezoned to R-5AC for a single-family, zero lot line subdivision of 54 units per case C-65C-06. Twenty-one proffers were accepted with the original rezoning case, major aspects of which included finished floor area, maximum density, exterior materials and landscaping.

Conditional approval of the subdivision was granted by the Planning Commission on April 25, 2007 and Section 1 of Dillyn Place was recorded on June 16, 2008. Two houses have currently been constructed on the site.

Following the publication of the staff report—and actually up until this afternoon—the applicant has continued to work with staff to address several outstanding issues in the staff report and is currently proposing to amend only two proffers and delete a third accepted with the original rezoning case. The applicant has submitted these revised proffers dated January 13, 2010, that address staff's concerns. The blackline version has been provided to you this evening.

The Exterior Materials Proffer is only now being amended to clarify foundation materials would be excluded from percentage calculations for brick fronts. Additionally, the applicant is requesting to amend the Foundation Proffer to allow concrete slab foundations, provided they are elevated a minimum of 16 inches above finished grade and faced with brick, stone or comparable material and include a minimum of two faux foundations vents to be placed along the front elevation. The allowance of a concrete slab foundation finished with masonry materials should not diminish the overall quality of development or the intent of the original proffer.

The applicant is also requesting to delete the requirement of a walking trail originally required through the common area along the southern and western portions of the site. The trail would have traversed steep topography and the 100-year floodplain, which has already been rezoned to C-1 Conservation District. While the trail would provide an amenity to the future residents of the community, staff believes its removal would not be detrimental as the area would remain in its natural state.

The proposed proffer amendments would not conflict with the 2026 Comprehensive Plan's recommendation of Suburban Residential 2 and Environmental Protection Area, and continue to provide quality assurances for future development. Therefore, staff can support this request. Time limits would need to be waived on the proffers if the Commission wished to recommend

approval. This concludes my presentation. I would be happy to answer any questions.

Mr. Vanarsdall - Any questions by Commission members for Ms. Deemer?

Mr. Archer - Ms. Deemer, you and I have discussed some correspondence and conversation that you all have had concerning crawlspace versus slab.

Ms. Deemer - Yes sir.

Mr. Archer - Would you share some of that information with the rest of my colleagues?

Ms. Deemer - Sure. It has been common that most of the foundations that houses are being developed on have been on crawlspaces. However, in discussions with the Director of Building Inspections, it has been discussed that there really is not necessarily any differentiation in the quality of the overall construction, though in order to have a continued appearance, we do like to see some additional courses of brick on the exterior if a slab foundation is put in. But there doesn't appear to be any difference in the actual overall design between a crawlspace and a concrete slab foundation.

Mr. Archer - Anybody have any questions about that? We've been doing it this way for quite some time. I never really came up with a real reason why we did other than when I came here 15 years ago, that's what everybody else did, so I did, too. In my travels around the country, I've seen some pretty spectacular houses built on concrete slab. In fact, I had a friend of mine, who is a real estate agent in Oklahoma, and he thought it very odd that we build houses on crawlspaces. Every house in Oklahoma is built on a slab. So, I suppose it's going to be something that we'll be seeing in the future. I'm not necessarily looking for this to be a precedent for everything to come, but I did want to make that distinction clear so that we would know why the decision was made.

Mr. Jernigan - Mr. Archer, we do this in the Varina District sometimes because when you elevate it 16 inches, it's about seven cores of brick, which gives the appearance of a crawlspace. But some areas, especially here, have a high water table. So you're better off sometimes doing this rather than having a crawlspace because a lot of people that do have crawlspaces, when we have a lot of rain, they have water coming up through the ground. It looks good and works well.

Mr. Archer - That's another reason. I can recall having done one before. We did do it with the faux vents and it looked exactly like the rest of the neighborhood around it. I can't come up with any other concrete reason why

[blank space on recording]. That doesn't mean everybody's going to bring in all these things with slabs now.

Mr. Jernigan - We're not going to put them flat on the ground; they're going to be elevated.

Mr. Archer - I just wanted you all to understand why I—

Mr. Vanarsdall - I appreciate you filling us in on that, Mr. Archer.

Mr. Archer - Okay. That's all the questions I have.

Mr. Vanarsdall - Do you need to hear from the applicant?

Mr. Archer - For just a moment, if I may.

Mr. Vanarsdall - Will the applicant please come down? Thank you.

Mr. Hanky - Good evening. I'm John J. Hanky. I'm president of Barrington Investors, Limited. I didn't prepare a presentation; I just wanted to be available to answer any questions that you might have. I did have some healthy discussion with the staff. We reached a point where we amended the request to be consistent with their recommendations. We would like to respectfully request your recommendation for approval, if you don't have any other questions.

Mr. Archer - Okay. Well, Mr. Hanky, I just wanted you to come up because you and I had a pretty long discussion yesterday. To my colleagues on the Commission, there are some changes that Mr. Hanky would like to make and he may be able to get that done between now and the time they go before the Board. They aren't all that significant, but they can be significant as the case is presented tonight. We wanted to be able to send it along with a positive note. Of course, it would be up to him to get the Board to see to his wishes if it should go that far. So I just wanted to get that on the record, sir, and I thank you for coming.

Mr. Hanky - Thank you.

Mr. Archer - All right.

Mr. Vanarsdall - Thank you, Mr. Hanky. All right. If there are no other questions, Mr. Archer.

Mr. Archer - Okay. I think my first task is to move to waive the time limits on the proffered conditions.

Mr. Branin - Second.

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

Mr. Archer - Secondly, I will move that C-32C-09, John J. Hanky, III for Barrington Investors LTD and Elder Homes Corporation, be submitted to the Board with a recommendation for approval.

Mr. Branin - Second.

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

REASON: Acting on a motion by Mr. Archer seconded by Mr. Branin, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the request to amend Proffers 3 and 18 because the changes do not greatly reduce the original intended purpose of the proffers nor are they expected to adversely impact surrounding land uses in the area. (The proposed amendment to Proffer 12 was not under consideration by the Planning Commission.)

(Deferred from the December 10, 2009 Meeting)

C-35C-09 **Webb L. Tyler for Oglethorpe Park LLC**: Request to conditionally rezone from R 3C One-Family Residence District (Conditional) to R-5AC General Residence District (Conditional), Parcels 745-764-6608, 745-764-7122, 745-764-7834, 745-764-1645, 745-764-2159 and 745-764-1031, containing 12.373 acres, located on the south line of Dublin Road between the east line of Belfast Road and the west line of Glasgow Road. The applicant proposes a zero lot line development with a density not to exceed 49 dwelling units. The R 5A District allows a minimum lot size of 5,625 square feet and a maximum gross density of 6.0 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Suburban Residential 2, density should not exceed 3.4 units per acre.

Mr. Vanarsdall - Anyone in the audience in opposition to C-35C-09, Webb L. Tyler for Oglethorpe Park LLC in the Three Chopt District? No opposition. Good evening, Ms. Taylor.

Ms. Taylor - Good evening. Thank you, Mr. Chairman.

This is a request to rezone 12.373 acres from R-3C to R-5AC to allow a zero lot line development with detached homes within Oglethorpe Park at Greenbrooke. Oglethorpe Park was originally rezoned from A-1 to R-3C via case C-7C-05 and is in the construction plan phase for a 34-lot single-family detached subdivision.

The applicant now wishes to rezone the property to R-5AC to allow alternative lot sizes and housing types.

The 2026 Comprehensive Plan recommends Suburban Residential 2 and a density not to exceed 3.4 units per acre. The applicant submitted proffers similar to those accepted with case C-7C-05 with some exceptions. Major aspects of the proffers include: Streets would have standard six-inch curb and gutter; sidewalks would be installed along existing and proposed roadways; uniform streetlights, no more than 16 feet in height, would be installed along both sides of new streets and adjacent portions of Belfast, Dublin, and Glasgow Roads; and all houses would be constructed on crawl space foundations finished with brick and stone.

This request was deferred by the Planning Commission at its December 10, 2009 meeting at the request of the applicant.

Since the Staff Report was distributed, the applicant has submitted several editions of revised proffers. Although the revisions address many of staff's concerns, there are still issues outstanding. They are as follows:

> Phased Development. Public Works recommended the applicant implement a new timeline for phased development for construction not to begin prior to January 1, 2011. The applicant has proffered construction to begin July 1, 2010.
>
> Density. The applicant has indicated that the development will not exceed 49 units, which would give the development a density of 3.96 units per acre. The 2026 Comprehensive Plan's recommended future land use for the property is Suburban Residential 2 which recommends a maximum density of 3.4 units per acre. The proposed density of 3.96 units per acre may not be appropriate at this location.
>
> Garages. In the original rezoning case of this property (C-7C-05), the applicant proffered that each house would have two-car garages. With this request, however, the applicant is proffering that 50% of the homes will have garages. To be consistent with the level of quality proffered with the original rezoning case and adjacent developments, staff recommends that all homes have garages.

Also, the applicant has not submitted any architectural elevations. A letter was submitted by the applicant stating that the Director of Planning would be allowed to review and comment on any housing plans that the developer received from the builder. However, it is not uncommon for developers to submit architectural elevations during the rezoning process in order that staff, Planning Commissioners, and Board Members will have an understanding of the product

that will be built in the development. Staff recommends the applicant submit architectural elevations.

The proffers submitted should ensure a level of quality consistent with surrounding residential uses and other recent requests of this type. However, the requested density is inconsistent with the property's future land use designation in the 2026 Comprehensive Plan and the phasing of development is inconsistent with Public Works recommendation. Additionally, concerns remain regarding garages and architectural elevations. Therefore, staff recommends deferral of this request until the issues identified are resolved.

The latest set of revised proffers, dated January 14, 2010, were submitted today and handed out to you this evening. Time limits will need to be waived. Staff notes the County Attorney's Office has not had time to comment on these revisions.

This concludes my presentation. I will be happy to answer any questions.

Mr. Vanarsdall - Questions for Ms. Taylor?

Mr. Branin - I have none for Ms. Taylor, but I would like to have the applicant address [blank section on recording].

Mr. Vanarsdall - Would the applicant come to the microphone, please.

Mr. Tyler - Good evening. My name is Webb Tyler. I'm here to make a presentation or answer questions, whatever is your pleasure.

Mr. Branin - Mr. Tyler, with this case, it's changed now. When was the original?

Mr. Tyler - The original case was submitted in 2005 under R-3. This case was submitted in October of 2009, sir.

Mr. Branin - You're basically changing this with the economic times, and I understand that. Are there going to be other changes or are we moving forward with this?

Mr. Tyler - We are moving forward with this project, sir. The project is anticipated to be approximately $300,000 to $350,000 homes. It will be extending the utilities to serve not only this project but also my adjacent neighbors who have currently failing drain systems, drain fields that are 50 to 60 years old. It includes water, sewer, and gas, as well as extending water to my neighbors who have dry wells in the summertime, as well as serving our future Dunkin Park project, providing it with water, sewer, gas, and drainage systems, and environmental BMP's.

Mr. Branin - So you guys are prepared to do the recommended upgrades?

Mr. Tyler - Yes sir.

Mr. Branin - Garages. Fifty percent of the buildings will have garages and the other fifty, you're going to present them as an option?

Mr. Tyler - Yes sir. Our builders are not tract builders or large national builders, but rather local builders. I'm hoping to have those builders offer customization of houses that would be reviewed by myself as the architectural review committee, as well as, by my proposal, Mr. Emerson, and it would be made out of those materials that I have proffered, which I might add the HardiPlank and the brick are the same materials on my own personal home in the Tuckahoe District.

Mr. Branin - I won't hold that your home is in the Tuckahoe District against you.

Mr. Tyler - Thank you, sir. I've lived there for 30 years.

Mr. Branin - No offense to Mrs. Jones, but—

Mrs. Jones - None taken.

Mr. Branin - We won't hold that against you. The architectural elevations, you said that you are getting focused down, and reducing, and looking at who's going to be building the project.

Mr. Tyler - Yes sir.

Mr. Branin - If this does proceed forward to the Board, I would request that you have those because the Board has stated in [blank second on recording] presentation that the Board does prefer it, and the Board does like to have those. I know the gentleman sitting next to me would like to have those when you get to the Board.

Mr. Tyler - Yes sir.

Mr. Branin - Now, one more thing—traffic study. The last traffic study that was done was based on 34 units?

Mr. Tyler - I believe it was based on 34. That is correct, sir.

Mr. Branin - So now we're 15 units more.

Mr. Tyler - That is correct.

Mr. Branin - I don't see that it's going to be a substantial change, but by the time it gets—

Mr. Tyler - I would agree with you.

Mr. Branin - But by the time it gets to the Board, I would like a refreshed traffic study as well.

Mr. Tyler - I will certainly do my best to give you an update as a result of that.

Mr. Kaechele - There were 34 lots in the R-3 zoning? Is that correct?

Mr. Tyler - That is correct, sir.

Mr. Kaechele - Now there are 49.

Mr. Tyler - That is correct.

Mr. Kaechele - The traffic report I think included eight additional lots or something like that.

Mr. Tyler - I'm sorry?

Mr. Kaechele - The traffic report in the staff report here I think included 8 new lots rather than 15.

Mr. Tyler - That is correct, sir. We're at 15 new lots now.

Mr. Kaechele - So we can have those numbers updated a little bit.

Mr. Tyler - I will do my best to get them updated, sir.

Mr. Branin - I am happy that you brought the quality of the product up from what we had originally been shown. I know I used another case that's being presented here as quality that needed to be put on the sides of a resident and I appreciate you getting the quality of that I requested.

Mr. Tyler - My pleasure.

Mr. Branin - Madam Chair, I have—for a year I've been saying that. No offense. Mr. Chairman, I have no further questions.

Mr. Vanarsdall - I'm not offended. I was shocked, but not offended.

Mr. Jernigan - Mr. Chairman, I have two questions here. Mr. Tyler, on 16, the garages, it does say 50%, but it doesn't say they're two-car garages. Are they all two-car garages?

Mr. Tyler - Yes sir. I am confident before I get through this I will be having two-car garages, sir.

Mr. Jernigan - That's what was originally proffered.

Mr. Tyler - That is correct.

Mr. Jernigan - It doesn't state that on #16, so they will be two-car garages.

Mr. Tyler - Yes sir.

Mr. Jernigan - Fifty percent of them will be two-car garages.

Mr. Tyler - Yes sir.

Mr. Jernigan - What's the question on the timeline going to January of 2011?

Mr. Tyler - Originally, we were allowed, under the existing zoning case, to have all of our building permits by July 1, 2007. That was 2-1/2 years ago. Obviously, economic conditions and market conditions have delayed us. We have extended out from our original zoning case three years past the timeline under the current proposed proffer amendment. I do not, I guess, understand Public Works' desire for me to extend out yet another six months. I'm interested in going to work, employing people, and spending money in the community. If I can get my bankers to get happy—and I believe I'm close to that—I believe I can start building again.

Mr. Jernigan - My question is why do they want the timeline—

Mr. Tyler - I have no earthy idea. I don't know.

Mr. Jernigan - Can you answer that?

Mr. Jennings - Good evening, I'm Mike Jennings, County Traffic Engineer. Mr. Jernigan, that was a recommendation by Public Works because Sadler Road had been put on hold. Currently, we're at 70% plans and the project's been put on hold because of other projects going on and funding issues. We're looking for additional funding. We're hoping to pick up that project again

this year, and hopefully get that under construction by 2011 also. We were hoping we'd be actively working simultaneously, them starting there in 2011; us starting Sadler Road in 2011. That was our goal.

Mr. Jernigan - So it's in the CIP. Road construction.

Mr. Jennings - No.

Mr. Branin - Mr. Jennings, don't go anywhere. Mr. Jernigan, them moving it up six months, right, the applicant moving it up six months. This is the reason why I didn't make that an issue with them. Can you guarantee me that with the economic situation we have with State of Virginia, the money that will be provided by DOT, and the budget of Henrico County, that that's going to go in 2011?

Mr. Jennings - No sir. Our goal is to get the project underway, but Mr. Branin is correct, we cannot guarantee that.

Mr. Branin - So without a guarantee from Traffic of from Virginia Department of Transportation, a six-month change, I didn't see it as being substantial enough to make a difference.

Mr. Jernigan - Okay. Thank you, sir.

Mr. Vanarsdall - Anymore questions?

Mr. Archer - Mr. Chairman, I have a question for the secretary. Ms. Taylor in her presentation indicated that the County Attorney had not had time to review the proffer changes. Is that a condition of this going forward? I should have said to the Board, but at least pass the Board.

Mr. Emerson - No sir, it's not a condition of it moving forward from this body. Certainly between now and the time the Board hears it, the County Attorney will have time to review the proffers and they'll be submitted to him.

Mr. Archer - Okay.

Mr. Emerson - It's just because when they're submitted late and, of course, the time limits have to be waived here, it puts everybody in a little bit of a bind in reviewing them. We were unable to get them upstairs to the attorney today. But again, this is a recommendation. The Board has final action and the attorney will have time between now and the Board meeting to review the proffers.

Mr. Archer - I thought that was it; I just wanted to verify. Thank you, sir.

Mr. Kaechele - Mr. Chairman. Mr. Archer, just for your own edification, the changes were provided to me by the County Planning Department, as far as the wording that they wanted me to see, including the technical aspects. In regard to Sadler Road, I applaud whatever we can do to move Sadler Road along. I am encouraged that the County has awarded John Rolfe Parkway Phase 2 to F G Pruitt, or soon to do that. Because of the favorable construction costs now, I believe that will allow at least Sadler Road to have a fighting change of getting done sooner rather than later, I pray.

Mr. Archer - Thank you, sir.

Mr. Kaechele - Mr. Chairman, the staff concerns that have been mentioned tonight and discussed, if this zoning is recommended by the Planning Commission, there will be time to review those items prior to Board action.

Mr. Vanarsdall - Between now and the Board time, yes sir. Thirty days.

Mr. Kaechele - The issues on garages and elevations, phasing, that can be reviewed.

Mr. Vanarsdall - Thank you. Anymore questions? If now, I'll entertain a motion.

Mr. Branin - All right, Mr. Chairman, first I'd like to move that the time limits be waived.

Mr. Jernigan - Second.

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

Mr. Branin - Mr. Chairman, I'd like to move that C-35C-09, Webb L. Tyler for Oglethorpe Park LLC, proceed forward to the Board of Supervisors with a recommendation for approval.

Mr. Jernigan - Second.

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

REASON: Acting on a motion by Mr. Branin seconded by Mr. Jernigan, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the request because it is reasonable and the

proffered conditions would provide for a higher quality of development than would otherwise be possible.

Before we move on, I was so caught up in Mrs. Jones' gift, I forgot to thank each one of my fellow Commissioners for giving me another chance at chairmanship. I'd also like to welcome Mr. Kaechele.

C-30C-09 James W. Theobald for Patterson Investments, Inc.: Request to conditionally rezone from R-2A One-Family Residence District to R-5AC General Residence District (Conditional), Parcel 748-741-8046, containing approximately 6.059 acres, located at the southeast intersection of Patterson Avenue (State Route 6) and Maybeury Drive. The applicant proposes a residential development of no more than thirty (30) homes. The R-5A District allows a minimum lot size of 5,625 square feet and a maximum gross density of 6.0 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Urban Residential, with density ranging from 3.4 to 6.8 units per acre.

Mr. Vanarsdall - Anyone in the audience in opposition to this case? Anyone not interested? Mr. Sehl? [hands raised]

Mr. Sehl - Thank you, Mr. Chairman.

This request would rezone approximately six acres on the south line of Patterson Avenue adjacent to the Tuckahoe YMCA and Maybeury Elementary School from R-2A to R-5AC to allow the development of up to 30 detached dwellings on zero lot lines.

The site is designated Urban Residential on the 2026 Future Land Use map. This designation indicates residential development with a density ranging from 3.4 to 6.8 units per acre would be appropriate on the subject property. The proposed 30 homes would provide an equivalent density of 4.95 units per acre, which would be consistent with the Urban Residential designation.

To the north is Waterford Rhye, also designated Urban Residential on the 2026 Plan. To the east, west, and south are government and semi-public uses including the Tuckahoe YMCA, Maybeury Elementary School, and Welborne United Methodist Church.

The applicant has provided a number of proffers, which were revised on January 12th and given to you this evening, that would govern the development of the site in addition to zoning ordinance regulations, including a proffer that would require development on the property to be consistent with the concept plan shown here. Streets within the development would be private, and stormwater management would be provided through an underground best management practice facility located on Patterson Avenue.

Homes on the property would be a minimum of 1300 square feet in size, and would be comparable to the homes shown on this exhibit. The proffered elevations show craftsman-style homes with prominent front porches and quality architectural detailing. Primary exterior materials would be limited to brick, stone, and HardiPlank, and all foundations would be surfaced with brick or stone. One-car garages would be provided for each dwelling and would be constructed of the same material used on the associated dwelling.

Landscaped buffers and an entrance feature have also been proffered by the applicant. Ten-foot buffers, planted to the Transitional Buffer 25 standard would be provided along Maybeury Elementary School, Maybeury Drive, and Patterson Avenue. A proffered fence would provide a consistent appearance along Patterson Avenue as well as separation from this roadway for future residents. The landscaping along the southern property line adjacent to the school would be supplemented by the existing fence maintained by the school.

To address transportation impacts the applicant has committed to several infrastructure improvements for Maybeury Drive and Maybeury Elementary School. These include the construction of a right turn lane from Maybeury Drive to Patterson Avenue. This would include the construction of the referenced turn lane across the site's entire Maybeury frontage as well as any necessary modifications to the existing traffic signal at that location. Accessing the site via Maybeury drive would allow future residents access to this signal, and the Department of Public Works has indicated the adjacent roadway network could accommodate the traffic from this request with the construction of the road improvements mentioned. The applicant has also committed to creating a second entrance from Maybeury Drive to the elementary school subject to all approval from schools as well as the County. This commitment is detailed in the revised letter to the Director of Public Works handed out with the proffers this evening.

Pedestrian access would be provided with sidewalks along internal roadways and Maybeury Drive. A pedestrian connection would be provided from the site to the adjacent YMCA. The applicant has also indicated their intent to provide a pedestrian walkway along Patterson Avenue and referenced this walkway in Proffer 1. Staff recommends the applicant clarify the location of this walkway and the materials to be used in its construction.

Other proffers, some of which were added in the most recent version of the proffers, address the following: Hours of construction would be limited to 7 a.m. to 7 p.m. Monday through Saturday, and heavy construction vehicles would be prohibited from accessing the site outside of the hours of 9 a.m. to 2 p.m. when school is in session; burning of debris would be prohibited, a mud wash would be provided to remove dirt and debris from construction vehicles prior to leaving the site; and to reduce the impacts of clearing and grading on the adjacent

neighborhood, clearing of mature trees with a diameter of six inches or greater would be prohibited except for that necessary to accommodate the roadways and infrastructure as well as the construction of future dwellings and garages.

The proposed use and density is consistent with the 2026 Plan's recommendation of Urban Residential. The revised proffers address the concerns noted in the staff report, and provide numerous guarantees regarding quality and compatibility with the nearby neighborhood. Therefore, staff recommends approval of this request.

This concludes my presentation, and I would be happy to try and answer any questions you might have.

Mr. Vanarsdall - Questions for Mr. Sehl by Commission members?

Mrs. Jones - I have a few if no one else does.

Mr. Vanarsdall - Go ahead, Mrs. Jones.

Mrs. Jones - Mr. Sehl, there are a lot of folks with us tonight. For everyone's benefit, you and I have talked nonstop for how many months now? So, we've talked this through, but I think it's good for everyone to hear. Basically, the parcel in question is currently zoned R-2A. It was zoned in 1963, if I recall.

Mr. Sehl - Yes ma'am.

Mrs. Jones - Tell me in just general terms—obviously there's no proposal out there—but tell me generally what can be built and how that development would proceed in a by-right development for this zoning classification. How many homes, what kind of road improvements—those kinds of things.

Mr. Sehl - It's difficult to say how many homes exactly could be built, given that there is no development proposal in front of us. The minimum lot size in the R-2A district is 13,500 square feet; that's a little over three units per acre. So, based on that, depending on the amount of roadway necessary, the right-of-way, obviously, would be excluded from that number. So you'd be looking at 16, 17, 18 homes just based on the pure square footage. But that obviously doesn't take into account all of the design features that would be necessary to construct those homes.

Mrs. Jones - Okay. So 16, 17, 18 homes approximately.

Mr. Sehl - It's difficult to say exactly without an engineered drawing to go on.

Mrs. Jones - Okay. At the time the case came through 1963, were there conditions on it?

Mr. Sehl - No ma'am. The only conditions that would apply to this development would be those contained in the Zoning Ordinance. There would be enhanced setbacks on Patterson Avenue. That's something that was added to the Zoning Ordinance the early part of this decade. So that would provide for the enhanced setbacks shown on the concept plan here along Patterson and Maybeury regardless. No transitional buffers or anything would be required except for a planting strip easement along Patterson Avenue, which would be required by the Zoning Ordinance.

Mrs. Jones - Does our Ordinance require road improvements?

Mr. Sehl - Mr. Jennings, the Traffic Engineer, could probably speak to that more specifically, but my understanding is limited traffic improvements along the site's frontage could be required as part of the subdivision process, but not to the extent that the applicant has proffered at this time.

Mrs. Jones - The other thing that I think is important for people to keep in mind is the Comprehensive Plan designation. This parcel was previously listed as an Office recommendation; it's now listed as Urban Residential. Can you explain why the Urban Residential designation was made for this parcel in 2026 Comprehensive Plan?

Mr. Sehl - You are correct. Until August of 2009, the County was operating under the 2010 Land Use Plan. The Board of Supervisors did an update to that plan, which re-designated the site to Urban Residential uses. That was due to a number of factors. Ms. O'Bannon had noted at the community meeting that she'd heard several concerns regarding more non-residential development along this stretch of Patterson Avenue and there being concerns about that. Given that concern being noted, given the close proximity to the non-residential uses that are adjacent there, and the high traffic corridor that is Patterson Avenue, staff did not believe that the low-density residential is ultimately the best use of that property because it provides for some additional setback and the buffering that's been provided with this plan. We see this in a lot of situations on high-traffic corridors. Normally, you might see a non-residential use there. And if it's not desired to be non-residential use, you look for a residential use that provides a little bit more density.

Mrs. Jones - Okay.

Mr. Sehl - And that's also geared to take advantage of this site's location in close proximity to existing roads and schools and other County infrastructure to reduce service impacts in outlying areas.

Mrs. Jones - All right. Waterford Rhye is an Urban Residential?

Mr. Sehl - Yes ma'am, it is. I did not mention that, but yes it is.

Mrs. Jones - Anybody else have questions?

Mr. Vanarsdall - Anyone else have any questions for Mr. Sehl?

Mrs. Jones - Thank you.

Mr. Sehl - Thank you.

Mr. Archer - Mr. Sehl, one thing before you leave. The existing zoning is R-2A with no conditions.

Mr. Sehl - Yes sir.

Mr. Archer - So that means the minimum standards of R-2A could be built.

Mr. Sehl - Yes. The minimum standards square-footage wise would be consistent with what's been proffered. The 1300 square feet is required by the Zoning Ordinance. A portion of that can be left unfinished but able to be finished under the Zoning Ordinance. But you would not have the—as far as the exterior materials and architectural elevations that have been proffered with the case would not carry forward in that situation.

Mr. Archer - Okay. Thank you, sir.

Mr. Vanarsdall - Thank you, Mr. Sehl.

Mr. Sehl - Thank you.

Mr. Vanarsdall - Now we'll hear from the applicant.

Mrs. Jones - What I'd like to do as Mr. Theobald is coming down, the neighbors have prepared some presentations—actually, you're first up, but I just wanted to tell you something—four folks would like to present their different views of phases of this project. I have been willing, and I have committed to them that I am going to extend the time that we normally give to everybody to talk because I want to hear what they have to say and allow them to make their case. So those four folks will have a totally of 5 minutes each for 20 minutes, as opposed to our usual ten minutes. I just wanted to tell you that because I certainly will afford you the same courtesy. When you make your presentation, just keep that in mind, that you do have extra time if you'd like it. You can

reserve as much as you want within that timeframe that I've given to the neighbors.

Mr. Branin - Mrs. Jones?

Mrs. Jones - Yes.

Mr. Branin - There is a whole room full of people. There are only going to be four people speaking?

Mrs. Jones - There will be four people making what I would call formal presentations because they have various aspects that they're going to cover. After that, as time allows and as the Commission feels is appropriate, we could hear from individuals as well, if they're not repeating what others have said.

Mr. Branin - Okay. So we're not holding this to 20 minutes and 4 speakers period.

Mrs. Jones - No. But that's how we're going to proceed and I'd like to afford Mr. Theobald the same time as the neighbors will have.

Mr. Branin - Just wanted to make sure I was clear.

Mrs. Jones - Yes.

Mr. Vanarsdall - Go ahead.

Mr. Theobald - Thank you. I'd like to reserve maybe three minutes for rebuttal. I don't think I'll need my full 20 minutes, but I do appreciate it.

Mr. Chairman, ladies and gentleman, my name is Jim Theobald. I'm very proud to be here tonight to represent Patterson Investments, Inc. and Gumenick Properties. Gumenick Properties has been one of Henrico County's premier developers for over 60 years. They have developed such award-winning communities such as Grayson Hill, Monument Square, and Charles Glen. Indeed, they generally have set the standard, the highest bar for development in the County. Cases, as you heard earlier, are often compared to theirs in terms of quality development.

This particular site has been owned by the Gumenick family since 1955. That's 55 years of ownership in the same family. As you've heard, this is a request to rezone from R-2A unconditional, which would result in somewhere between 16, 17, or 18 homes, as matter of right, to an R-5A conditional category in order to allow 30 homes along with substantial proffered conditions.

This request is consistent with your recently-adopted Land Use Plan, which suggests a range of from 3.4 to 6.8 units per acre, our request being squarely in the middle of that at 4.95. As you heard, the site was previously in the Plan suggested for office development. Not only does this request provide quality, reasonably-priced homes, but jobs and significant additional tax revenues to the County.

You see in the aerial the orientation of the six acres at Patterson and Maybeury. This site truly does relate to Patterson Avenue, surrounded by institutional uses such as the YMCA, Maybeury Elementary, Welborne United Methodist Church, as well as townhomes that were developed by the Gumenick's, and Waterford Rhye, and the various Wilton Development apartments to the east. Certainly one of the considerations for this site was a townhouse development given the suggested appropriate density range of the new Land Use Plan, but we believe that the single-family detached homes had more to offer for any number of reasons.

The notion was to create a community that was unique. In furtherance of that, Gumenick retained the same architectural firm and landscape architects that we used for Grayson Hill. This is not stock housing, tract housing, or anything of the sort. It was designed to meet a specific need and specific purpose, and that is to accommodate what we believe is the homebuyer of today. We think this meets the needs of those individuals who wish to have ownership of single-family detached homes as a first-time homebuyer rather than townhomes or condominiums. But what they want is functional space and that results in reduced square footage: fewer living rooms, fewer dining rooms, more emphasis on media rooms, more emphasis on using space efficiently, using every single niche to further the quality of living. They don't want to pay for unused square footage, and they don't want to heat it, and they don't want to cool it. They want to have multi-media rooms; they want to have multipurpose rooms; and they want the house to flow. They also want a house that can expand with them and the needs of their families. In these economic times, it appears that people will be staying in their homes longer and they're looking for homes that will grow with them to meet their needs. We believe this accomplishes that.

They require a higher degree of construction and architectural design, thus the care to the architecture that you see before you. These designs have been very much influenced by the Generation Y and the Generation X buyer. We're looking for granite countertops and things like tankless water heaters, highest degree of insulation on the windows and siding and roofs, and any variety of green type building concepts. We will be offering these things, some as standard and some as options. Hardwood floors, upgraded trim, stainless steel appliances, a multimedia package are all options that we believe will make this development popular.

It's designed to begin the living environment from the street. You'll notice in these drawings attention to streetlights, residential in scale, street trees—all of which have been proffered. Front porches. Possibility for basements in these homes. Possibility for porches on the rear. They have yards; they have room for gardens. And they have a minimum of a one-car garage. And they have the opportunity to finish off the second floor of that garage into more usable space. So this is a community that begins the livability, if you will, from the time that you pull from the curb all the way through the backyard.

These homes do vary in appearance. We have essentially five different models with three or five variations on each, so potentially 15 different looks. These homes will all be constructed by the Gumenick's. These are not lots to be sold and individual builders. They're all controlled so the architecture, and the theme, and the delivery of this concept is uniquely controlled by the Gumenicks.

Our site plan, again, has been proffered. You've heard mention of the buffers that are planted, 10-foot buffers minimum to Transitional Buffer 25 standards along these three sides, a picket-style fence along Patterson Avenue. We have paid great attention to pedestrian connectivity at the suggestion of the staff. We have provided a sidewalk along Maybeury. We also provided an asphalt walking path along here that frankly got left out of this last version of the proffers that we need to fix between now and the Board. But nonetheless, a commitment is certainly being made on the record. But a path to connect the corner and this sidewalk to the YMCA. We also have sidewalks on our internal streets along at least one side. And then we've been asked to also provide pedestrian connectivity to the YMCA.

Drainage, as you've heard. Naturally, this site currently drains into the ponds at Waterford Rhye. The difference with this development is, is that the drainage will go underground. It'll be stored, slow released, and it will be filtered, so it will actually be of higher quality than is currently free flowing off the site today.

Traffic has been a major discussion point in this case. There is obviously congestion around the school for a 20- to 30-minute period during school days. Significantly, there have been no complaints, at least made to the County, until this zoning case was filed, with regard to traffic on Maybeury. Public Works has done an additional traffic study and I presume you will hear a little more detail about that a little bit later on. But the conclusion is the roadway system can adequately handle the traffic generated by this development. The a.m. peak in the morning, we have eight cars entering our subdivision and only twenty-three exiting, only seven of which might turn left over a one-hour period. In the evening, which is long after school is out, we have twenty-three cars entering and thirteen exiting.

We have agreed to build a right-turn lane. And we haven't just agreed to do it from our entrance to the intersection, but we have agreed—subject to buy-in and

approval by the school system—to take that dedicated right-turn lane back to that first entrance on the school property. So if you're coming out of the school during those congested times and you want to go north to Patterson and turn right, you will have a dedicated right-turn lane all the way back to the school entrance off-site, off of our property. The traffic engineer with the County believed that would reduce the stacking that occurs in the mornings here during that 20- to 30-minute period by half. It'll allow a free flow right with a green arrow. And while cars are going westbound on Patterson turning south or left onto Maybeury, that's additional green time for those cars trying to turn right onto Patterson to do that movement simultaneously.

We've also offered—if desired—to punch in an additional access point for the school to better enhance the circular drive and the drop-off in the mornings. That's all up to the school. I'm not trying to preempt their wishes or their planning. There have been some discussions, but we're prepared to do that to help that little period in the morning which, by the way, is I'm sure suffered by every school in this country, at whatever level, when people are dropping off children and trying to turn in and out.

Our proffers, there are about 29 or 30 of them. As you've heard, the site plan and elevations have been proffered so that what you see is what you get. Density is limited to no more than 30 homes, so the midpoint of that Land Use Plan range. All are required to have a minimum of a one-car garage. We've provided enhanced landscaping along Maybeury Drive, Patterson, and adjacent to the school. Our homes are to be of brick, stone, or HardiPlank, and we have specifically precluded vinyl or aluminum siding. We will do some fashion of an entrance feature along Maybeury Drive to present that sense of arrival. Our homes must have crawlspaces or basements; they will not be slab construction. Decorative streetlights and street trees have been proffered and have been shown on our elevations. Then sidewalks within the community, the pedestrian access ways, and sidewalk, and pedestrian access ways around the perimeter.

We have limited the hours of exterior construction on the site to not before 7 a.m. and not past 7 p.m. Monday through Saturday. We've also limited large truck delivery of goods or materials to the hours of only between 9 and 2 in an effort to try not to mix with that elementary school traffic during their coming and going. We've agreed to sod both front and side yards. And I discussed the additional roadway improvements that we have offered to construct. We've also agreed to provide a mud wash that you're familiar with for construction vehicles to wash the tires of construction vehicles as they leave the site when there are muddy conditions so that Maybeury Drive does not experience that sort of mud that can happen on an active construction site. We've also agreed that there would be no burning of any kind of construction materials or vegetation from the site. It would all have to be hauled away.

I think this case is one of quality. We've had a lot of dialogue. These proffers have changed substantially. It's consistent with your Plan. It will provide jobs. It's a really interesting opportunity, I think, to take a piece that's been owned for 55 years by one of the County's best developers and deliver a product that is reasonably priced, and which is sorely needed, I believe, in the Tuckahoe District, if not the County in general.

I think I'll save additional comments for rebuttal, but I'll be more than happy to answer any questions that you might have.

Mr. Vanarsdall - Questions for Mr. Theobald by Commission members?

Mrs. Jones - I have a few.

Mr. Vanarsdall - Go ahead, Mrs. Jones.

Mrs. Jones - Mr. Theobald, we've had the third amended and restated conditions. I just want to ask you about a few things to make sure that I understand some of the changes.

Mr. Theobald - Sure.

Mrs. Jones - The asphalt walkway that was inadvertently left out, are you intending to put that into #1 as part of the pedestrian walkways, or how is that going to be handled? I have so many notes.

Mr. Theobald - I think probably in #1. It'll be a minimum of a four-foot asphalt path. It's going to be partly in a right-of-way and partly in that easement area as it meanders. We have to get with VDOT on that. But I have confirmed that we do have room to put the Transitional Buffer 25 planting standards in there with the sidewalk.

Mrs. Jones - Okay. That's important to me. Garages. Those I think are essential. If this project goes forward, I thought they were essential. I'm pleased that your client has decided to add those for each of these homes. I think it'll be a tremendous plus if these homes are built as shown. The garages, will they be referenced as proffered in the elevations?

Mr. Theobald - Yes, I think that's appropriate. I think in #2, about the fourth or fifth line where it says "and homes," we can just add, "and garages" in there.

Mrs. Jones - There are some text changes I know that we need to get to. There's a "western" that needs to be changed to "southern" and those kinds of things.

Mr. Theobald - Yes. I'm sorry I missed that. As you know, we were meeting Tuesday morning and we had 4-1/2 hours to revise these, among other things. We will be sure that they are correct and clean.

Mrs. Jones - One of the things that I've heard a lot from citizens is the fact that they're concerned and I know where the concern comes from. They're concerned about parcels being cleared for building, maybe the project not move as fast as originally expected, and then having what amounts to an unsightly situation for an extended period of time. In order to try to address that, I know that we talked about some language about initial lot clearing. I think the result of that was Proffer 29. That's a really important aspect of this for the neighborhood. I know that that language is a little difficult for me to understand. Can you, on the record, please tell me—as this is being revised—what your intentions are to keep that situation from happening on this parcel?

Mr. Theobald - Sure. That's certainly a legitimate issue. This site will be developed substantially different than a Monument Square or Grayson Hill in that those buildings were built on slab and they're very large footprints. As you're working on a site of that size and you have a number of those buildings under construction, it is certainly more efficient to clear and do all of your infrastructure work—which is significant on one of those projects—up front, put in your BMP's, put in buffers, and extend your utilities. On a single-family residential development, there is a huge disincentive in clearing property like that. You need to sell a lot to a consumer. And that consumer, when they look at the lot, will want to see trees on it rather than it being scraped. The beauty of this and the beauty of the Gumenick's being the builder is that we will likely have to sell 7, 8, 12 homes before our lender will allow us to start. We're not going to go put in roads, sewer, all the underground BMP stuff, and build one house; that makes no sense.

What our plan would be is to try to group the homes in some reasonable fashion as we sell a certain amount to start. We don't really anticipate going in and putting all the roads in at once unless we had just huge presales on this. We would be able to punch the road in a certain distance and then we will need to put in the underground BMP retention area. But we don't want or need to clear this site. So it's not a situation where if you stop, the rest of it's cleared and there is a pile of dirt. It's just a totally different construction process that what perhaps we've seen at Grayson Hill, for instance. What this other proffer does is it basically mandates that you retain trees of a certain caliper on the lots other than within building envelopes essentially.

Mrs. Jones - So you could incorporate the thoughts that you just mentioned into this proffer so that there would be a clear understanding of how this site is going to be handled.

Mr. Theobald - I'm not sure that—that sounds a bit trying in the sense that I'm not sure how one words that exactly because I don't know how many houses I'm going to sell, how many houses I'm going to start, and whether I'm going to stop the road here or whether I'm going to stop the road here. I'm very fearful. We zoned Grayson Hill so tight that we can't breathe now. We can't even meet the needs of people who want to buy certain types of homes. So I think there has to be a little flexibility in the construction process and I would hope that you would think what I just described made a lot of sense, perhaps most importantly economically.

Mrs. Jones - Well, it does make sense, but it's also incredibly important to the neighbors. I just wanted your assurance, your commitment to have that construction be done in a way that doesn't leave the site open, unattractive, and looking like it's a job half finished.

Mr. Theobald - I understand that.

Mrs. Jones - Okay, that's what I wanted to ask you about for #29. I've had a number of neighbors ask me what a 20,000-pound-plus construction vehicle is. If you could give us examples of that, please.

Mr. Theobald - That was a big one.

Mrs. Jones - I know it's a big one, but—

Mr. Theobald - I don't know.

Mrs. Jones - Is a cement mixer a—

Mr. Theobald - Yes.

Mrs. Jones - Okay.

Mr. Theobald - How about a truck dropping drywall? Yes, that's also a 20,000-pound truck.

Mrs. Jones - Anything big coming in.

Mr. Theobald - Right.

Mrs. Jones - Once those materials are delivered on site, the excavation equipment and everything, once that's out of there, are there any other large trucks that would be coming in for finishing jobs on these homes?

Mr. Theobald - I'm not really aware of that. We have to scrape the roads and put in the underground BMP. Those are the two big issues. At that

point, we'll have hooked up to utilities and run those. But otherwise, it's going to be building single-family homes. It's Gumenick doing the building, supervising the construction process. I would expect that the cars and trucks that you see in there would be the same type that would be servicing our homes in the neighborhood for repairs, remodeling, and such. So I don't really know of a need for a big truck to—

Mrs. Jones - After the initial—

Mr. Theobald - —be coming and going. No, I really don't.

Mrs. Jones - Okay. I couldn't answer that question. Thank you for helping me out with that. You did reference—and then I'll let you go. I need to have us discuss this on the record for those of you who are here tonight from the public. These are recorded proceedings. Everything we say here is going to be transcribed exactly. This is the time to make sure we're clear. A lot of that is done by recording what we say and therefore it's a reference.

I wanted to ask you a little bit about the quality of the homes.

Mrs. Jones - We talked about the features that you think will be appealing to buyers and the exterior materials. These homes are small in terms of some homes in the West End. Tell me about the exterior materials. Are they intended to be extremely low-maintenance, that kind of thing?

Mr. Theobald - Sure. What we've done—as I think you will see in these elevations—is provide this type of craftsman architecture, *if you will*. As you look closely at the various elevations, you'll see a combination of different types of siding—a shingle-type siding perhaps like the house that I grew up in, and the different dormer and roofline treatments. These are really very varied with lots of different architectural elements. You'll see columns, you'll see different porch treatments, you'll see skirts under the porch. The HardiPlank as a material is something I have on my house. It's very durable, it doesn't react to ultraviolet rays, it's termite proof, it's fire retardant, and it doesn't warp. You do paint it, but not very often. I've replaced existing siding with that material. It's a more expensive material, extremely durable, and one that's been a real winner. It's used more and more, but it is a more expensive product. The foundations are all faced with brick and stone. It is on crawlspace. Our garages are proffered to have the same materials as the homes.

So really there's a lot going on here. It looks like a little strip of homes, but as you focus on the different look and you see how the roofs are turned, the different rooflines—this was all done very thoughtfully in order to provide this sense of quality and uniqueness.

Mrs. Jones - Your target demographic. You mentioned first-time homebuyers. Is that the target?

Mr. Theobald - It's interesting. You and I have had this discussion as well, and I think it's your belief that some empty nesters may find their way into this community. It's not a maintenance-free community in the sense that someone's going to mow your grass or fix your roof, but it's certainly low maintenance. We think this will be a first-time homebuyer given it's proximity to the school and the YMCA. We think people with children will find this an extremely desirable location for all the reasons that we live in this area of the County. The schools have capacity, as you saw in the staff report. So we really think it's going to be perhaps young families starting out, a starter home for some. It's hard to imagine a $300,000 home as being a starter home, but that's what they are these days.

Mrs. Jones - So your target price is—

Mr. Theobald - We're trying to be right around $300,000. We're trying very hard to stay just at or under. We don't need to build any more $400,000 homes at the moment given the economy. Everything we read tells us that this is a sweet spot in the market not only nationally, but here in Henrico County. These are homes that can be purchased and successfully financed by our teachers and public employees. There is a not a lot of it in the Tuckahoe District.

Mrs. Jones - All right. Well, the reason I went through all this is I was hoping that the information that we discussed might be helpful to other folks here.

Mr. Branin - Mrs. Jones?

Mrs. Jones - Yes sir.

Mr. Branin - You asked a question on #25. I think I might be able to give you a slightly better answer.

Mrs. Jones - Okay.

Mr. Theobald - That would be appreciated.

Mr. Branin - You're familiar with the landscape trucks that have about 10- to 12-foot long beds with sides? They're under 19. A 14-foot stake body is 20. A dump truck is like 30. So they're talking about pickup trucks or very small flatbeds. And then if you put a trailer on it to pull a piece of equipment, that knocks you out of the 20 range as well. So it's pretty much restricting them to pickup trucks. I've never seen that before.

Mr. Jernigan - Your average Ford pickup truck is 5200 pounds. Dump trucks, when they're coming in with a load, they're carrying about eight tons.

Mr. Branin - Ten.

Mr. Jernigan - Ten tons.

Mr. Branin - Ten to eighteen.

Mr. Jernigan - So they're already overweight not counting—This is gross weight. That doesn't even include—

Mr. Branin - Right. I've never seen that in a case before. So it's pretty much restricting almost to pickup trucks.

Mrs. Jones - Okay. All right. Thank you very much.

Mr. Theobald - You're welcome.

Mr. Kaechele - Mr. Chairman, I have a couple questions. Mr. Theobald, on your lot width, is that shown on the site plan as 70 feet?

Mr. Theobald - Fifty feet.

Mr. Kaechele - Fifty. Okay. For all of them.

Mr. Theobald - R-5A lot width.

Mr. Kaechele - Also on your elevations, are they all what you call 1-1/2 story? Are there any single- or double-story homes?

Mr. Theobald - The upstairs can be finished. These are two- or three-bedroom homes.

Mr. Kaechele - It's not a full upstairs.

Mr. Theobald - With the dormers it would be the—

Mr. Kaechele - Yes. Is there a minimum square feet for the bottom floor?

Mr. Theobald - The bottom floor, no. It's a 1300-square-foot finished floor area overall.

Mr. Kaechele - Thank you.

Mr. Vanarsdall - Any more questions, Mr. Kaechele?

Mr. Kaechele - No thank you.

Mr. Vanarsdall - I noticed when you talked about Proffer 25, there is an amenity in Proffer 26 that's not always on cases and that is this mud wash. It's a moveable vehicle that they have there and it will wash all the trucks, all the construction vehicles, so you don't have mud throughout the streets and throughout the neighborhood, and up and down at the school. All right. Any more questions for Mr. Theobald? Do you have any more, Ms. Jones?

Mrs. Jones - No. Thank you.

Mr. Vanarsdall - Now we have the opposition. I understand you have four speakers to begin with and five minutes each..

Mrs. Jones - Before you start, Mr. Emerson, you have the timer there. I just thought it might be helpful if he could just raise a hand and wave you at four minutes so that you know you have another minute to kind of bring it to a conclusion.

Mr. Vanarsdall - Be glad to do that with this.

Ms. Albrecht - Well, I will let you know that I've timed mine and it times out at about 7-1/2 minutes. The school has not had much airtime on this issue and I would request that you would grant another couple of minutes to my comments.

Mrs. Jones - Well maybe one of your fellow speakers can talk quickly and it'll all—You have a donation right there.

Ms. Albrecht - Thank you, Jim. Mr. Chairman, sir, ladies and gentleman, my name is Joni Albrecht and I represent the Maybeury Elementary School PTA.

Mr. Vanarsdall - Can you spell your last name for us?

Ms. Albrecht - A-l-b-r-e-c-h-t. The PTA is extremely proud of our school and we're very protective of the environment in which our students learn on a daily basis. Maybeury is a campus style grade school serving 585 students grades K through 5. A campus style school means that instead of hallways, our students walk outside on sidewalks to access the cafeteria, the gym, art, assemblies, music, the library, the office, the nurse, some bathrooms. Their classroom doors open directly to the surrounding environment, not to an interior

hallway. Because of this campus style structure, safety has always been a major concern at Maybeury. So it is with safety issues that I would like to begin my discussion of why we, the Maybeury PTA, believe it would be irresponsible for Henrico County to grant rezoning to the current zoning already assigned to the property at Patterson and Maybeury Drive. I will follow safety issues with the overwhelming negative impact such a rezoning would have on the quality of education and classroom instruction, and on the general welfare of our community environment as well.

The health, general welfare, and safety of our children is our utmost concern. There could be no question that if and when this land is developed, our students will be exposed to inherent and potential risks which accompany such a project. However, keeping the project to the scope predetermine by Henrico County as reasonable land use rather than increasing it by more than 50% will shorten the duration and exposure of those risks. It is our belief that allowing rezoning will jeopardize the health, general welfare, and safety of the students of Maybeury. Our concerns are many.

We as a PTA are extremely concerned with having an immense transient workforce within mere feet of our students. We are extremely concerned that these workers, being employed by a private company rather than by the County, may not be screened to the degree County employees are screened to work on or near school campuses, possibly allowing previous offenders to work within reach of our children.

We are extremely concerned with increased foot traffic from those who will naturally use the lot at Patterson and Maybeury as a cut-through from Patterson to Maybeury Drive. Some of our student walkers may try to use the lot as a cut-through to campus, facing the real risk of injury in the process. And if the development were to stall, the safety concern will only intensify with all the risks that an abandoned project or partially empty lot would bring.

We are extremely concerned with increased car traffic on Maybeury Drive, a school zone where we not only have buses and parents entering and leaving the property, but a large number of walkers, many of whom cross the road without a crossing guard. We already face a tough traffic situation there. Adding an entrance/exit to the potential new neighborhood to this congested mix increases the safety risk both to drivers and walkers.

The PTA asks Henrico County to protect the health, general welfare, and safety of our students—who are your students too—by working with the developer to provide access from Patterson Avenue only. We acknowledge the developers offer to build an entrance into the school near the gym, but at this point, we agree with the Henrico Public School Assessment completed four years ago, prior to the school's renovation, that such an entrance would significantly interfere with bus traffic and would push other traffic back south on Maybeury Drive. We feel

this proffer does not adequately protect the health, general welfare, and safety of our students or the residents of the community.

We are extremely concerned with construction traffic entering and exiting the site from Maybeury Drive, whether they be pickup trucks or huge dump trucks. Just one accident involving a small child would be devastating to a family and to our community. All of the construction vehicles will be coming down Patterson Avenue anyway. It makes no sense to direct them onto a small road, a school zone, in order to turn into the site. Henrico County, who, according to its own website prides itself on keeping school zones safe, should not allow construction access from Maybeury Drive.

We are extremely concerned with having only a chain link fence separate our school from an extended work zone, and eventually from neighbors' backyards.

We are extremely concerned with inadequate buffer zones. A ten-foot buffer zone would not begin to protect our students from hearing domestic disputes or other undesirable conversations, not to mention the aesthetic inadequacy of such a small buffer.

The Maybeury PTA takes these potential and inherent risks extremely seriously. We trust Henrico County does as well and will seek to protect the students in its charge. It is our firm belief that limiting these risks by more than 50% by staying with the current zoning is in the best interest of not only our families but Henrico County as well.

The faculty, staff, and students at Maybeury—

Mr. Vanarsdall - Ms. Albrecht, you're already over five minutes, so can you complete that please?

Ms. Albrecht - I will wrap it up. I would like to say that predictions for overcrowding, we are 585 students currently. Next year we are projected to be an enrollment at 632. Our school's capacity is 644. This number does not include any increase from the remaining 15 acres to be developed at Grayson Hill.

I would also like to mention noise. One of the biggest detriments to the business of learning is noise. We are pleased to know that Henrico County agrees with the problem of noise near schools and does provide an ordinance prohibiting the creation of noise near schools, courts, or hospitals. And it elaborates that the creation of any excessive noise on any street adjacent to any school is prohibited.

In keeping with Henrico County's 2026 Plan and in light of the issues we have raised which will negatively impact our thriving but delicate school community,

the Maybeury PTA feels that Henrico County would best support its land use and community character objective, and best protect our school, one of its own schools, by denying the request for rezoning. We agree with Henrico County's land use and community character objective to discourage development which over intensifies the site—#12 on the list—and to encourage development which will minimize disruption and conflict among established residential, commercial, and industrial uses and new uses—#30 on the list. Denying the rezoning request will uphold these specific goals and support the plan's overall vision.

I would also like to add that as a point of record, our principal, Mr. Eric T. Armbruster, has given his concerns to Mr. Bill Richter, who works on the County's Research and Development team. Thank you for your time.

Mrs. Jones - Ms. Albrecht, come on back up. I do want to tell you that any questions from the Commissioners and conversation that we have don't count to your time. So not to worry, it doesn't take away from anybody else. Did anyone have a question?

Mr. Branin - I do.

Mrs. Jones - Okay.

Mr. Branin - Ms. Albrecht, is there currently a chain link fence that goes along the property line between the school and this property?

Ms. Albrecht - Yes there is.

Mr. Branin - Thank you.

Mrs. Jones - Wait a minute.

Ms. Albrecht - Oh, I'm sorry.

Mr. Jernigan - You spoke of the risk for the children. Would you elaborate on that a little bit?

Ms. Albrecht - I would love to; I have little bit on that. When we have undergone a renovation or a project on campus, the PTA establishes a parent patrol to safeguard our students because they do spend so much of their day outside. This parent patrol works quite well. It's a necessity, but it drains the other resources that the parents are able to provide.

I didn't get into all of the ways that Maybeury Elementary School shines. It shines in the state. It was just awarded one of only 13 schools in Henrico County to receive the state's highest honor from Governor Kaine. We believe that part of the reason Maybeury excels despite having a very mixed socioeconomic and

culturally diverse community is that our parents are committed to providing these enrichment programs during the day. When we have to patrol the safety of our students, we're not able to get the parent volunteers to come in and do novel studies, or Sunshine Math, or those things that we think are putting us at the top academically in Henrico County.

So safety is a major concern. If you have specific questions.

Mr. Jernigan - These are kindergarten to 5.

Ms. Albrecht - Yes.

Mr. Jernigan - That's great. You always have a teacher watching them, correct?

Ms. Albrecht - Well, we do, but we also have times when students walk two and two, you know, two together to the nurse or to the office. We will not be able to have that with construction, with a chain link fence separating us from that construction site.

Mr. Jernigan - At the playground, do you always have adults there?

Ms. Albrecht - We do.

Mr. Jernigan - Now, the noise factor. In the County Code, I believe that's for long-term noise not short-term.

Ms. Albrecht - Well it mentioned barking animals and honking horns.

Mr. Jernigan - I don't know how we can control a honking horn, but I think they're talking long-term noise, putting something in there that would create noise for the eternity.

Ms. Albrecht - I don't think that's how the ordinance reads, sir. It was talking about music in cars and parades, things like that, that would interfere with the functioning of the institution such as a hospital. If a noise on the street were to annoy a patient. So I immediately thought of my third grade son trying to take his Otis-Lenin test with a power saw right outside, ten feet away from the property line.

Mr. Jernigan - Like I say, it'll be short-term. It's not something that's going to be forever.

Ms. Albrecht - I think that we're talking about a pretty long-term project here.

Mrs. Jones - I have a question. I walked the perimeter of the school with Mr. Armbruster the other day. I understand why you all are so happy with him. It's the first time I've had a chance to meet him. We were walking along the perimeter down along the chain link fence and we came around by the stockade fence. And then I came to some more chain link where the structures create a connectivity to the Y parking lot. That's by the play equipment, obviously. It is wide open to the Y parking lot. Have there been incidents that have been a problem with the openness to the YMCA, where anybody can come and sit and stop and look or?

Ms. Albrecht - Well, as you know, the YMCA is a family community center so there are a lot of families there and we work in conjunction, very closely with the Y to share resources and to have open communication. Our biggest concern right now is to have a large transient workforce being right next door to our children as they play at recess.

Mrs. Jones - So there haven't been incidents in the past with the other areas that are wide open.

Ms. Albrecht - Not to my knowledge.

Mrs. Jones - Okay, thank you. I just wasn't sure.

Mr. Vanarsdall - Mr. Secretary, how much time did Ms. Albrecht use?

Mr. Emerson - She used a little over seven minutes out of the twenty; that leaves thirteen for the other three.

Ms. Albrecht - Okay. Thank you very much.

Mr. Archer - Ms. Albrecht, may I ask one question.

Ms. Albrecht - Sorry.

Mr. Archer - Early in your presentation, I think you were talking about the workforce. Did you mention previous offenders or defendants?

Ms. Albrecht - Previous offenders. We have a concern. Normally when there is construction work on campus, obviously it's a worker that's been screened by Henrico County to standards that we are comfortable with. Workers being employed by a private company would possibly not be screened to that degree or to any degree at all. We have a concern with that, the close proximity to children.

Mr. Archer - So you're essentially saying sex offenders? Is that what you're saying?

Ms. Albrecht - I left it open to offenders in general.

Mr. Archer - That's why I was asking.

Ms. Albrecht - Possibly.

Mr. Archer - Okay.

Mr. Archer - All right. Thank you, ma'am.

Mr. Vanarsdall - One thing I'd like to add; you may or may not know this. When the County School Board chooses a site for a school, it can be under any zoning except Office. I'm just wondering how did they ever build a school, because they build them in old established neighborhoods all over the County.

Ms. Albrecht - I totally understand that. And I agree that schools and residential work together. It needs to make sense. The access off of Patterson makes much more sense than putting an access of Maybeury Drive. Some of the other people that are here to talk could answer that more directly.

Mr. Vanarsdall - Any other questions by Commission members?

Mr. Jernigan - Ms. Albrecht, you also understand that this property is already zoned R-2A. If this case was to fail, they could go ahead on the construction of building residential units now and you wouldn't get the infrastructure for the streets.

Ms. Albrecht - We understand that. Our concern is with the 50% increase from 18 to 30 lengthens the duration of the exposure of our children to these risks. And also we're concerned about the access point, density and access.

Mr. Jernigan - I don't have any more.

Mr. Vanarsdall - All right, thank you.

Ms. Albrecht - Thank you very much.

Mr. Vanarsdall - Will the next speaker come up? Who's next? State your name, please.

Ms. O'Meara - Hello. My name is Colleen O'Meara. I reside at 1121 Lakeland Circle.

Mr. Vanarsdall - What's your last name?

Ms. O'Meara - O'Meara, like the golfer. O'-m-e-a-r-a. I'm here to talk about my concerns and my neighbors' concerns concerning stormwater runoff. The petitioner for rezoning—Patterson Investments—dedicates only one sentence in their proffers concerning their specific plan for handling storm water. Basically, they say that any BMP would be located underground.

At two of the community meetings, we had been told verbally that storm water that now soaks into six acres of undeveloped land will be collected in an underground tank, filtered, and pumped to the settling ponds in front of the YMCA. These settling ponds are a registered BMP. From there, the storm water will be conveyed via the culvert underneath Patterson Avenue into the stream north of Patterson between Wilton Apartments and Waterford Rhye. This stream flows north into Cabin Branch Pond.

Two Waterford Rhye townhomes that back up to this stream were built on property that is now in a Henrico County flood zone. I would like to point out to the Commission that we are concerned about additional water being actively pumped to this low-lying area. Earlier this week, I contacted Dave Gunn and Jeff Perry at Henrico County Public Works to find out who owns the strip of land containing this stream of drainage ditch from Patterson Avenue all the way to the pond. They both independently checked the County GIS. I was surprised to learn and Jeff Perry expressed his surprise to learn that this land is owned by no other than the petitioner, Patterson Investments.

The community has concerns and they're heightened by a forebay that Patterson Investments installed in this stream. It's basically a stone check dam to collect silt upstream of the pond. Forebays need to be cleaned of silt every couple of years to ensure that they don't dam up a stream or a drainage ditch. Speaking to members of my community who have lived at Waterford Rhye since it was built, Patterson Investments has not cleaned the forebay for the last 20 years. A few years ago, the County cleaned it at taxpayer expense.

I would encourage the Planning Board to use Section 3.6.2, General Design Guidelines, within their own Henrico County Environmental Manual, which reads in item #4, "For development incorporating an existing BMP, basin, or pond, the engineer shall certify that the facility is in good working order and performing at the necessary level of service, and provide supporting calculations, information as necessary." Due to the neglect demonstrated by Patterson Investment, the community would propose that this re-evaluation of the existing BMP be done now at the rezoning stage.

As a chemical engineer with 40 years experience working for a large multi-national corporation, I compel you that a sediment forebay should be installed upstream of the storm basin or storm management water facility so that silt and heavy pollutants can be dropped out before they reach the main basin. In this

case, the forebay is located downstream of the registered BMP. The forebay is not a registered BMP. The Cabin Branch Pond is not a registered BMP. Once it turned out that the Cabin Branch Pond is currently owned and excellently maintained by the Westmoor Lake Owners Association, they've installed an aeration system to prevent algae growth, they actively control vegetation. When I examined the Henrico County website, I see that requirements concerning dams are coming that will put additional financial demands on lake owners. Cabin Branch Pond has a dam between the upper and lower Cabin Branch ponds. We need strong, responsible lake owners. Please don't infringe upon their property rights. Please don't allow other property owners to send them extra silt and extra dredging expense.

In conclusion, I'd like to point out that the Henrico County website speaks extensively of stormwater systems. They talk about where one developer after another taps into the same system. I want to point out that it's disingenuous for Patterson Investments to say they are the guys discharging into the top of the pipe when they're also the guys who allow the drainage ditch to silt over resulting in flooding.

Mr. Emerson - Ms. O'Meara, you are at five minutes.

Ms. O'Meara - Please don't let them get away with it. Reject the rezoning request until the existing issues are resolved by the property owner. Thank you for your time.

Mrs. Jones - Ms. O'Meara, if you could stay there. I need to ask you about conversations that Waterford Rhye has had with your supervisor and other situations through the past that I haven't been involved in. My understanding is that this was a Waterford Rhye catch basin that the homeowners' association was to [blank section on tape] Capital Reserve funds in order to create a certain amount of funds to clean it out on a regular basis. That was my understanding.

Ms. O'Meara - I believe that's incorrect. The County GIS shows who the property owner is. I do know that my community has raised concerns about this issue in the past, and our Board has met—I'm not a member of the Board, but they have met with Pat O'Bannon. I think at the most recent meeting, which Jeff Perry participated in, they were told to go out and solicit from Wilton and upstream contributors to see if they could get funds to pay for cleaning out this forebay, which seems totally unacceptable to me. I mean, I believe maybe Patterson Investments will be able to sell a 1300-square-foot media room and kitchen, but I don't believe that they have the skills to sell a drainage ditch to any one.

Mrs. Jones - Okay. I don't, obviously, know exactly what the situation is; this is the first time I've heard about it. Do we have somebody up here to talk about this?

Mr. Emerson - Madam Chair, is your question in regards to what the GIS reflects as far as ownership?

Mrs. Jones - If there is anything that can be added to our understanding.

Mr. Emerson - At this point, I don't believe we could answer that other than I would say that the County GIS is not always accurate. Many times we have to go to deed research to determine true ownership. Perhaps Mr. Theobald or the Gumenick's could respond to that. They may perhaps know. But our GIS is not always a hundred percent accurate, so I would not totally rely on that without some deed research, especially on small strips of land such as drainage ditches. When you go in and you click on that, many times it will pull up the adjacent property and you're going to get the ownership of whoever owns the large piece of property. So you have to be very careful in your research.

Ms. O'Meara - Both David Gunn and Jeff Perry pulled it up in the County GIS.

Mr. Emerson - Yes ma'am.

Ms. O'Meara - They saw that Patterson Investments was the current owner and Gumenick Properties was the previous owner.

Mr. Vanarsdall - We'll take care of that, and thank you very much. Next speaker, please. Yes sir.

Mr. McGehee - Thank you, Mr. Chairman. My name is Jim McGehee. I live in the 700 block of Maybeury Drive. My wife and I have lived there for 40 years, and we thank you for the opportunity to speak this evening.

I would like to request that the Planning Commission deny this rezoning request as it stands. We have major concerns—the impact on the schools, the drainage to Waterford Rhye, and traffic. I am going to speak you this evening about traffic.

Southbound traffic on Maybeury backs into Patterson Avenue three or more times every morning that we have school causing eastbound Patterson traffic to back up and prevent westbound traffic from turning left, and also backing up traffic in that direction. Both of these are on Patterson Avenue. The entrance to the school is approximately 400 feet from Patterson Avenue. The recommended driveway to the project is less than 200 feet from Patterson Avenue, which would greatly increase this problem. The County's traffic count showed 400 turns either

into or out of the school in a 30-minute period of time during that the parents are dropping off children. This is a turn every 4-1/2 seconds. This does not include the buses. In addition to that, many drive into the church parking lot and walk their child over to the school. We also have walkers and we have no traffic guards for them. I observed this week southbound traffic not desiring to turn into the school travel into the northbound lane to continue on Maybeury, forcing northbound traffic to move their right wheels off of the asphalt. And that was just this week. I was also happy to hear when I told that to Mr. Foster that he experienced the same thing when he was out here looking at it.

Ways to fix these problems are being worked on; however, they have not been finalized. VDOT recommended to me—I was talking to them—that a right-hand turn lane from Patterson Avenue onto Maybeury should be there. VDOT and the County don't object to a right-in or right-out onto Patterson Avenue. This was recommended to the developer and they ignored that. The developer, they also could use the present driveway into the YMCA. That driveway is owned by the developer. I think the developer agrees that you do own that piece of property. But they're not interested in it. I discussed that with VDOT and they are okay with that.

I spoke with Tim Foster yesterday about a possible plan that he feels will work. Once a plan is approved, I feel that a proffer would need to be added to require the existing traffic problem to be corrected before the first certificate of occupancy is issued. I'd like to use a lake analogy, being as we have spoken about a lake tonight. If you have a lake that has a dam and the dam is leaking, and you need more water—let's say this is a municipality that's using it—do you fix the dam before you put more water in it or do you put more water in it and then worry about the dam? So my request is that before they are allowed to build that the traffic problem is fixed.

Construction traffic to this project, if it proceeds, should not be allowed on Maybeury Drive; it should come off of Patterson Avenue into the project.

I request that you deny this rezoning for the health, welfare, and safety of our children and the citizens of our community. I would further like to say—last week, Mr. Theobald spoke about one of the reasons they want to do this is to put people to work, to stimulate our economy. I notice tonight you said that three times. I am confident that you all will stimulate the economy by hiring people and putting them to work building on the 15 acres that you have about a half mile west of Maybeury, the Monument Avenue job, and Patterson Avenue.

If you have any questions, I will attempt to answer them.

Mr. Vanarsdall - Thank you, Mr. McGehee. Any questions?

Mrs. Jones - Thank you, sir.

Mr. McGehee - Thank you.

Mr. Vanarsdall - I think we have one more speaker. How much time do we have left?

Mr. Emerson - Mr. Chair, there is three minutes left in the twenty minutes allocated.

Mr. Vanarsdall - We have three minutes left. You all asked for five minutes a piece, so go ahead and take your five minutes.

Mr. Noyes - First off, my name is Frank Noyes—N-o-y-e-s—9417 Treetop Lane. I'm here representing the Board of the Westmoor Civic Association. Our Board unanimously supports the position taken by our fellow resident speakers, and I'm going to yield time, of course, to Mr. Blackmore. Thank you.

Mr. Vanarsdall - Thank you, Mr. Noyes.

Mr. Blackmore - My name is John Blackmore. I live in the 700 block if Maybeury. Mr. Chairman, sorry for failing to address you and members of the Commission. Thank you for allowing us the time to speak. I'd like to first thank Mrs. Jones for her involvement, for the Planning staff, Traffic, all the County employees. We've enjoyed the open dialogue.

I'd like to start off, again, by thanking all the neighbors who've ultimately helped make this a better process regardless of what the outcome is. It can't be denied that a lot of good has come of this process. The County is now aware of some major traffic concerns and is committed to addressing them regardless of who pays for them. I applaud the County's hard work and efforts to address research and present the findings to our community.

I have a few comments about the proffered conditions, why they're not suitable for approval. I'm aware of the recent changes that were submitted on Tuesday. While clarity has been added to some of those conditions, per the staff comments, many of the conditions are written in very vague and, in my opinion, unenforceable manner. There are still two substantial changes that I did not see.

It was suggested at the first community meeting to put into a proffer turning over the southernmost four lots into a larger buffer between the proposed development and the school. This natural strip and the addition of a privacy fence between the proposed development is a must. A ten-foot-wide buffer is just not sufficient to mitigate the impacts. As you heard from Ms. Albrecht, this open style campus school should dictate a wider buffer.

There's also been discussion about an alternate or additional entrance to this proposed development. This was suggested at both community meetings. It could even be considered a benefit to the residents to have multiple points of access. As Mr. McGee said, VDOT and the County traffic engineer staff have said they do not have a problem with an alternate entrance.

For example, Waterford Rhye also has a right-in, right-out entrance just across from the subject property.

These suggestions for the alternate access points were blatantly and rather frankly dismissed at the community meetings. The response from the applicant, aside from costing too much to move the utilities, was that multiple entrances would ruin the sense of community. What better way to improve the sense of community by having direct access to the YMCA.

Speaking of that sense of community, if you look at the zoning map, the communities to the south, to the west, and some to the north are mostly R-2 and R-3, with the exception of the Waterford Rhye townhomes. This zero lot line community with houses on top of each other does not blend with our sense of community.

I'd like to conclude by making note that our neighborhood has really come together throughout this process. I think most people do understand that by right, 18 houses could be built on this property without much trouble to the developer.

Aside from the traffic issues at hand and impacts to the school, my opinion is that there are no real smoking guns that make this project an absolute horror. These complaints, further fueled by the developers lack of tact, humility, and to be rather honest, I feel it made local residents have a very bad taste in their mouths from problems at Grayson Hill.

At this time, I'd like to ask that all the residents in the room who have come to oppose this rezoning to stand up. Thank you, you may be seated.

Also, to show a strong opposition, through the hard work of many volunteers we've amassed a petition with 283 signatures. I'd like to present this petition to the Planning Commission and the staff at this time. There's more than 283 now; make that 293.

Mrs. Jones - There comes some more.

Mr. Blackmore - Okay. Thank you. I would acknowledge that some of these conditions have changed since most of these signatures were collected; however, I have not had one person contact me and ask me to have their name

removed from this petition. If you would like, we could take a moment to read the language on the petition.

Mr. Vanarsdall - That's not necessary.

Mr. Blackmore - Okay. Last paragraph. Due to the comments of the residents and the PTA, I think it should be very clear tonight, and clear to the Commission, that we do not want this high-density development in our community. There are many problems that do not ensure the health, safety, and welfare of both the students at the school and the surrounding community. With the support of the residents behind me, and their signatures, I ask that you respectfully recommend denial of this rezoning request to the Board of Supervisors. Thank you for your time.

Mr. Vanarsdall - Thank you. We normally don't have the clapping, but if it makes you feel better, then go right ahead and do it.

Mrs. Jones - What I'd like to do at this point, with all of the issues that were raised, Mr. Theobald, would you like to respond to the issues that were raised? Then we'll see how time goes and we'll see if there's anything else that needs to be brought forward.

Mr. Vanarsdall - So in other words, a rebuttal, Mr. Theobald.

Mr. Theobald - Yes sir, thank you. I would like to respond to some point; others I think I'll just leave alone.

With regard to construction access, Patterson Avenue carries 25,000 cars a day going 45 miles an hour or more. These homes are going to be built in small clumps. Usually workmen are on site by 7, before the school population even gets there. We would have to shave down the slope and the bank along Patterson to bring in construction access and I believe that that's absolutely a worse idea than what minimal traffic will come in off of Maybeury.

VDOT, for the record—and it's chronicled in an e-mail from VDOT—prefers access to Maybeury, not Patterson, not through the YMCA, because it takes you to a road that carries 3300 cars a day rather than 25,000, and it takes you to a signal, directly to a signal. What Mr. Foster said over and over at the last community meeting was that over a one-hour period in the morning, part of which is busy with regard to school, there could be seven cars trying to come out and turn left.

The only road improvements that will be made in this area—We've heard a lot of issues that exist today. Okay. We haven't built a house. If you haven't heard already, you may hear yet tonight that staff believes these other problems will only be made better to the extent somebody does these road improvements. At

the meeting, both Mr. Foster and Ms. O'Bannon said there weren't any funds to do that, either in the General Fund, her discretionary funds, etc. So you will get no road improvements if the case isn't approved, so you will live with the existing condition. Mr. Foster indicated that the situation would be greatly enhanced with the road improvements that are being offered.

Let's switch to drainage. I just don't understand why this continues to be an issue. Jeff Perry at the last meeting basically explained how drainage works in the County. We're not allowed to put water off, out of a site at a greater rate than exists before development than after development. In fact, we will have to pick up the water, build an underground storage facility, slow release it even slower than it comes off now. And we have to filter it. The water does end up in Waterford Rhye. Four hundred acres drain into the ponds in Waterford Rhye. We put three-quarters of 1% of all the water that goes into the sediment pond to which they refer. Three-quarters of 1%. That's today without anything being built. Once things are built, we're storing, slow releasing, and filtering. It's even better.

It is my belief—and I want to check so that we have the facts straight. It's our belief that those lakes were turned over to the homeowners' association at Waterford Rhye, which was developed by the Gumenick's. Prior to turning them over to the association, those ponds were cleaned twice. And the Gumenick's gave the association $5,000 in a stipend to fund future improvements, which they were expected to add to through annual assessments. So I will confirm who owns what over there, but that's not even the issue tonight. If we're remiss and liable, then we'll take care of it. That's what the Gumenick's have always done. It has no bearing on this land-use decision here this evening. In fact, the County drainage requirements dictate that we do everything that I've explained to you and improve the drainage situation.

Most importantly, I think quality single-family homes next to schools are absolutely the most compatible use, and I really don't understand the sense that for some reason they are not. Think of Collegiate, think of Tuckahoe Elementary, thank of any elementary school. Schools are meant to be in neighborhoods. They're meant to coexist, not to be feared. Yet I sense this real sense of fear. Not with regard to all the existing homes in the area, only the new one. It's the most compatible use, not the least. This request is absolutely consistent with your newly-adopted Land Use Plan. It was Office; now Urban Residential. It is consistent with area zoning. Staff has recommended approval after a long process where we've negotiated and revised proffers.

This request provides reasonably-priced housing, it does provide jobs. I don't think you need to apologize for that; it's going to create some jobs. It's going to generate more taxes, over $50,000 a year in taxes to the County when these homes are all built, in addition to over $264,000 in permit fees in terms of building permits, and water and sewer connection fees.

I believe this case is legally entitled to be approved. We've mitigated the impacts, County staff believes we've mitigated the impacts, it's consistent with your Plan, it's well-proffered, it's quality development, and it's a developer that sets the highest standard in Henrico County. With that, I would respectfully request that you recommend approval of this case to the Board of Supervisors.

Mr. Vanarsdall - Any questions for Mr. Theobald?

Mr. Branin - Mr. Chairman, I have one. Mr. Theobald, using the mouse that you have there, would you show me where the fence is that goes along the school currently?

Mr. Theobald - It's a chain link fence, I believe, and someone will correct me, I'm sure, if I misspeak. But I believe this chain link fence goes the entire length back to this corner. I think there's a stockade fence the Y put up for a little period. But this campus is open, it's absolutely open to the YMCA and the apartment communities to the east. There is this chain link physical barrier currently along—

Mr. Branin - Mr. Theobald, would it be possible—because everyone is concerned. I understand the argument that Tuckahoe is wide open, you have the parking lot and all that; I understand that. But for the sake of the residents that have children that go to this school, would it be feasible to put up a temporary six-foot chain link fence—temporary—that would come up the east side of the project and the west side of the project to where the construction entrance comes in? There's a minimal expense to that because it's a temporary fence, which means it doesn't have the guide wires and it doesn't have the extra support for the gates or any of that. It's just a six-foot chain link fence, 11-1/2 gauge. We've had people put them on projects in the Three Chopt District to separate during construction. Of course, the fence would come down as soon as you go in to do your landscaping and the project is finished.

Mr. Theobald - You want a portion of this eastern side and just a portion of this western side.

Mr. Branin - Correct. Which would ensure that we don't have wandering people that are or are not laborers on this job. Someone that comes into the job site—

Mr. Theobald - They're nodding over here; this is not a problem. Believe me, we don't want anybody to get hurt on our site, not one child—

Mr. Branin - My concern also with this is school's out, you have a fifth grader that usually walks home, and that fifth grader decides to go check out the cool stuff going on next door.

Mr. Theobald - Sure.

Mr. Branin - So it's not, in my mind, keeping potentially evil people off the school, it's also keeping children from getting on the site.

Mr. Theobald - I don't disagree with that.

Mr. Branin - So that, I think, would help.

Mr. Theobald - Yes, I think that's something that we're prepared to do. We need to make sure the site is secure and safe, absolutely.

Mr. Branin - That's all I have, Mrs. Jones. I heard the concern and there's an easy fix to that. Put up a six-foot chain link fence, temporarily, to keep children off and evil people out.

Mrs. Jones - I think that's a very responsible solution for the construction phase. I appreciate your being willing to do that.

Mr. Theobald - Sure.

Mrs. Jones - I would like to have Mike Jennings come up for a question or two. Then at that point, if we have other citizens that want to make a quick comment, I certainly don't want to deny you the chance to say what you want to say. But we do need to kind of wrap this up. If you don't mind, Mike, I have a couple of specific questions. Obviously, traffic has been a huge part of this. Actually, safety and security at the school, and traffic, are the big ones that we've heard. Can you please go over for clarity for the other Commissioners—as well as myself, make sure we understand—the traffic study that Henrico County conducted in order to assess the traffic needs for a development like this. Would you please go over what you feel in your professional traffic engineer's opinion about the ability of Maybeury Drive with the improvements—not now; clearly it's a problem now—to handle the traffic. You may even want to compare that to if it were simply an R-2A development and what those kinds of impact might be. We ran the numbers the other day.

Mr. Jennings - Yes ma'am. Basically, at the first citizen meeting I was made aware of some concerns out there of the existing situation. Traffic engineering did a review of the area. One of the things we found right now, Maybeury Drive is just a two-lane road, which means there's only one lane approaching Patterson Avenue. So basically, one lane stops at that stoplight to turn left, go straight, or turn right. The majority of the movements at that intersection were turning right. If the first car in line wants to go straight or turn left, they're backing up traffic. In the a.m., especially from 7:30 to 8—which was mentioned tonight—which is the peak traffic time for parents dropping off children, traffic was backing up beyond the school entrance and it was causing

congestion on Maybeury Drive. The entrance to the school is located right here just beyond their property currently. As Mr. McGehee said, when this is backed up to here, traffic gets backed all the way up through to Patterson Avenue in the morning.

The school made some modifications back in 2006. I was involved in those modifications. The intent at that time was to separate the bus loop from the parent/student drop-off and the teacher parking. There have been some pluses and minuses with that plan. There is now a separate bus loop, which is good. There's more internal storage for the parents dropping off. But the intersection is 400 feet from Patterson Avenue. It's been a trend in all of the County and probably most of America that I've noticed, a lot more parents are dropping off their kids now than in the past. So there is not adequate storage within the site. There are more parents that are causing congestion out onto Maybeury Drive. Right now, when one car backs this up and causes this, nobody can turn right, there is backup to the existing intersection, which causes people to block traffic, try to go through the ditch to pass cars, like Mr. McGehee mentioned.

Whether this development happens or not, we recommended a separate right turn lane. This way, as Mr. Theobald mentioned, they'll be a right-turn-on-red and when these cars are turning left onto Maybeury Drive from Patterson westbound, we could have a green arrow at the same time to really empty out this right turn lane, which would help with the congestion with the school.

Another thing. I have worked with VDOT and they're reviewing it right now. There's not enough signal green time for Maybeury Drive getting onto Patterson Avenue. So, we've talked to them. They're reviewing the intersection with Maybeury Drive southbound, getting more green time; Maybeury Drive northbound getting more green time, and also additional time for the left turn movement. It's just an existing situation; we know we have problems.

With the recommendations that I made, whether this development happens or not, we would like to see this right turn lane onto Patterson Avenue and also put another entrance into the school further down, closer to the bus loop, and possibly have the ingress to the school—it's probably about 250 feet from the existing. If this is the ingress to the school, that would create more storage capability onto Maybeury. We're also looking at doing some re-striping out onto Maybeury Drive so we can stripe a turn lane into the school where you can still have some through movements also.

Mrs. Jones - A turn lane going south?

Mr. Jennings - Yes ma'am. We're going to stripe a turn lane southbound into the school from Maybeury Drive.

Mrs. Jones - We also had a citizen suggest possibly having the parents make use of the bus loop and have the buses go elsewhere.

Mr. Jennings - Yes ma'am.

Mrs. Jones - All of this is under discussion, correct?

Mr. Jennings - Yes ma'am.

Mrs. Jones - Basically, this is a school decision.

Mr. Jennings - Yes.

Mrs. Jones - We cannot dictate to them how they handle their traffic flow within the parking lot.

Mr. Jennings - I have talked to the school. Like was mentioned earlier, there's no funding to do this at this time, but they are up to reviewing a plan to see if would help with their circulation. I don't remember the gentleman's name, but someone at the last meeting did bring up the fact about using the bus loop as the parent drop-off. That could be a possibility. We have not had a fully-developed plan presented to the school to see if it would be acceptable or not, but that is an option. We are looking at several options.

We looked at this development. Several things have been brought up. This entrance does meet our standards for an entrance onto a minor collector road. It's 185 feet from Patterson Avenue. Currently, Mr. Theobald went over the numbers. If it's 30 homes, you're looking at 343 vehicle trips in a 24-hour period. If it was he 18 homes that could be developed on the site, it would go down to 215 trips. So basically it's 128 trips over a 24-hour period. So yes, there would be some reduction. Like in the a.m. hour, he mentioned six would be turning left and now it would go down to like three turning left. So it would go down some, but not—but this is also distributed over that peak hour period.

This previous comp plan was talking about having office at this site. Well, office would be worse for an entrance because most people start at 8:00. All this traffic would be arriving right before 8:00, which would be this most congested time at the school. Since this is single-family, traffic would be leaving the site. People working in various locations, they'd be leaving at different times. So it would distributed over that hour, it wouldn't just be the peak arrival like an office would be.

Mrs. Jones - In your professional opinion, you feel that the plan as presented, and the roads with the improvements, and the possible changes to the school flow, could be accommodated.

Mr. Jennings - Yes ma'am.

Mrs. Jones - All right, one other thing. A tremendous amount of discussion has been had about the necessity for a right-in/right-out on Patterson in addition to or in place of the Maybeury ingress/egress. The direction from VDOT has been I think a little bit confusing because some folks have contacted me feeling it was a requirement; other folks have contacted me saying it was a recommendation. Could you clarify some of that?

Mr. Jennings - Yes. In discussions with VDOT, they were concerned about any additional traffic at the Y entrance. They would allow a right-in/right-out onto Patterson Avenue between the YMCA entrance and the Maybeury Drive connection with Patterson Avenue. But as Mr. Theobald stated, their preference would be access to Maybeury Drive so they would have use of the signal. In my recommendation, since they were allowed to have a right-in/right-out, and in the traffic study that I did, I recommend they could have an entrance onto Maybeury and they could also have an entrance onto Patterson Avenue. This would help distribute the traffic to their site. They're not required to have two points of access based on our policy for a 30-lot subdivision, but I did make a recommendation that a second point of access could help for the distribution of traffic.

Mrs. Jones - What would that do for cut-through?

Mr. Jennings - It could cause some. If this light is backed up, it could cause traffic on Maybeury Drive to cut through their neighborhood to get to Patterson Avenue. The only proposal that I've seen that I really had concerns with, when this plan first came in, they were going to connect the Y access over to Maybeury. These people think this plan's bad? If the YMCA is cutting through this neighborhood to use the signal, that I would have major concerns with because the YMCA has trouble now turning left out of their site onto Patterson Avenue westbound. So they would all cut through this neighborhood to get to the signal.

Mrs. Jones - All right.

Mr. Vanarsdall - That could be addressed at the time of subdivision—

Mr. Jennings - Yes. A lot of these details will be addressed at the plan of development.

Mrs. Jones - Okay. Those are my questions; thank you. It's been a critical issue to this case and I appreciate all your work on it, as well as Tim Foster's. You all have really put some [blank area on recording].

Mr. Jennings - Thank you.

Mr. Vanarsdall - Thank you, Mr. Jennings. Mr. Theobald, do you have anything to add to what Mr. Jennings said about the traffic?

Mrs. Jones - Shall we see if there is anybody else who wants to make a quick comment? If you would, sir, come on down. I don't want anyone to leave here thinking that they were completely snuffed out of making a comment, but we need to kind of make it quick, if you don't mind.

Mr. Pollard - Yes ma'am. My name is Lawrence Pollard. I'm a resident at 9122 Derbyshire Road. My family and I have been in the neighborhood for 32 years. First real quick I'd like to address Proffer 25. You were talking about the weight of the vehicles that will be going in and out, construction vehicles.

Mrs. Jones - Yes.

Mr. Pollard - Some of these construction vehicles weigh in excess of 60 to 80,000 pounds fully loaded. With the VDOT cutbacks and state cutbacks, the state police are not going to be out enforce and weigh limits on these trucks, if they're loaded with heavy equipment, they can weigh in excess of 120,000 pounds.

The privacy fence, the chain link fence on the back of the property I feel like is not sufficient because if you put 25 port-a-potties on a construction site, the construction workers are going to go around the corner that's closest to them and use whatever's available to them. I feel like that is unacceptable to the children, the teachers, and to other staff at Maybeury Elementary School.

Also, as far as the workforce is concerned, over 55% of his employees on the last two projects have been migrant transient workers, so I don't see where the money would possible go back into the State economy.

Thank you very much for the time to speak.

Mrs. Jones - Thank you, Mr. Pollard. Does anyone else want to make a comment? Please, but make it quick. We all tend to get tired at this time.

Ms. Wade - Thank you. Suzanne Wade, 9103 Avalon Drive. I have had some conversation with the Gumenick's at one of the community meetings about our concern. Avalon Drive is quite the thoroughfare. We would like some assurances from them on the record that their construction vehicles would not be coming down Avalon Drive, but they would be going in and out of Patterson onto Maybeury only, if you allow this project to proceed. Derbyshire has limited weigh capacity restrictions, so they would not be going on Derbyshire, I would hope, but they would likely try to cut through on Avalon. So we would like

it on the record, please, that that will not happen if this project proceeds. Thank you.

Mrs. Jones - Thank you very much.

Mr. Vanarsdall - Thank you.

Mrs. Jones - I'd like to at least have an answer, quickly, to some of these construction issues. Can someone from the applicant come down and talk to me just for a moment? Maybe Mr. Theobald can be a construction engineer. Just so that we are clear. Do you have any idea how long construction—if you go ahead to build in sections of four or five or so homes, what kind of timing are we talking about?

Mr. Theobald - Hoping for a couple of years at max. Eighteen months.

Mrs. Jones - Okay. And the crews that are working for the company, I'm sure, clearly, there are standards in place. I don't know what they are or how they are handled.

Mr. Theobald - Yes, there are a lot of standards in place. There are a lot of laws that dictate that there are a lot of people looking after that. I don't think that comment merits another rebuttal.

Mrs. Jones - All right. The other things that were mentioned about the construction vehicles and their coming down Patterson. Is there any way that we can address construction vehicles cutting through neighborhoods?

Mr. Theobald - I don't think so. There are 30 homes that are going to be built over 18 months. What happens is when you see an air conditioning truck go down Avalon and it's coming to one of these folk's house and somebody picks up the phone and calls the County, Mr. Emerson sends an inspector out. They never find the truck. This has happened over and over and over again. Construction, repair vehicles are allowed to service their neighborhood and find their way there, but apparently not ours. This is a probably that doesn't need to be solved. Who knows where the truck is coming or going? What we've done on Grayson, there was a specific issue with Lakewater because there was a stub road, if you remember, that came back into Grayson Hill. We put in our contract not to do that. What's happened repeatedly since then is every time somebody sees a truck that looks like it might be related to the construction industry, some of our friends on Lakewater will pick up the phone and call the County, the County sends out people, and it's just a total waste of time and resources. This is not a lot of construction traffic. We're building a limited number of homes during a limited period of time. And you can get in there and build, so. I don't know how to do that in a way that's enforceable and that makes sense, in all candor.

Mrs. Jones - Thank you.

Mr. Vanarsdall - Thank you for all the work you did on the case, working with Mr. Sehl and listening to all the people who had concerns. I think you've been there one time, haven't you. All right, go ahead. What's your question?

Mr. McGehee - Earlier this week, I met with Mrs. O'Bannon, and she said the traffic situation would be fixed whether the project goes forth or not, and that she had found funding for that, if necessary.

Mr. Vanarsdall - Good to know, thank you. I'd like to know if any of the Commissioners have anything to say because I'd like to have a summary here and I'd like to be the last word as the chairman.

Mrs. Jones - After that, I'll have an opportunity to make a motion?

Mr. Vanarsdall - Oh, yes. I want to thank all of you who came and voiced your opinion. We may not all agree, but we're glad you had an opportunity to express it. Mr. Wayne Chasen came with his lieutenants and vice president and listened to all your concerns.

I think from the very beginning some of you, and maybe many of you, did not understand the role of the Planning Commission. We do not legislate. It has to be an elected official to legislate, and the Board of Supervisors do that. We make a recommendation to the Board of Supervisors. Mr. Sehl, would you come down? I have questions for you that I'd like to go over to make sure that everybody understands. You've heard all this, most of it. I want to thank you, Mr. Sehl, for your work you've done on this, the help you've given to the citizens.

Mr. Sehl - Thank you, Mr. Vanarsdall.

Mr. Vanarsdall - First of all, with the 2026 Land Use Plan, is this consistent with that?

Mr. Sehl - The density and use proposed with this development is consistent with the Urban Residential designation.

Mr. Vanarsdall - The density of 30 homes, isn't that consistent with the range. I believe they can have between 3.4 and 6.8.

Mr. Sehl - Yes sir. The applicant is proposing that 30 homes works out to 4.95 units an acre.

Mr. Vanarsdall - And is it consistent with the visions, goals and objections, and policies of the 2026 Land Use Plan of the County?

Mr. Sehl - Yes sir. There were items noted in the staff report that specific policies—

Mr. Vanarsdall - I know all of this is in the staff report; I want to get this on record. Can the schools accommodate, are they overcrowded?

Mr. Sehl - Given the school's comments, yes sir, they project—

Mr. Vanarsdall - Before I go any further, the staff has a report from every department in the County, then they compiled the information for us. The libraries, they can handle that increase? That's what the report said.

Mr. Sehl - Yes sir.

Mr. Vanarsdall - Last but not least, staff recommends approval of this case.

Mr. Sehl - Yes sir.

Mr. Vanarsdall - Thank you.

Mr. Sehl - You're welcome, sir.

Mr. Vanarsdall - Now Mrs. Jones, it's time for a motion.

Mrs. Jones - Yes. I have some comments, too. This has been a long, long process.

I do compliment all of you and the County, and also to the public process that we're all here tonight. Thank you.

Rezoning cases are seldom easy because they have review, they have discussion, decisions—all of these things that lead to a potentially changed situation, and that in and of itself is seldom easy. Any property owner, as you know, can petition for a change in zoning for his property. That application begins the process of technical review at the County Planning Department, and as Mr. Vanarsdall was saying, County agency reviews, recommendations, impact reports, legal reviews. The applicant meets with staff to answer questions, clarifies details of the case, discusses the case with the district's Commissioner, develops conceptual plans that show the vision he has for the project.

Part of any rezoning case in the Tuckahoe District, and others, certainly, as well, is involvement of the adjacent property owners in commenting on and

contributing ideas for the rezoning. This is an integral part of the process. In this particular case, adjacent property owners were a little different situation, given that the adjacent properties were not residential uses. However, the greater community, spreading pretty far and wide, has been involved in this from the start.

Community meetings are held and comments are discussed, plans can be modified or not. Issues may be resolved or not. Public participation is critical to all of that. I just want to make sure that I express my admiration for the single purposeful communications and involvement that your community has had. Your organization. All things are possible with e-mail. And your commitment to spend time with this case has been truly amazing.

Someone asked me today, "Oh my gosh, what are you going to do if you have 150 people at this meeting?" I said, you know, I'll be thrilled. Not that it makes it easy; it makes it very, very hard. But I'm going to have a lot of people there who really care about their community and that's important to me.

There are a lot of things involved here. Actually, the decision to grant a rezoning request hinges itself on several factors. The Planning Commission level where we are now, you've heard from the staff report what those factors are, does this meet the guidelines of the County's Comprehensive Plan, is this parcel, which is now Urban Residential, is that an appropriate designation for the R-5A zoning? Is this the kind of thing that's consistent with the goals and visions and objectives? Is this a very high-quality project? That is a big factor. Does this meet a need? Various types of housing, a different kind of a community. Is it a betterment of the community with what it brings with the case? We've talked about a lot of things that would take place with this development that would not take place otherwise. Does it bring a better project to this parcel than could occur there by right? I guess the bottom-line question is, is this a very good fit for this particular piece of property.

The Planning Department supports this request; it's been through their extensive reviews for every agency and every aspect. They support it. The developer has met and resolved staff's expectations and concerns, and that is what has led to their recommendation.

But I understand that's not the whole story and I've tried as hard as I possibly can to find common ground here that would bring this rezoning case to some kind of common ground, some consensus between the applicant and the neighborhood. This isn't a we/they; this is an us. I was trying to find something that would bring satisfaction to everybody, that they had helped to craft a project that was going to be a real asset to their area. Ideally, I'd like to see a project that brings quality residences there to this wonderful area where you live, has outstanding amenities very close by. I'd like the full support and enthusiasm of the

community. I haven't been able to facilitate making that happen. That is my real regret with this particular zoning case.

Here's what we all agree on. We agree that traffic on Maybeury is miserable, especially at drop-off time for the children. We agree that's a problem. This case brought that out. It wouldn't have come out, necessarily, as quickly or as vehemently as it did if we hadn't had these discussions. So this rezoning right there has been of benefit to everybody. It will be addressed. A traffic study was needed to define those impacts and it's been helpful to move ahead with these changes and start the process. Traffic flow will improve.

Drainage has always been a challenge in the Tuckahoe District. That's the nature of the topography of our district and it always will be. But this issue also will need follow-up action, a little more that perhaps I knew before some of our testimony tonight. We'll make sure that's taken care of. There will be a retention system that could be a big benefit to the area that would come with this development. Those are pluses to the infrastructure.

Safety and security for the students at Maybeury Elementary has been something I have heard over and over and over and over again. This is what I heard most from the parents and grandparents in the area. I'm a mom of three and grandmother of three—soon to be four—and I understand why there is a groundswell of emotion when you talk about protecting the children. We want them safe when they walk or when they ride to school; we want them safe when they're in a campus school setting, coming and going from their classrooms, and when they're at play in the neighborhood. To that end, the developer has brought some elements to his plan such as sidewalks on Maybeury and pedestrian connectivity to the Y, enhanced plant material for the buffers. We now have a commitment to construction fencing that would be a protection for the school. Those kinds of things like restrictions on times for deliveries and exterior work hours, things like wheel washes to keep the site looking nice. Hopefully all of these you will perceive as answers to your questions and concerns. While I understand that many neighbors would like to have the subject parcel totally separated from the elementary school by a high privacy fence along that length of shared property line, the developer has not offered to provide this, but has offered to provide enhanced landscaping.

Patterson Avenue has not been a part of the plan and continues not to be a part of the plan. However, our Public Works Department has projected the plan, as presented to you, with the improvements as presented to you, can work. The roads today can't handle it, but after the improvements, they should be able to. A second point of access does invite cut-through traffic from Maybeury to Patterson to avoid the stoplight. And so many of you have contacted me and Pat O'Bannon in the course of this to talk about cut-through traffic in your neighborhoods, on your street, that I feel sure the future residents of whatever community is built on this parcel would appreciate not having that to deal with.

I did make some notes because I wanted to make sure I touched base with you all on certain things. Here's one thing. Of all the things that I couldn't—I did understand about your concerns, but there was one thing that I didn't understand. You all are current residents of the Tuckahoe District. The community that is under discussion tonight, those are future residents of the Tuckahoe District. No matter what's built on this parcel, whether it's less than 20 homes or more than 20 homes, the aspect that has puzzled me the most are the very, very strong feelings that many neighbors have expressed to me about the kinds of folks that might purchase these homes. I honestly would suggest to you that they will be purchasing a home in the area for all the right reasons. They would be purchasing a home in the area for all the reasons you purchased a home in the area. A wonderful school system. It's close to wonderful amenities, facilities that add so much to the quality of our life. It's close to work, close to town. I mean, these are folks that could be with you on the PTA, their children will be in school with your kids, they could be your friends and classmates, could be the guy next to you on the treadmill at the Y, or maybe the guy next to you at church. These folks will want to come live where you do for all the reasons you love living where you do, whether it's an R-2A development or an R-5A. I just needed to tell you that. I know many of you from a long, long time ago, and we have long, long relationship, and I know you'd be welcoming. I love my neighborhood, too; I've been there over 30 years and I'm right down the road.

Well, in conclusion, there are no easy answers here and I regret, really, that I have not been able to facilitate a case that has the enthusiasm and support of everyone. Unfortunately, that's the nature of most zoning cases. However, I still try to find that balance, and that's really what this is all about, is finding the right balance that makes a good choice for our County. The case is far better now than when it was first filed. I owe that in large part to you in the community who have highlighted your concerns very clearly, to the staff members, especially Ben Sehl, who continued to answer my calls even when I called him more than six times a day. He's worked this case tirelessly. I thank the developer who, while I know you feel he hasn't listened to everything you've said, has made changes in his plans to accommodate things that were important to the staff, to me, and some concerns that you had as well. I thank you all. This case is not perfect. It could be better. There are still some revisions to the proffers; we talked about those, technical things to work about with wording. Possibly some modifications to the plan that could come through as this moves along. I appreciate my fellow Commissions' questions, your consideration; thank you.

I believe that it's time to send this case to the Board of Supervisors. We cannot probably work out anymore than we have worked it out at this point My job is to evaluate this case as to its merits, rezone this parcel. And I have done so to the best of my ability. As this case moves to the Board, it will move to another level of consideration. I have every confidence that you all will have continued conversations about it. I thank you all and I at this point, then, will move for this

case, C-30C-09, Patterson Investments, to be forwarded to the Board of Supervisors with a recommendation for approval.

Mr. Branin - Second.

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

REASON: Acting on a motion by Mrs. Jones seconded by Mr. Branin, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the request because it conforms to the recommendations of the Comprehensive Plan, is appropriate residential zoning at this location, and the proffered conditions would provide for a higher quality of development than would otherwise be possible.

Thank you everybody. Mr. Secretary, you want to say when it will be before the Board.

Mr. Emerson - This case will be at the Board at the first February meeting. The date would be I believe February the—

Mr. Archer - The 9th, I think it is.

Mr. Emerson - The 9th. I believe so, yes sir.

Mr. Vanarsdall - February 9th. Thank you, Mrs. Jones, that was very nice.

Mr. Emerson - Mr. Chairman, we do have two items left on the agenda tonight. The next item on your agenda on page 3 is a discussion item to set the public hearing for the annual public review or public hearing on the Capital Improvements Plan. Staff is requesting that the Commission set a public hearing for February 11, 2010, at 6 p.m. to consider the fiscal year 2010-2011 through fiscal year 2014-2015 Capital Improvement Plan.

Mr. Vanarsdall - If that time and date suits everyone, I'll take a motion.

Mr. Archer - Six o'clock?

Mr. Emerson - Yes sir.

Mr. Archer - So move, Mr. Chairman.

Mrs. Jones - Second.

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

I just learned from Mr. Secretary and our Director of Planning that due to the downturn and hard times, you'll have to get your own dinner. Panera is not far from here.

Mr. Emerson - Well, we certainly can provide dinner, if you'd like to.

Mr. Vanarsdall - Put it on Mr. Kaechele's—what is that you all have?

Mr. Kaechele - That's not part of the deal there.

Mr. Vanarsdall - 401 or something. All right.

Mr. Emerson - Mr. Chairman, we have approval of the minutes as the next item on your agenda, from the December 10, 2009 meeting.

Mr. Vanarsdall - Anybody read them and have corrections?

Mr. Archer - They were so slight, there wasn't much to read.

Mrs. Jones - I would like to note that it was a world record, for the record.

Mr. Vanarsdall - Technically speaking, I did cancel a meeting one night because of snow, so we had zero minutes.

Mrs. Jones - You're still thinking you have the record. I have no corrections.

Mr. Kaechele - Mr. Chairman, on that first item on the Capital Budget Program, does staff provide a review of that prior to the hearing?

Mr. Vanarsdall - Absolutely, we have the whole thing.

Mr. Kaechele - I know, but do you get a verbal—

Mr. Branin - No, we just get a printed program.

Mr. Emerson - What the Commission receives, Mr. Kaechele, are the actual drafts, CIP, and then the Manager, and finance staff, and department heads come. The Manager provides a full presentation on the CIP.

Mr. Kaechele - So they are there to answer questions.

Mr. Emerson - Yes sir. And they're present to answer questions.

Mr. Kaechele - It's a hearing setting, then.

Mr. Emerson - Yes sir, it is in a hearing setting.

Mr. Kaechele - Okay.

Mr. Vanarsdall - And all the supervisors of the County are here with us.

Mr. Kaechele - Yes, right, okay.

Mr. Vanarsdall - In case anybody has a question.

Mr. Kaechele - There probably won't be any in there for this year, but next year there probably will be.

Mr. Vanarsdall - We'll go over the five-year plan and then the whole plan. It's been getting a little thin over the last five years.

Mr. Emerson - It's getting quite a bit thin this year.

Mrs. Jones - I know.

Mr. Vanarsdall - All right. I'll need a motion and second for the minutes.

Mrs. Jones - I move they be accepted as printed.

Mr. Jernigan - Second.

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

Mr. Archer - Mr. Chairman, I move for adjournment.

Mr. Jernigan - Second.

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

Mr. Kaechele - Did you decide on whether it was going to be a dinner before that meeting or not?

Mr. Emerson - We'll be happy to provide some sandwiches prior to the meeting.

Mr. Kaechele - Prior to 6, right?

Mr. Emerson - Yes sir, prior to 6.

Mr. Emerson - We could bring you in at 5:30 and just come have dinner.

Mr. Archer - Come here or go upstairs?

Mr. Emerson - We could go upstairs. We'll certainly be happy to do that, if you'd like to, and starting early. We do have some funds remaining in this year's budget.

Mr. Vanarsdall - You'll need about $24.

Mr. Emerson - We will be happy to feed you.

Mr. Vanarsdall - Make an amendment to that and be here at 5:30.

Mr. Emerson - Why don't you plan 5:30. We'll get the Manager's conference room. We may do a presentation of some type for you on some topic.

The meeting adjourned at 9:54 p.m.

Mr. R. Joseph Emerson, Jr., Secretary

Mr. Ernest B. Vanarsdall, Chairperson