

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary
3 Spring Roads at 7:00 p.m., June 10, 2004, Display Notice having been published in the Richmond
4 Times-Dispatch on May 20, 2004 and May 27, 2004.

5
6 Members Present: Mrs. Lisa D. Ware, C.P.C., Chairperson, Tuckahoe
7 Mr. Ernest B. Vanarsdall, C.P.C., Vice-Chairman, Brookland
8 Mr. C. W. Archer, C.P.C., Fairfield
9 Mr. John Marshall, Three Chopt
10 M. E. Ray Jernigan, C.P.C., Varina
11 Mr. Randall R. Silber, Director of Planning, Secretary
12 Mr. James B. Donati, Jr., Board of Supervisors, Varina

13
14 Others Present: Mr. Ralph J. Emerson, Assistant Director of Comprehensive
15 Planning and Administration
16 Mr. David O'Kelly, Assistant Director of Plan Review & Code
17 Support
18 Mr. Mark Bittner, County Planner
19 Ms. Jean Moore, County Planner
20 Mr. Thomas Coleman, County Planner
21 Mr. Paul Gidley, County Planner
22 Mr. Seth Humphreys, County Planner
23 Ms. Samantha Brown, County Planner
24 Mr. James Strauss, County Planner
25 Mr. Ted McGarry, County Planner
26 Ms. Debra Ripley, Recording Secretary
27

28 Mrs. Ware - Good evening and welcome to the June 10th Planning Commission
29 meeting for rezoning cases. I will turn the meeting over at this time to Mr. Silber, the Secretary.

30
31 Mr. Silber - Yes, ma'am. Thank you very much. We have all members present this
32 evening, so we can conduct business. First on the agenda, we have several deferrals and one
33 withdrawal that we can handle before the Plans of Development, so Mr. Emerson, if you can walk
34 us through those, please.

35
36 Mr. Emerson - Yes, sir, Mr. Secretary. You have one withdrawal and four deferrals
37 tonight.

38
39 **Deferred from the March 11, 2004 Meeting:**

40 **C-5C-04 Robert M. Attack:** Request to conditionally rezone from A-1 Agricultural
41 District to R-2AC One Family Residence District (Conditional), Parcel 748-772-3954, containing
42 approximately 4.90 acres, located on the northwest line of Opaca Lane approximately 700 feet
43 northeast of Nuckols Road. The applicant proposes no more than six (6) single-family residential
44 lots. The R-2A District allows a minimum lot size of 13,500 square feet. The Land Use Plan and
45 the Nuckols Road/I-295 Small Area Land Use Study recommend Rural Residential, not exceeding
46 1.0 unit net density per acre, and Environmental Protection Area.

47
48 Mr. Emerson - Case C-5C-04, Robert M. Attack, has been withdrawn by the applicant.
49 That requires no action by the Commission.

50
51 **BROOKLAND:**

52 **C-24C-04 Lunsford L. Duke:** Request to conditionally rezone from A-1
53 Agricultural District to R-5C General Residence District (Conditional), Parcels 761-769-6447 and

54 761-769-4574, containing 10.36 acres located at the southwest intersection of Staples Mill (U. S.
55 Route 33) and Springfield Roads. A multifamily development is proposed. The R-5 District allows
56 a density up to 14.52 units per acre. The Land Use Plan recommends Suburban Residential 1,
57 1.0 to 2.4 units net density per acre.

58
59 Mr. Emerson - The deferral is requested to the July 15, 2004 meeting.

60
61 Mrs. Ware - Is there any opposition to the deferral of Case C-24C-04, Lunsford L.
62 Duke, in the Brookland District? No opposition.

63
64 Mr. Vanarsdall - Madam Chairman, I move that Case C-24C-04 be deferred at the
65 applicant's request to the 15th of July of this year.

66
67 Mr. Jernigan - Second.

68
69 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Jernigan. All in
70 favor say aye. All opposed say no. The motion passes.

71
72 At the request of the applicant, the Planning Commission deferred Case C-24C-04, Lunsford L.
73 Duke, to its meeting on July 15, 2004.

74
75 **THREE CHOPT:**

76 **Deferred from the March 11, 2004 Meeting:**

77 **C-51C-03** **Larry D. Willis:** Request to rezone from A-1 Agricultural District and M-
78 1C Light Industrial District (Conditional) to B-2C Business District (Conditional), Parcels 742-762-
79 9861, 743-762-1862 and 743-762-1538 and part of Parcel 742-762-9178, containing 4.089 acres,
80 located at the northern terminus of Brookriver Drive and at the I64E/I295 southeast cloverleaf.
81 Restaurants and other retail uses are proposed. The use will be controlled by proffered
82 conditions and zoning ordinance regulations. The Land Use Plan recommends Semi Public. The
83 site is also in the West Broad Street Overlay District.

84
85 Mr. Emerson - The deferral is requested to the July 15, 2004 meeting.

86
87 Mrs. Ware - Is there any opposition to the deferral of Case C-51C-03, Larry D. Willis,
88 in the Three Chopt District? There is no opposition.

89
90 Mr. Marshall - Madam Chairman, I move that Case C-51C-03, Larry D. Willis, be
91 deferred to the July 15, 2004 meeting at the request of the applicant.

92
93 Mr. Vanarsdall - Second.

94
95 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in
96 favor say aye. All opposed say no. The motion passes.

97
98 At the request of the applicant, the Planning Commission deferred Case C-51C-03, Larry D. Willis,
99 to its meeting on July 15, 2004.

100
101 **Deferred from the April 15, 2004 Meeting:**

102 **C-52C-03** **Mr. And Mrs. Hung Yim:** Request to conditionally rezone from A-1
103 Agricultural District to B-3C Business District (Conditional), Parcel 735-763-5299, containing 1.922
104 acres, located on the north line of West Broad Street (U. S. Route 250) approximately 1,450 feet
105 east of N. Gayton Road. A restaurant is proposed. The use will be controlled by proffered

106 conditions and zoning ordinance regulations. The Land Use Plan recommends Mixed Use. The
107 site is also in the West Broad Street Overlay District.

108
109 Mr. Emerson - The deferral is requested to the September 9, 2004 meeting.

110
111 Mrs. Ware - Is there any opposition to the deferral of Case C-52C-03, Mr. and Mrs.
112 Hung Yim, in the Three Chopt District? There is no opposition. Mr. Marshall.

113
114 Mr. Marshall - Madam Chairman, I move that Case C-52C-03, Mr. and Mrs. Hung Yim,
115 be deferred to the September 9, 2004 meeting at the request of the applicant.

116
117 Mr. Vanarsdall - Second.

118
119 Mrs. Ware - Motion made by Mr. Marshall, seconded by Mr. Vanarsdall. All in favor
120 say aye. All opposed say no. The motion passes.

121
122 At the applicant's request, the Planning Commission deferred Case C-52C-03, Mr. and Mrs. Hung
123 Yim, to its meeting on September 9, 2004.

124
125 **VARINA:**
126 **C-28C-04 Rogers-Chenault, Inc.:** Request to conditionally rezone from A-1
127 Agricultural District to R-2C One Family Residence District (Conditional), Parcels 828-720-7544,
128 829-720-1214, 828-720-6007 and 828-720-3514, containing 17.432 acres, located along the east
129 line of Hanover Road between the south line of Meadow Road and the north line of Early Street.
130 The applicant proffers the total number of lots not to exceed thirty-five (35). The R-2 District
131 allows a minimum lot size of 18,000 square feet. The site is in the Airport Safety Overlay District.

132
133 Mr. Emerson - The deferral is requested to the July 15, 2004 meeting.

134
135 Mrs. Ware - Is there any opposition to the deferral of Case C-28C-04, Rogers-
136 Chenault, Inc. in the Varina District? No opposition.

137
138 Mr. Jernigan - Madam Chairman, I make a motion to defer Case C-28C-04 to July 15,
139 2004 by request of the applicant.

140
141 Mr. Vanarsdall - Second.

142
143 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in
144 favor say aye. All opposed say no. The motion passes.

145
146 At the applicant's request, the Planning Commission deferred Case C-28C-04, Rogers-Chenault, to
147 its meeting on July 15, 2004.

148
149 Mr. Emerson - Madam Chairman, that completes the withdrawals and deferrals for
150 tonight unless the Commission member has one to add.

151
152 Mrs. Ware - Does anybody have anything to add? No. Thank you, Mr. Emerson.

153
154 Mr. Silber - Mr. Emerson, we have no expedited items this evening.

155
156 Mr. Emerson - No, you do not.

157
158 **PLAN OF DEVELOPMENT (Deferred from the May 26, 2004 meeting)**

159

**POD-34-04
Roma's East -
325 E. Williamsburg Road**

Timmons Group and Gooss & Associates AIA for Giaman, LLC: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story, 3,575 square foot restaurant and a 2,051 square foot retail building. The 0.71-acre site is located at 325 E. Williamsburg Road (U.S. Route 60) on parcels 829-715-3035, 4034, and 828-715-8918. The zoning is B-1, Business District, R-3, One-Family Residence District and ASO (Airport Safety Overlay) District. County water and sewer. **(Varina)**

160

161 Mrs. Ware - Is there any opposition to POD-34-04, Roma's East, in the Varina
162 District? No opposition. All right, Mr. McGarry.

163

164 Mr. McGarry - Good evening, Madam Chair, and members of the Commission. The only
165 thing that has occurred on this since your staff report was created, and this was added as of the
166 rezoning meeting that the Board granted on Tuesday night, we added Condition No. 36 to
167 address the issue of the transitional buffer deviation that was proffered. This condition No. 36
168 says that the landscape screening that is required by the proffer No. 5 may be provided along the
169 rear of the lot in Hunter's Run, with the permission of the property owner, and by agreement
170 from the Department of Public Works. This has been added to enable the applicant to have a
171 little bit more flexibility in meeting the intent of that proffer. With that, I can state that staff is
172 recommending approval subject to the annotations on the plan, the standard conditions for
173 developments of this type and conditions Nos. 23 to 36. I'd be happy to answer any questions.

174

175 Mrs. Ware - Are there any questions from the Commission?

176

177 Mr. Jernigan - I don't have any questions, ma'am. Thank you, Mr. McGarry. I don't
178 really need to hear from the applicant. This case, the reason it was deferred was because we
179 had to have this case passed by the Board before we could pass a POD on it, so that is the
180 reason I scheduled it for tonight. Mr. Donati passed this case Tuesday night and the Condition
181 No. 36 clears up the landscaping that was in question on the back portion of the lot. Also, you
182 mentioned to me earlier, Mr. McGarry, about the sidewalk.

183

184 Mr. McGarry - Yes, sir. The sidewalk, in order to meet the Public Works Traffic
185 Engineering Department's requirements for a 24-foot aisle instead of 22 shown on the plan, we
186 worked that out with them and the applicant is in agreement to reduce the width of the
187 sidewalks in order to get the full 24 feet for the access aisle to serve the site.

188

189 Mr. Jernigan - OK, so everything has been worked out on this case. We are ready to
190 go?

191

192 Mr. McGarry - Yes, sir.

193

194 Mr. Jernigan - Like I said, we just had to wait until it was approved by the Board and I
195 think we have covered all of the bases on this, so Madam Chairman, I will move for approval of
196 POD-34-04, Roma's East, subject to the standard conditions for developments of this type and
197 added conditional conditions Nos. 23 through 35 and the addition of No. 36.

198

199 Mr. Vanarsdall - Second.

200

201 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in
202 favor say aye. All opposed say no. The motion passes.

203

204 The Planning Commission approved POD-34-04, Roma's East, subject to the standard conditions
205 for plans of development and the following additional conditions:

206

207 23. A standard concrete sidewalk shall be provided along the south side of Williamsburg
208 Road.

209 24. The proffers approved as a part of zoning case C-18C-04 shall be incorporated in this
210 approval.

211 25. The developer shall install an adequate restaurant ventilating and exhaust system to
212 minimize smoke, odors, and grease vapors. The plans and specifications shall be
213 included with the building permit application for review and approval. If, in the opinion
214 of the County, the type system provided is not effective, the Commission retains the
215 rights to review and direct the type of system to be used.

216 26. The developer shall provide fire hydrants as required by the Department of Public Utilities
217 and Division of Fire.

218 27. The entrances and drainage facilities on Route 60 shall be approved by the Virginia
219 Department of Transportation and the County.

220 28. A notice of completion form, certifying that the requirements of the Virginia
221 Department of Transportation entrances permit have been completed, shall be submitted
222 to the Planning Office prior to any occupancy permits being issued.

223 29. Any necessary off-site drainage and/or water and sewer easements must be obtained in
224 a form acceptable to the County Attorney prior to final approval of the construction
225 plans.

226 30. Deviations from County standards for pavement, curb or curb and gutter design shall be
227 approved by the County Engineer prior to final approval of the construction plans by the
228 Department of Public Works.

229 31. Approval of the construction plans by the Department of Public Works does not establish
230 the curb and gutter elevations along the Virginia Department of Transportation
231 maintained right-of-way. The elevations will be set by the contractor and approved by
232 the Virginia Department of Transportation.

233 32. Insurance Services Office (ISO) calculations must be included with the plans and
234 contracts and must be approved by the Department of Public Utilities prior to the
235 issuance of a building permit.

236 33. The location of all existing and proposed utility and mechanical equipment (including
237 HVAC units, electric meters, junction and accessory boxes, transformers, and generators)
238 shall be identified on the landscape plans. All equipment shall be screened by such
239 measures as determined appropriate by the Director of Planning or the Planning
240 Commission at the time of plan approval.

241 34. When the residential rezoning is adopted by the Board, the additional parking spaces
242 may be approved administratively.

243 35. Prior to construction plan approval, a corrected plat shall be recorded for lots 20 and 21,
244 Block E, Hunters Run, Section E. The plat shall show the conveyance to Giaman, and
245 provide a continuous 16-foot drainage and utility easement along the rear property line
246 on Lots 20 and 21.

247 36. The landscape screening required by proffer #5 may be provided along the rear of the
248 lots in Hunters Run with the permission of the property owners and by agreement from
249 the Department of Public Works.

250

251 **PLAN OF DEVELOPMENT (Deferred from the May 26, 2004, Meeting)**

252

POD-42-04

Foster & Miller, P.C. for Papec Richmond II LLC and

Dominion Place – Dominion
Boulevard

Highwoods Properties: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct three, one-story office buildings and five, two-story office buildings totaling 78,100 square feet. The 6.28-acre site is located at 4403 Sadler Road on parcel 747-763-4389. The zoning is O-3C, Office District (Conditional). County water and sewer. **(Three Chopt)**

253

254 Mrs. Ware - Is there any opposition to POD-42-04, Dominion Place, in the Three
255 Chopt District? No opposition. Hello, Mr. Kennedy.

256

257 Mr. Kennedy - Hello Madam Chair and members of the Commission. This plan was
258 revised prior to the May 26, 2004 meeting by the applicant in order to meet staff's concerns
259 regarding a 200 foot setback from Sadler Road. When the applicant revised the plan to remove
260 three buildings and made four two-story buildings. By making them a two-story, he increased
261 the square footage and it required revised advertisement to be sent out and that is why it was
262 deferred at the applicant's request in order to advertise the square footage that is being
263 proposed correctly, and give the neighboring property owners adequate notice. We have no
264 opposition to the plan. We actually contemplated more intensive development than is actually
265 being proposed, similar to what is on the adjoining property, in the First Union Building. So this
266 otherwise complies with all requirements, we recommend approval subject to the standard
267 conditions for developments of this type and additional conditions on the agenda, 23 through 40.
268 Condition No. 40 states that a 200-foot setback is required from the ultimate right of way at
269 Sadler Road, that just restates the requirement because it is ultimate right of way, and that
270 ultimate right of way is yet to be established. So, as soon as that is established, it is clear that it
271 is from the ultimate right of way. So the plan addresses that. If anyone has a question, I will be
272 happy to answer them.

273

274 Mrs. Ware - Are there any questions for Mr. Kennedy from the Commission? OK. Mr.
275 Marshall.

276

277 Mr. Marshall - I don't need to hear from the applicant. As Mr. Kennedy stated, this
278 case was ready last time except they had to make some changes because of the right of ways
279 and setbacks, so I am going to move approval of POD-42-04, Dominion Place, subject to the
280 annotations on the plans, standard conditions for developments of this type and added conditions
281 Nos. 23 through 40.

282

283 Mr. Vanarsdall - Second.

284

285 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in
286 favor say aye. All opposed say no. The motion passes.

287

288 The Planning Commission approved POD-42-04, Dominion Place – Dominion Boulevard, subject
289 to the annotations on the plans, the standard conditions for developments of this type and the
290 following additional conditions:

291

292 23. The right-of-way for widening of Sadler Road as shown on approved plans shall be
293 dedicated to the County prior to any occupancy permits being issued. The right-of-way
294 dedication plat and any other required information shall be submitted to the County Real
295 Property Agent at least sixty (60) days prior to requesting occupancy permits.

296

297 24. The easements for drainage and utilities as shown on approved plans shall be granted to
the County in a form acceptable to the County Attorney prior to any occupancy permits

- 298 being issued. The easement plats and any other required information shall be submitted
299 to the County Real Property Agent at least sixty (60) days prior to requesting occupancy
300 permits.
- 301 25. The required building setback shall be measured from the proposed right-of-way line and
302 the parking shall be located behind the proposed right-of-way line.
- 303 26. The developer shall provide fire hydrants as required by the Department of Public Utilities
304 and Division of Fire.
- 305 27. The proffers approved as a part of zoning case C-27C-99 shall be incorporated in this
306 approval.
- 307 28. Any necessary off-site drainage and/or water and sewer easements must be obtained in
308 a form acceptable to the County Attorney prior to final approval of the construction
309 plans.
- 310 29. Deviations from County standards for pavement, curb or curb and gutter design shall be
311 approved by the County Engineer prior to final approval of the construction plans by the
312 Department of Public Works.
- 313 30. Insurance Services Office (ISO) calculations must be included with the plans and
314 contracts and must be approved by the Department of Public Utilities prior to the
315 issuance of a building permit.
- 316 31. Approval of the construction plans by the Department of Public Works does not establish
317 the curb and gutter elevations along the Henrico County maintained right-of-way. The
318 elevations will be set by Henrico County.
- 319 32. The owners shall not begin clearing of the site until the following conditions have been
320 met:
- 321
- 322 (a) The site engineer shall conspicuously illustrate on the plan of development or
323 subdivision construction plan and the Erosion and Sediment Control Plan, the
324 limits of the areas to be cleared and the methods of protecting the required
325 buffer areas. The location of utility lines, drainage structures and easements
326 shall be shown.
- 327 (b) After the Erosion and Sediment Control Plan has been approved but prior to any
328 clearing or grading operations of the site, the owner shall have the limits of
329 clearing delineated with approved methods such as flagging, silt fencing or
330 temporary fencing.
- 331 (c) The site engineer shall conspicuously illustrate on the plan of development or
332 subdivision construction plan and the Erosion and Sediment Control Plan, the
333 limits of the areas to be cleared and the methods of protecting the required
334 buffer areas. The location of utility lines, drainage structures and easements
335 shall be shown.
- 336 (d) After the Erosion and Sediment Control Plan has been approved but prior to any
337 clearing or grading operations of the site, the owner shall have the limits of
338 clearing delineated with approved methods such as flagging, silt fencing or
339 temporary fencing.
- 340 33. The location of all existing and proposed utility and mechanical equipment (including
341 HVAC units, electric meters, junction and accessory boxes, transformers, and generators)
342 shall be identified on the landscape plans. All equipment shall be screened by such
343 measures as determined appropriate by the Director of Planning or the Planning
344 Commission at the time of plan approval.
- 345 34. A 30-foot-wide natural or landscaped buffer shall be provided along the northeast
346 property line.
- 347 35. A 50-foot-wide natural or landscaped buffer shall be provided along the ultimate ROW for
348 Sadler Road.
- 349 36. The ultimate ROW for Sadler Road shall be dedicated prior to the approval of
350 construction plans.

- 351 37. All setbacks shall be measured from the ultimate ROW for Sadler Road.
352 38. An irrigation plan per the proffers shall be submitted with the landscape plan for the staff
353 review and approval.
354 39. Covenants and restrictions per the proffers shall be submitted for staff review and
355 approval prior to the approval of construction plans.
356 40. A 200-foot setback is required from the ultimate ROW for Sadler Road. Therefore the
357 plan must be revised to remove three buildings from within the setback.
358

359 **FAIRFIELD:**

360 **P-5-04 El Paso Restaurant:** Request for a Provisional Use Permit under
361 Sections 24-58.2(d) and 24-122.1 of Chapter 24 of the County Code to provide 561 square feet
362 of outside dining, on part of Parcel 783-756-9858, containing 0.556 acre, located on the north
363 line of E. Parham Road approximately 230 feet west of Brook Road (U. S. Route 1). The existing
364 zoning is B-2 Business District. The Land Use Plan recommends Commercial Concentration.
365

366 Mrs. Ware - Is there any opposition to P-5-04, El Paso Restaurant, in the Fairfield
367 District? No opposition. Hello, Ms. Moore.
368

369 Ms. Moore - Good evening commissioners. Thank you, Mr. Secretary. As Mr. Silber
370 stated, this item is a request for a provisional use permit to allow a 561 square foot outdoor
371 dining area at the El Paso Restaurant located at 910 E. Parham Road, just west of E. Parham's
372 intersection with Brook Road.
373

374 The land use plan recommends commercial concentration for this property. The proposed
375 outdoor dining use is consistent with that designation and the surrounding land uses. The
376 existing restaurant was built in 1989. Originally it was Taco Time Restaurant and it also included
377 a drive-through.
378

379 The applicant has constructed a deck to accommodate the outdoor dining area. The deck, as
380 shown in front of you, was built in a portion of the drive-thru lane. Although the drive-thru lane
381 is no longer in use, the placement of the deck has raised concerns regarding both traffic
382 circulation on the site, patron safety, and landscape design. The recommended conditions of the
383 case would address these issues and the applicant is agreeable to the recommended conditions.
384 In addition to agreeing to implement the conditions normally applied to outdoor dining, the
385 applicant has also submitted a revised conceptual site plan detailing improvements to the site.
386

387 As shown on the screen, the applicant has shown the details to remove the asphalt paving
388 around the deck, and the asphalt would be replaced with grass and landscaping. The outdoor
389 dining area would also be protected from the encroachment of vehicles from the east side and
390 from the west side with curbing and landscaping.
391

392 With these improvements, these would remedy the issues of traffic circulation, patron safety and
393 landscaping that were raised in the staff report. The conditions that were revised that were just
394 handed out basically show that the conditions reference Exhibit B, which is shown on the screen.
395 Those are the only changes. The rest of the conditions are similar to the ones normally applied
396 to outdoor dining.
397

398 This concludes my presentation and I'd be happy to answer any questions you may have.
399

400 Mrs. Ware - Are there any questions for Ms. Moore?
401

402 Mr. Archer - Ms. Moore, I believe you did indicate to me today that these have to
403 have the time limits waived, do they not?

404
405 Ms. Moore - No, the conditions, not for this case, no sir.
406
407 Mr. Archer - I don't have any other questions unless somebody else does.
408
409 Mrs. Ware - Thank you. Would you like to hear from the applicant?
410
411 Mr. Archer - I don't believe it is necessary. I think they have complied with
412 everything that staff has requested. With that, and with the revised conditions, I move for
413 recommendation of P-5-04, El Paso Restaurant.
414
415 Mr. Vanarsdall - Second.
416
417 Mrs. Ware - We have a motion made by Mr. Archer and seconded by Mr. Vanarsdall.
418 All in favor say aye. All opposed say no. The motion passes.
419
420 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
421 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant
422 the request because it is reasonable in light of the surrounding uses and existing zoning on the
423 property.
424
425 **FAIRFIELD DISTRICT:**
426 **C-25C-04 Stewall Corporation:** Request to amend proffered conditions
427 accepted with rezoning Case C-40C-96, on Parcel 780-749-3330, containing 0.226 acre, located
428 at the southeast intersection of Hermitage and Hilliard Roads. The amendments would change
429 the proffer language pertaining to natural and landscaped buffers and delete the restriction on
430 parking and driveways. The existing zoning is R-6C General Residence District (Conditional).
431 The Land Use Plan recommends Office.
432
433 Mrs. Ware - Is there any opposition to C-25C-04, Stewall Corporation, in the Fairfield
434 District? I guess no opposition. Hello again.
435
436 Ms. Moore - Hello. Thank you. The amendment would consistently allow a parking
437 area to support the expansion of the adjacent Stratford Hall Nursing Home. The proposed
438 amendments would reduce the natural and landscaped buffers along the southern and western
439 boundaries and would eliminate proffer 8, which limits the parking and driveway areas to cover
440 no more than 25% of the site.
441
442 The property was rezoned from R-4 to R-6C to allow future expansion of the nursing home. The
443 site is currently improved with a single-family home. Other surrounding uses include single-family
444 residences to the south and west, across Hermitage Road. The property is designated as Office in
445 the 2010 Land Use Plan.
446
447 The applicant has submitted new proffers dated June 10, 2004, which you have just received.
448 Subsequently, the time limits would have to be waived to take any action on this project tonight.
449 The revised proffers address several of staff's concerns including the extension of the sidewalk
450 along Hermitage Road. However, there are still unresolved issues pertaining to the western 20'
451 buffer along Hermitage Road and the proposed fence along the southern property line. Staff has
452 concerns that any reduction to the western 20' buffer would adversely impact the residential
453 established streetscape setback along Hermitage Road. The proposed 10' reduction along the
454 western boundary would diminish the green belt and would not be in keeping with the side yard of
455 Stratford Hall along Hermitage Road nor would the front yards of the residences to the south and
456 directly west.

457

458 Therefore, staff believes the 20' proffered setback is warranted and should remain along Hermitage
459 Road. The applicant has also proposed to build a six-foot high solid board fence, which would be
460 installed along the southern property line. While this fence would help to protect the residential
461 property to the south, staff feels a higher quality material would ensure the continued
462 maintenance of the fence. A higher quality would also warrant the reduction of the request
463 being from the 20' to a 10' buffer along the southern property line.

464

465 In summary, the proposed use could be appropriate for this parcel. There is a logical area for a
466 future expansion of the nursing home, as the area continues to transition from residential to non-
467 residential uses. If the applicant could address the concerns regarding the fence and the 20'
468 buffer along the western property line, staff could be more supportive of this request. That
469 concludes my presentation. I will be happy to answer any questions you may have.

470

471 Mrs. Ware - Are there any questions for Ms. Moore?

472

473 Mr. Archer - Ms. Moore, would you explain to the rest of the Commission and all of us
474 what the preferable fence material would be?

475

476 Ms. Moore - After talking to the applicant, we think a high quality fence that would be
477 maintenance free, a vinyl fence, would be sufficient. That would also allow any future
478 expansion. It wouldn't be too detrimental to tear that up, if need be, if they expand in the
479 future.

480

481 Mr. Archer - OK, is there any other kind that has been discussed?

482

483 Ms. Moore - We did discuss brick or a masonry type wall.

484

485 Mr. Archer - But the vinyl would be sufficient?

486

487 Ms. Moore - It would be a sufficient compromise. We also state that they should
488 plant to a 10' transitional, and they are prepared to supplement the 10' buffer with landscaping.

489

490 Mr. Archer - OK.

491

492 Mrs. Ware - Any more questions? Thank you. Do you want to hear from the
493 applicant?

494

495 Mr. Archer - I think we need to, Madam Chairman.

496

497 Mr. Mistr - Madam Chairman and members of the Commission, I am Spud Mistr,
498 with Foster and Miller, representing the applicant. We have discussed these issues with the staff
499 with respect to the fence. We met a couple of months ago with the neighboring property
500 owners, the immediate property owners. They had requested a fence, not only along this side,
501 but along the back. Stratford Manor agreed to put the fence up. We asked them what kind they
502 wanted. They said a 6' solid board fence would be fine. I guess what the material is is just a
503 matter of opinion. I personally prefer the board fences to the vinyl. If the Commission feels like
504 vinyl would be better, we can change the proffer between now and the Board of Supervisors
505 meeting. We really don't have any objection to that one way or the other.

506

507 With respect to the landscape buffer, I think we are OK with one on the side. We prefer the 10'
508 landscape buffer along Hermitage Road. If we give a 20' it will cost them two more parking
509 spaces. They are desperately short of parking right now. We did agree in the proffers that

510 would landscape that area as requested by the Director of Planning at the time of landscape plan
511 review, so whether it is a transitional 10 or whatever, they are willing to landscape at whatever
512 the Commission would request at that time, when the landscape plan comes in. Otherwise, we
513 are in agreement with all of the conditions requested by staff.
514

515 Mrs. Ware - So you are in agreement with changing the fence type but you are not in
516 agreement with changing the buffer along Hermitage Road?
517

518 Mr. Mistr - We would prefer not to change the buffer. Yes. But the fence is OK.
519

520 Mr. Silber - I think Mr. Mistr, you probably have already heard the staff's reasons,
521 but there is some consistency in keeping it 20 feet based on what is out there already with
522 Stratford Hall. There is already green space along Hermitage, and this would continue to create
523 some green setback that is consistent with the homes that would continue to exist along
524 Hermitage Road.
525

526 Mr. Mistr - I understand that and I can appreciate it, but this buffer appears to be
527 right in the front line of the houses along there, if you look at the sketches, so, you know, the
528 only landscape buffer along that area with the exception of a couple of trees is what is on
529 Stratford Manor at this point in time. Those houses have minimal setbacks. The driveways are
530 right in front of the houses and all they have got between Hermitage Road and these existing
531 houses is gravel driveways, so I would say, we can put an additional buffer. We will certainly
532 landscape it. I don't agree with you that it is in keeping with what is already there.
533

534 Mrs. Ware - Is that the existing distance between the front of the houses and the
535 right of way of the street, 20 feet? Is that what...
536

537 Mr. Silber - I think that it varies. I think the house that is immediately adjacent to
538 this lot is pulled closer to Hermitage, so it looks as though there is less green space or front yard
539 with that house. I believe there is some variation as you go down Hermitage. Most of the
540 houses are not 10 feet from the right of way line.
541

542 Mrs. Ware - But what you are trying to get is consistency in the future as this area
543 changes.
544

545 Mr. Silber - Yes.
546

547 Mr. Mistr - Randy, it is not 10 feet from the existing right of way line, but there is
548 right of way dedication to be done, and when the dedication is done, then that will be the case.
549

550 Mr. Silber - Understood.
551

552 Mr. Marshall - Mr. Mistr, I would like to see you try to get your proffers in a little
553 earlier.
554

555 Mr. Mistr - We will try to do that.
556

557 Mr. Marshall - Thank you.
558

559 Mr. Mistr - We were in such a rush making comments on all of our other projects
560 that are due tomorrow, this was an oversight on my part.
561

562 Mr. Archer - Mr. Mistr, I think it is a pretty reasonable compromise to go from – and
563 again I understand what you are saying – but it is a matter of preference, to go from the brick
564 fence to vinyl, and personally I think I'd rather see the vinyl instead of the wood.
565
566 Mr. Mistr - We can do that.
567
568 Mr. Archer - I think that the lasting ability of vinyl as opposed to wood would
569 certainly add to this and staff is petty adamant in its insistence to have the 20 foot setback, and I
570 think it would be a lot easier to get this passed to the Board if we stuck to that.
571
572 Mr. Mistr - If you prefer that, we will change the proffer before the Board meeting.
573
574 Mr. Archer - OK.
575
576 Mr. Silber - You can change it now. We have to waive the time limits anyway, since
577 you filed them today. I think it would be best to change it now.
578
579 Mr. Archer - And with those two things being done, I think we could reasonably
580 expect that we could recommend approval. Can we get Ms. Moore here? Can you do some
581 wording there for us.
582
583 Mr. Marshall - Just take out solid board and put vinyl.
584
585 Mr. Vanarsdall - I noticed that on there when I read it.
586
587 Mr. Archer - Mr. Secretary, does the present case include a 20 foot buffer or do we
588 need to change the wording and numbers, too, to accomplish that? If the present case includes
589 it, we will just have to eliminate No. 2, could we not?
590
591 Mr. Silber - I have got to ask the staff. I don't know the answer to that question,
592 Mr. Archer. I think it may be best to go ahead and amend this to say 20 feet.
593
594 Mr. Archer - Yes, maybe we will double cover it if we do it that way. I was thinking
595 about No. 2 and my question to Mr. Silber was that already in the existing case, but if not, we
596 can just change the language to say 20 foot instead of 10 foot.
597
598 Mr. Mistr - They changed it. I don't believe it was in the existing case.
599
600 Mr. Archer - OK, that will be the safest way to do it. We will just change the
601 language. OK, then the language in No. 2 would simply be 20 feet instead of 10, and the
602 language in No. 10 would be a 6 foot vinyl board fence instead of solid board, or maybe we can
603 take out the word board. Is everybody in agreement with that?
604
605 Mr. Vanarsdall - Yes, sir. Much better than a board.
606
607 Mr. Archer - Mr. Mistr says he is not impressed. It won't rot, I promise you. OK.
608 Anymore questions from anyone? Then, with that I will move to waive the time limits on the
609 amended proffers that we just amended to read what I stated a few minutes ago.
610
611 Mr. Vanarsdall - I second that.
612

613 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All in favor
614 say aye. All opposed say no. The motion passes. The Commission waived the time limits on the
615 amended proffers.

616
617 Mr. Archer - I move to recommend approval to the Board of Supervisors of Case C-
618 25C-04, with the new proffers that we just approved.

619
620 Mr. Marshall - Second.

621
622 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Marshall. All in favor
623 say aye. All opposed say no. The motion passes.

624
625 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Marshall, the Planning Commission
626 voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the request
627 because the changes do not greatly reduce the original intended purpose of the proffers and it is
628 not expected to adversely impact surrounding land uses in the area.

629
630 **C-26C-04 Jeffrey Cappo:** Request to conditionally rezone from A-1 Agricultural District
631 and B-3 Business District to B-3C Business District (Conditional), on part of Parcel 740-761-8451,
632 containing 5.05 acres, located at the southeast intersection of W. Broad Street (U. S. Route 250)
633 and Old Three Chopt Road. An automotive dealership is proposed. The use will be controlled by
634 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends
635 Commercial Concentration and Open Space/Recreation. The site is in the West Broad Street
636 Overlay District.

637
638 Mrs. Ware - Is there any opposition to Case C-26C-04, Jeffrey Cappo, in the Three
639 Chopt District? We will give you the opportunity after the applicant has had a chance to make
640 his presentation. Thank you. Hello, Mr. Bittner.

641
642 Mr. Bittner - Hello, Mrs. Ware. We have new proffers on this case, but the time limit
643 does not need to be waived. We just handed those out to you. Because most of the site is already
644 zoned B-3, Business, a Plan of Development has already been issued and the project is currently
645 under construction.

646
647 Although the 2010 Land Use Plan recommends this site for Commercial Concentration, it is
648 located adjacent to both Short Pump Elementary School and future Short Pump Park. As a
649 result, it is important to minimize any potential negative impacts on these sites. Towards this
650 end, several proffers have been submitted, including several new proffers. These conditions
651 include:

- 652
- 653 • Adjacent to Short Pump Elementary School, an eight (8) foot high solid concrete wall
654 constructed five (5) feet from the property line. This wall will have a brick design facing the
655 school and an applied colored finish to blend into the surroundings.
 - 656 • Adjacent to Short Pump Park, a solid concrete retaining wall of varying height constructed
657 five (5) feet from the property line. This wall will have a brick design facing the park and an
658 applied colored finish to blend into the surroundings. A six (6) foot metal picket fence will be
659 constructed on top of the retaining wall.
 - 660 • The applicant has also confirmed all uses allowed on the property will be subject to restricted
661 B-2 zoning hours of operation. B-2 limits operating hours to between 6:00 am and 12:00
662 midnight.

663
664 As a result of these changes, staff can now recommend approval of this application.
665

666 This concludes my presentation and I, as well as Jim Strauss, who has been working on the plan
667 of development, are available to answer any questions you may have.
668
669 Mrs. Ware - Are there any questions for Mr. Bittner or Mr. Strauss from the
670 Commission?
671
672 Mr. Marshall - I want to ask Mr. Strauss a question.
673
674 Mrs. Ware - Good evening, Mr. Strauss.
675
676 Mr. Strauss - Good evening.
677
678 Mr. Marshall - Jim, for the benefit of my fellow Board (sic) members, am I correct that
679 on the other side of this brick wall, at least on the side of the elementary school, that it is going
680 to be landscaped subject to a landscape plan that we have to approve?
681
682 Mr. Strauss - That is correct.
683
684 Mr. Marshall - I don't have any other questions.
685
686 Mr. Silber - Mr. Marshall, can I ask a question. Maybe I misunderstood you. There
687 will be landscaping on the...
688
689 Mr. Marshall - On the opposite between the school and the wall in the five foot area
690 that remains on the other side of the wall.
691
692 Mr. Silber - OK. Are there any drainage issues associated with that side, Mr.
693 Strauss?
694
695 Mr. Strauss - We have not received a grading plan yet, but we are aware of a swale
696 that will have to be constructed and we will have to obviously work around that. Dan Caskie is
697 here this evening and he has been working on that plan. He has a little bit more detail than I do
698 at this point.
699
700 Mr. Silber - Mr. Marshall, I think we need some commitment that there could be
701 some plants planted there. I don't want to promise you that there is room for it and then find
702 out that there are some drainage issues that would cause us not to be able to plant it.
703
704 Mr. Dan Caskie - Good evening. I am Dan Caskie and I am with Bay Design Group and
705 Steve Faris is also here. He is working with Bloom Contracting, and they are the agent for the
706 owner. As far as the drainage issues between us and the school, right now we have a 12-inch
707 pipe that drains, a culvert that drains, I think it is Old Three Chopt Road that drains between us
708 and the school. What we are going to do is reroute that to our existing or our proposed storm
709 system. So, we are not going to run that drainage between the wall and the property line and
710 what we plan to do is plant evergreen trees, like some Leylands and some cedars probably right
711 on the property line to something that is going to get up in the air pretty quickly to add some
712 additional buffer.
713
714 Mrs. Ware - And this will be done at the time of plan of development?
715
716 Mr. Caskie - That will be done with the landscape plan.
717

718 Mr. Silber - There has already been a plan of development approved and the site is
719 under construction showing a larger buffer and what they are intending to do now is move the
720 wall or allow construction of the wall within five feet of the property line, so yes, Mrs. Ware, the
721 landscape plan would deal with that part of it.
722

723 Mr. Caskie - And actually the wall was approved, on the approved POD it is actually
724 five feet off of the property line now. We show a wall that abuts the school property line and the
725 park, so it was anticipated that we were getting down to this. We had quite a few meetings to
726 discuss this. I have a copy of the approved POD if anybody wants to see that.
727

728 Mrs. Ware - Any other questions?
729

730 Mr. Caskie - One other thing that we would like to say, we had an existing B-3 zoning
731 that was unconditioned, and so we have offered up that as a condition. We are rezoning that,
732 putting conditions on that as well as the A-1, so I guess that is one thing we are trying to do to
733 make this a little more appealing.
734

735 Mrs. Ware - Please give us your name and address for the record.
736

737 Michelle Kinnick - My name is Michelle Kinnick, 12216 McEntyre Way, Richmond, VA 23233,
738 and I am a PTA President at Short Pump Elementary, and on behalf of our PTA I wanted to again
739 extend our appreciation to Mr. Cappelletti for his generous donation to Henrico County that will be
740 used for the construction of the Short Pump Elementary School track. We would also like to
741 thank Mr. Cappelletti and the Planning Commission for continuing to work together on this project
742 with the children of our school in mind. In talking with our PTA membership, the general
743 consensus is that a wall between our school and the Victory Nissan is essential to insure the
744 safety of our children. We are very happy to see the wall in a detailed landscaping plan and the
745 current proffers. The one concern I have been hearing consistently from our membership is that
746 the proposed wall is now only five feet from our property line. This is a 30-ft. change from what
747 was originally discussed, and, unfortunately, our school is being crowded from all directions with
748 all of the new development in the Short Pump area. I understand that these proffers have been
749 discussed for months, but I wanted you all to be aware that Short Pump Elementary parents
750 would be a much happier group of prospective customers if they would consider moving the wall
751 back to the original 35 feet buffer, and according to my calculations, which could be wrong, but
752 this would only mean the loss of less than 20 new car storage spaces. Again, we want to thank
753 Mr. Cappelletti, Mr. Marshall and the Planning Commission for considering our school in this process.
754 Thank you.
755

756 Mrs. Ware - Do we have someone else to comment?
757

758 Jeannette Katona - Good evening. My name is Jeanette Katona and I am at 3252 McEntyre
759 Street. I am a parent of a child at Short Pump Elementary. I first started looking into this
760 project last year when the proposal to build on this site first came, and it was last spring that I
761 first became aware of it, and we looked into it as a school. I wanted to thank also the owner of
762 the Nissan Dealership and the design group and the County in their development of this property
763 that they have diligently tried to design a piece of property that would not have a negative
764 impact on our school. Short Pump Elementary is a school that is surrounded on three sides by
765 businesses and we always and ever presently feel the crowding of our Short Pump area at that
766 school. The safety of our student body is always a top priority, and that is why so many of us
767 are concerned about this wall at this time.
768

769 Last Thursday, when I received a call for a meeting on Friday to be present to discuss the
770 changes for rezoning and the moving of the wall, and with the property bordered to get rezoned,

771 the meeting was to take place the next day. So, I attended the meeting on Friday and, as you
772 can imagine with such short notice, there was only three of us there representing our school.
773 The County had three people. The design group came with one and the general contractor had
774 someone there. Dan Caskie, the designer you heard from, explained the current plans and
775 proffers and the rezoning issues to us because we were coming into it not knowing the proposed
776 changes, and it was pretty much a short-notice surprise to us, and at the end of the
777 presentation, the school representatives that were there tried to understand where the proposed
778 wall would stand in location to the school property line and also what it looked like. Mr. Caskie
779 did send over the next week a sample of a drawing of what the wall would look like, and it is
780 agreeable and is very presentable, and to have the shrubbery in front will really help in how it
781 would look. But to understand really where the wall would fall, I went and did a tour of the
782 construction site and have been looking from both the school site and the construction site, and I
783 did bring along pictures if you wouldn't mind if I passed them out. It gave me a very accurate
784 view of – they are not duplicates – they are just in order. The first one is a view from the Nissan
785 Dealership looking toward the school and with the bright sign and the type of camera I had, not
786 the greatest, but hopefully you will get the picture. Where the areas marked "tape" on the
787 picture is where they are currently zoned to develop. The line in the middle of the photo shows
788 where they will have to clear to, to put the wall, and it will be cleared all the way to the parking
789 lot, at the Short Pump Elementary School. It is in the back of the school. The second picture
790 shows a view from the Short Pump Elementary Parking Lot to the Nissan Dealership, and all of
791 the foliage that is seen in the picture will be removed and the wall will be built 5 feet from the
792 curb. The third view is a picture from the children's blacktop play area that is right next to the
793 parking lot. The yellow line is a line that is in line with the property line marker that is in the rear
794 of the Nissan Dealership property. I know it sounds like it is getting confusing. If you have
795 questions, we can go through it. I measured where the proposed wall, how far it will be parallel
796 to the blacktop, and in my calculations doing from the marker to the blacktop area, it was 22 feet
797 parallel with the blacktop area where our children will be playing. No. 4 is another view of this
798 marker just taken from the parking lot. I am liking your technology. I wish my pictures were
799 better now. The last one was when I went on the County website what they had originally for
800 the 35 foot overlay buffer. It was like a sample of what that buffer would look like and it is kind
801 of what we are not going to get if the plan goes through tonight. OK. Can you see them or do
802 you have questions?

803

804 Mr. Silber - Is the second picture at the top, the middle picture at the top, is that
805 looking from the school property, the parking area there toward the site?

806

807 Ms. Katona - Right.

808

809 Mrs. Ware - Is that like a sediment fence or something?

810

811 Ms. Katona - It is a curb. The whitest part is where they graded to, in the middle of
812 the picture, the little rutted part, is where they have graded to, and it is almost to the line of
813 where they proposed. All of the foliage in picture 1 and 2 would be gone with where they are
814 proposing to put the wall now. That is the line right there that they have gotten approved so far
815 to build on. The rezoning would let them move the wall all way to five feet away from that curb
816 that you see in the picture.

817

818 Mr. Silber - So you are saying the trees that are in that picture will be removed to
819 put the fence in?

820

821 Ms. Katona - Yes, sir. The third picture is the back of the Nissan Dealership property.
822 It is a view from the blacktop and the yellow piece like kind of in the middle, that is where the

823 back of their property will fall, so the wall will come in and go parallel with the black top area
824 where our children play, and then it was just a different view in the fourth one on the bottom.
825
826 Mrs. Ware - You are good at this. Thank you. So, on the bottom picture on the far
827 left, the wall will come,
828
829 Ms. Katona - Yes, behind the asphalt, but it will only go, from my calculations, as far
830 as to where it is yellow.
831
832 Mrs. Ware - And it will stop there?
833
834 Ms. Katona - That is like the back property line for the Nissan Dealership. This is the
835 school's blacktop area. It is a playground that is used for three through five.
836
837 Mr. Jernigan - Ms. Katona, let me ask you a question. They stated a minute ago that
838 you feel like they are closing it up. Are the children playing on this property?
839
840 Ms. Katona - They are, and they have been impacted by the construction already.
841 They have changed how they do kick ball, where they are allowed to play basketball as to not be
842 along that fence and not have balls go over that fence, so that the children wouldn't wander
843 potentially into a construction site.
844
845 Mr. Jernigan - Let me ask you. They are actually playing on the Nissan property.
846
847 Ms. Katona - They are not playing on the Nissan property. This is school property.
848
849 Mr. Jernigan - They are just on school property. They are not going...
850
851 Ms. Katona - If the ball goes over the fence, I guess potentially it could end up in
852 Nissan property and that is why I am here requesting that the 35 ft. buffer be kept and that
853 there be the proposed foliage, grading that you recommend for the Overlay District, as a part of
854 that Overlay District. Then there is more of a buffer. Our children won't be playing next to a
855 wall. They will be seeing green and trees instead of a wall.
856
857 Mr. Marshall - Are you against the wall?
858
859 Ms. Katona - I am not against the wall. I understand their need for a wall. I
860 understand that it is beneficial to us to have a wall so that our children don't inadvertently
861 wander into their parking lot. I just don't want it that close to where our children are playing and
862 to our school. I'd like to see our school kept like a pleasant place to be, a place where children
863 want to come and play, where they would enjoy playing, and it wouldn't be "Oh, let's try to kick
864 the ball over the wall."
865
866 Mr. Vanarsdall - Well, you know, an 8 ft. high wall is a lot more security than any kind of
867 a buffer.
868
869 Ms. Katona - Right. I would like to see if they would do both. Keep the buffer and
870 build the wall.
871
872 Mr. Vanarsdall - Well, if they put the wall in, we can reduce the buffer.
873
874 Mrs. Ware - Yes, that is going to be a question that I had for staff.
875

876 Ms. Katona - Yes, I understand that. I also...
877
878 Mr. Vanarsdall - I would take the wall if I were you. I am not trying to tell you what to
879 do.
880
881 Ms. Katona - And I agree with you, but I am asking for special consideration from the
882 Nissan Dealership that they would consider who we are and where we are, and that we are an
883 elementary school, and when we counted earlier today it was 9 to 15 spaces for cars. So, for
884 less than 20 spaces to park new cars for sale, and they are gaining 138 spaces on the rear wall
885 of this property if the rezoning goes through, they will be gaining 138 spaces for new car parking
886 or employee parking, so they won't have to bus in their employees, that I was just asking for
887 special consideration for a buffer and a wall. And I really feel that if we had had the six weeks
888 that Planning usually asks for for looking at this type of material that I think we would have had
889 a greater parent turnout at this meeting to voice opinions on this issue.
890
891 Mrs. Ware - Any other questions?
892
893 Mr. Silber - Also keep in mind that this is a rezoning request that still needs to go to
894 the Board of Supervisors, so there would be another public hearing.
895
896 Ms. Katona - Yes, sir. I understand that.
897
898 Mr. Marshall - I'd like to hear from Mr. Caskie so he can address some of what was
899 said.
900
901 Mr. Caskie - OK. As far as moving the wall to the 35 feet, we have a 35-foot
902 transitional buffer between our use and the adjacent uses, which is the school and the park. If
903 we maintain the 35-foot transitional, we would not have to do a wall. So, I think it would be an
904 either/or situation with us. If we maintain the 35-foot buffer, we would not intend to build a
905 wall.
906
907 Mr. Vanarsdall - You wouldn't have to legally build a wall.
908
909 Mr. Caskie - That is correct.
910
911 Mr. Vanarsdall - But you could do it to help the school.
912
913 Mr. Caskie - We could certainly do that. The clearing issue, as far as the pictures go,
914 we have, on the approved POD, we do have some drainage coming down there right now. At
915 the time of the POD we did not need to divert the drainage into our system, so we have a swale
916 that goes down that property line and the clearings that have actually taken place is within the
917 35-foot buffer, with the intent of replanting at the time of landscaping, so we are not going to go
918 another 35 feet towards the school. I guess that is what I am trying to tell you. We are
919 probably within 10 feet of the line right now with the clearing, so we had intended on replanting
920 that, but like I said before, this entire wall issue has been on the table from the start, and
921 everybody has known what has been in our plan.
922
923 I have a sketch that shows, if you guys want to see, that shows the relationship of the parking
924 lot and the black top area to our improvements. It is kind of a rough sketch. I went out there
925 before this meeting just to verify everything, so if you look on the left side of that, there is an
926 asphalt parking area that is fenced in, and that is like a four-foot fence, and that is their blacktop
927 area. That is the approximate location and then the darker lines above that are the asphalt
928 parking lot that is not fenced, but the signs in the parking lot said that was a bus parking area,

929 so the reality of it is the impact is, I think, probably minimal. I think the option of the wall is
930 probably certainly a more secure option than a vegetative buffer.
931
932 Mr. Silber - Mr. Caskie, this is your latest plan showing the proposed parking on the
933 site?
934
935 Mr. Caskie - That is correct.
936
937 Mr. Archer - Mr. Caskie, perhaps I missed it, but what was to be the material for the
938 wall?
939
940 Mr. Caskie - The material is going to be a poured concrete wall with brick stamp on
941 the face of it, with the face being the side that is facing the school, and then it will be stained to
942 a color that will blend in to the surroundings, like a dark brown or something like that, so that it
943 doesn't really stand out. We are not going to do it a bright red or anything.
944
945 Mr. Vanarsdall - It will be kind of a decorative wall.
946
947 Mr. Caskie - Right. And it will have a pretty deep imprint on it. And I have a picture
948 of that if you guys want to see that.
949
950 Mr. Jernigan - How tall is that wall?
951
952 Mr. Caskie - Eight feet.
953
954 Mr. Jernigan - And then there is a six-foot picket fence on top of it?
955
956 Mr. Marshall - That is along the park.
957
958 Mr. Caskie - That is the retaining wall. This picture is actually from a site they did in
959 Michigan, I think, and this is what the retaining wall would look like with the pickets on top, and
960 then as it comes around the corner for the school, we would take the pickets off and go to full
961 height with the screen wall, which would be the eight foot, and it would have the brick imprint on
962 it. The entire school property line would have a full height eight-foot poured concrete wall. And
963 then we would plant the Leylands and the cedars on the school side of that.
964
965 Mrs. Ware - Within the five feet?
966
967 Mr. Caskie - Within the five feet. Yes, they are going to be right on the line. It is
968 going to be beefing it up, but that is what the plan is.
969
970 Mr. Archer - Mr. Secretary, do you know if CPTED has made any kind of comment
971 concerning the wall?
972
973 Mr. Silber - Regarding that wall? I need to ask staff. I don't know if we received
974 comments from CPTED or not. It is Kim Vann.
975
976 Mr. Caskie - We have had, the approved POD actually has this wall on it within five
977 feet of the line, and it is an eight-foot wall all the way down this line and the park line, and it is
978 five feet off of the line.
979
980 Mr. Silber - I don't think the issue necessarily is whether there should be a wall or
981 not. I think the County Administration feels very comfortable that there should be a wall and I

982 think the details of the wall will be finalized. I think the issue is whether there should be any
983 increased buffer or not, but I think the wall is appropriate. As far as I know, CPTED is OK with
984 that.
985
986 Mr. Archer - I was just curious because I know sometimes they do have a concern
987 when the crime issues could arise sometimes where there is a solid wall with any protracted
988 height.
989
990 Mr. Vanarsdall - They have concerns about people hiding behind it.
991
992 Mr. Archer - Yes, on either side.
993
994 Mrs. Ware - But the parking goes right up to the wall on the Nissan side. Correct?
995
996 Mr. Caskie - That is correct.
997
998 Mr. Vanarsdall - Mr. Archer, it is up at the top of the page, I guess you found it. It
999 doesn't say anything about it. It just says it could contact and work with special services.
1000
1001 Mr. Archer - Yes. I hadn't noticed anything. I was just curious about it.
1002
1003 Mr. Vanarsdall - It didn't say anything about the wall. It is a wonder they hadn't.
1004
1005 Mr. Caskie - Jim wanted me to point out that on the current POD the wall is within
1006 five feet of the line, but that is within the 35-foot transitional buffer, so there is a 30-foot
1007 transitional behind the wall, between the wall and Victory Nissan. So, the transitional still existed
1008 at that point.
1009
1010 Mrs. Ware - Are there any more questions? OK. Thank you. If you have questions or
1011 additional comments, you will have to come to the podium, please, and state your name.
1012
1013 Ms. Susan Hockman - My name is Susan Hockman, 2911 Banner Lane, Richmond, VA 23233,
1014 and I am actually the outgoing PTA President at Short Pump Elementary. I was PTA President
1015 during the past year, so I have corresponded with some of the Planning staff and spoke with
1016 others previously, and I think I just want to clarify something at some point. I think maybe we
1017 have actually looked at this a little bit wrong. This is the plan of development information I
1018 received back in November regarding this project and I guess I just want to clarify a couple of
1019 things. On this it did show the brick wall and it showed a transitional buffer, varying from 30, 25,
1020 40 feet on the Nissan side of the wall. And that is still in place. Is that what you are saying?
1021 The 30 feet would be on the Nissan side?
1022
1023 Mr. Caskie - We have not proposed any improvements so far in the 35-foot buffer.
1024
1025 Ms. Hockman - OK, so in other words, between the wall and the parking places at
1026 Nissan there would still be approximately 30 feet according to that plan. OK. But that is subject
1027 to change?
1028
1029 Mr. Caskie - It is right on the approved plan.
1030
1031 Ms. Hockman - Let me show you this. Is still accurate, I guess, is my question?
1032
1033 Mr. Caskie - This is the approved POD. She has a copy of the approved POD.
1034

1035 Ms. Hockman - So this is the approved POD? Why would it not be possible to move the
1036 brick wall within that 30 feet closer to your side rather than right on the property line at the
1037 school?
1038

1039 Mr. Caskie - Well, it is possible to do anyway. If we move it to the 35-foot line, then
1040 we are not required to have the wall at that point, so...
1041

1042 Ms. Hockman - If the wall were closer to you, you could just, so, if you have the wall, all
1043 you are required to put on our side of it is five feet.
1044

1045 Mr. Silber - Let me see if I can help clarify this. There is by ordinance a 35-foot
1046 transitional buffer that is required between this zoning classification. It is B-3. Some of it is B-3
1047 and some of it is A-1, and they are looking to rezone the A-1 to B-3 as well as the entire site to
1048 put proffered conditions on it. There is a required 35-foot transitional buffer between the school-
1049 zoned property and their property. If you erect or construct a wall, then you can reduce that
1050 transitional buffer by twice the height of the wall. So, it is an 8-foot wall, so you can reduce that
1051 by 16 feet.
1052

1053 Ms. Hockman - So, in other words, the 30 foot that is in here is being reduced to the five
1054 feet.
1055

1056 Mr. Silber - Their proposal is to reduce the buffer so there will be five feet of open
1057 area between the property line and the school to the wall, and then the other side of the wall
1058 would be their parking for their cars.
1059

1060 Ms. Hockman - OK. Well my question is then, why does this show the 30-foot buffer
1061 and the wall?
1062

1063 Mr. Marshall - Because on the original plan of development, that is the original plan of
1064 development, they showed the wall and then they said, on that one there would be a buffer
1065 behind the wall on their side of the property.
1066

1067 Ms. Hockman - Yes, but that is no longer in effect?
1068

1069 Mr. Marshall - No. They are going to seek to file an amended plan of development that
1070 will show that they are going to put parking spaces on the other side of that.
1071

1072 Ms. Hockman - So that amended plan of development has not been approved?
1073

1074 Mr. Marshall - It has not been filed.
1075

1076 Ms. Hockman - OK. That is the question because he referred to the plan of development
1077 "has" been approved.
1078

1079 Mr. Marshall - That is that one.
1080

1081 Ms. Hockman - This one. OK.
1082

1083 Mr. Marshall - So the wall is already there, five foot off the line. It is not that you are
1084 moving the wall any closer to the school property. By that plan of development they can put the
1085 wall right there where they are saying this case is going to be. Same spot.
1086

1087 Ms. Hockman - OK. Well, we are definitely in favor of the wall. I mean I think that is
1088 unanimous. I guess legally with the wall we are kind of stuck with the five feet, and I
1089 understand that. I don't totally understand it, because it is clearly shown as 30 feet, but they are
1090 seeking to amend it and if it is not amended, then they could eliminate the wall is what you are
1091 saying.

1092

1093 Mr. Marshall - Correct.

1094

1095 Ms. Hockman - Well, then I think we just are simply asking that we have consideration
1096 from Nissan and we have worked well with them and we certainly have enjoyed the relationship
1097 we have with Mr. Cappo so far, but if we could keep this in place, I think we would prefer to and
1098 if we could reach some compromise on footage, that would be helpful as well. Thank you.

1099

1100 Mrs. Ware - Do you have a comment?

1101

1102 Ms. Janet Katona - I actually have a question, Janet Katona. So if they do not get it
1103 rezoned from A-1 to B-3 they cannot ask for their amended POD to put parking spots right
1104 behind the wall. Is that true?

1105

1106 Mr. Silber - On the A-1 portion they would not be able to park.

1107

1108 Ms. Katona - And that A-1 portion is just in the rear part, is that true?

1109

1110 Mr. Silber - Yes.

1111

1112 Ms. Katona - But it is not really where the majority of our wall is, but it is where our
1113 children are playing towards the rear of their property.

1114

1115 Mr. Silber - Mr. Bittner, can you put that slide back up? So approximately along the
1116 school edge, which is the western border, it looks as though approximately two-thirds of it is
1117 adjacent to B-3 and about one third is adjacent to A-1.

1118

1119 Ms. Katona - And that is where our children are playing? So, if we, if they did not get
1120 that rezoned then they would have to keep that 35 foot buffer on that back part of the property.
1121 Is that correct?

1122

1123 Mr. Marshall - With no wall.

1124

1125 Ms. Katona - On the back part? Because on the other part they are going to put the
1126 wall five feet off of the property, but the back part would have to be rezoned to pull that wall
1127 back further.

1128

1129 Mr. Marshall - Mr. Casket could have answered that but I would assume that if they
1130 weren't going to build a wall on that part, they wouldn't build it on the other part either.

1131

1132 Mr. Casket - That is correct.

1133

1134 Ms. Katona - OK, so they would just keep the 35-foot buffer and no wall.

1135

1136 Mr. Marshall - Right.

1137

1138 Ms. Katona - OK, thank you.

1139

1140 Mr. Marshall - Madam Chairman, this is one of those cases where I guess it falls under
1141 you give a little to get a little. This is a piece of property unfortunately that is near the school
1142 that was with B-3 unconditional with basically no proffers or much limitation on it. I think the
1143 history was in the beginning it was fearful that Mr. Cappo was going to utilize his property as his
1144 right would be without seeking any input from the County, which would allow the 24-hour
1145 operation of any kind of business, adult businesses, any kind of thing you can imagine on this
1146 site. And in these new proffers you will see most of those uses that would concern being near a
1147 school, massage parlors and so forth, and adult uses have been exempted out. Mr. Cappo, when
1148 approached by the County, decided that he would, even though he did not have to, subject his
1149 entire piece of property and not just the little A-1 strip to rezoning, which would then allow the
1150 County and this Commission to put restrictions on his property. Most important, I think, are the
1151 uses as well as the hours, limiting the hours. As you have heard, there is already in place a POD
1152 to allow this wall within five feet of the property line, so then all we are talking about is what is
1153 going to be done on the other side of the wall, which will be out of the view of the school. And
1154 that has been proposed for parking. My concern with this site was that children being that close,
1155 and it is very close, is not just during the daylight hours when people are going to be visiting this
1156 site to look at cars and so forth, they could walk over to the school site where the kids were
1157 playing. And vice versa. The kids could very easily wander over on to this car lot, so I thought
1158 the wall was of utmost importance and I wanted to make sure that we did not lose the wall. I
1159 think it would also help in the situation of late at night and the middle of the night vandalism,
1160 with people being able to park the car on this lot to look and wander around car lots, looking at
1161 cars after they are closed, which people are prone to do. And then they wander over on to the
1162 school site. We met with the Parks and Recreation Department. They were very happy that the
1163 wall would be there in place as far as protecting the park, once it got more developed, and I
1164 think the wall serves a good purpose for the school, and, in addition to that, Mr. Cappo gave us a
1165 bigger buffer along Broad Street than we were going to get otherwise, which may account for
1166 some of the, and to be fair, which may account to why he needs this extra area to park, because
1167 he has given up additional land along Broad Street so he can do some landscaping and planting
1168 along Broad Street. So that impacted his site and the usable space. I think with the ability to
1169 have this landscaping come back to plant on the other side of the wall and having the wall, and
1170 the fact that we are now getting to restrict this entire site. I think this is a good case and I am
1171 going to recommend approval to the Board of Supervisors. So, with that, I move that we
1172 recommend for approval to the Board of Supervisors Case C-26C-04.

1173

1174 Mr. Vanarsdall - Second.

1175

1176 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in
1177 favor say aye. All opposed say no. The motion passes.

1178

1179 **REASON:** Acting on a motion by Mr. Marshall, seconded by Mr. Vanarsdall, the Planning
1180 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant**
1181 the request because it would place proffered conditions on some currently unproffered B-3-zoned
1182 land and because the proffers would provide for a higher quality of development than would
1183 otherwise be possible.

1184

1185 Mr. Silber - That concludes the rezoning requests this evening. We do have
1186 approval of the minutes.

1187

1188 **APPROVAL OF MINUTES: Work Session May 13, 2004 Minutes and the Planning**
1189 **Commission regular minutes of May 13, 2004.**

1190

1191 Mr. Marshall - Mr. Silber, before we do that, I want to recognize Mr. Strauss for all of
1192 his hard work. As you can see by all of that stuff under his arms, he has been spending a lot of
1193 time on this case and this wall.
1194
1195 Mr. Vanarsdall - Good.
1196
1197 Mrs. Ware - Does anybody have any changes to the minutes?
1198
1199 Mr. Silber - The first one are the Work Session minutes of May 13, 2004.
1200
1201 Mrs. Ware - No changes. Do we have a motion.
1202
1203 Mr. Jernigan - I make a motion that we accept the minutes from the Work Session of
1204 May 13, 2004.
1205
1206 Mr. Vanarsdall - Second.
1207
1208 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in
1209 favor say aye. All opposed say no. The motion passes. The minutes are approved.
1210
1211 Mr. Vanarsdall - I move that the Planning Commission minutes of May 13, 2004 be
1212 approved.
1213
1214 Mr. Jernigan - Second.
1215
1216 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Jernigan. All in
1217 favor say aye. All opposed say no. The motion passes. The minutes are approved.
1218
1219 Mrs. Ware - Do we have any discussion items?
1220
1221 Mr. Silber - Two quick items, one is, I believe the Commission is aware that we sent
1222 out a memo to you indicating that the July 15 Planning Commission hearing is becoming very
1223 loaded. I believe we have in the neighborhood of 25 or 26 rezoning requests for July, and what
1224 we need to do is decide whether we want to start the hearing at 7:00 p.m. as we normally do
1225 and run through, hopefully getting through an entire agenda that night, or there are some
1226 options that were spelled out in the letter to the Planning Commission. Obviously, there are
1227 many other alternatives that can be used, i.e., we could continue the meeting to another date,
1228 perhaps the Monday after the Thursday, July 15 hearing, or we could start the hearing on the
1229 15th earlier. Mr. Kennedy, can you take the folks outside? Thank you.
1230
1231 The only motion I would need is if the Commission wishes to set a public hearing at a different
1232 time than 7:00 p.m. on the 15th. If you want to hold it at 7:00 on the 15th, I don't need a
1233 motion, but if you are going to change that time, then I need to set the public hearing time.
1234
1235 Mr. Jernigan - I am OK with moving it to 6:00 p.m., because one thing that we need to
1236 sort out now. You know how we split the schedules. Let's say we have it on Thursday night and
1237 we have it on Monday night. You know, sometimes, we split those agendas. The worst thing
1238 that could happen would be for us to have 13 cases on Thursday night and eight of them be
1239 deferred again.
1240
1241 Mr. Marshall - I think we don't need to split it. I think we just need to say we are
1242 going to do the meeting, and if necessary, we can continue it over. If we get through them all,
1243 we get through them all.

1244
1245 Mr. Jernigan - Just tell people we are going to cut off at, we are going to try possibly to
1246 1:00 in the morning. Those cases that are left over, we will try them on Monday.
1247
1248 Mr. Marshall - I would like to commend Mr. Emerson for trying to entice Mr. Vanarsdall
1249 to dinner.
1250
1251 Mr. Vanarsdall - Yes, I did, too. Thank you. So, Mr. Silber, what do we do about
1252 advertising it if we do that?
1253
1254 Mr. Marshall - Well, you just advertise it all for 6:00 and it is presumed that if people
1255 are interested and they are there, then they will hear that their case is continued to another
1256 date.
1257
1258 Mr. Silber - I am not suggesting that we try to anticipate which ones to put on
1259 Monday. What I would suggest doing is, if you want to start earlier, like 6:00 p.m., if the
1260 Commission wants to start at 6:00 p.m., then we would advertise a portion of the agenda at 6:00
1261 p.m. and I would suggest we advertise another portion of the agenda at 8:00 p.m. so that we
1262 don't have to have the entire, everybody here early. I think we will just run through the agenda
1263 and what we don't get to that night, just carry those over to Monday or whatever date you want
1264 to.
1265
1266 Mr. Marshall - Yes. We can do it by motion at the meeting and continue it to whatever
1267 day. Yes, when we get to a certain point.
1268
1269 Mr. Vanarsdall - So let's talk about. If we throw it over to Monday, are we talking about
1270 starting at 6 or 7:00 p.m.?
1271
1272 Mr. Silber - I think we can decide that on the 15th.
1273
1274 Mr. Marshall - Yes. It depends on the number of cases we have left.
1275
1276 Mr. Archer - I don't think we should set a time limit. I think some of us who have
1277 been here a while have been here until 2:30 in the morning a couple of times in our lives, but if,
1278 considering the fact that some of this might be moved to the Expedited Agenda, some cases
1279 might be pulled or withdrawn. Let's not set a time limit to go past, because if we get to 1:00 in
1280 the morning and we've got two cases left, I would just as soon hear them.
1281
1282 Mr. Jernigan - Another thing too. When you are talking about splitting, like say starting
1283 it at 6 and starting it at 8:00 p.m. We have had it happen before where we started at 7 and 8:00
1284 p.m. and had to wait. All the 7:00 cases we deferred, so we sat here for an hour waiting for the
1285 8:00 to come on. Maybe we should tell them all to come, I wouldn't split the agenda. I would
1286 just run them on through.
1287
1288 Mr. Silber - Well, let me just voice my view on that. I know that sometimes staff has
1289 miscalculated as to where to split that, but to tell all 26 applicants and those that may be
1290 speaking in opposition to come at 6:00, when we know it is that many cases, I don't think it
1291 would be the right thing to do. I think if we split it like at 6 and 8, we will just have to make sure
1292 that we have enough on the 6:00 p.m. portion so that we don't have you all sitting around.
1293
1294 Mr. Vanarsdall - Randy, is there anyway we can find out, can you all find out what cases
1295 you think have potential of expedited, what you think will be big opposition, and what you think
1296 will be hardly no opposition? Is there anyway we can do that? Because you already know...

1297
1298 Mr. Marshall - Not when we get the proffers the night of the meeting.
1299
1300 Mr. Silber - Mr. Vanarsdall, I understand what you are saying and we can do that to
1301 a certain extent, but at this point it would be very hard to do, and with the Retreat coming up,
1302 that may cause applicant's to react differently, depending on what comes out of the retreat. I
1303 think that would be hard to do, but we should have a better sense when it comes time to setting
1304 the agenda.
1305
1306 Mr. Archer - Well, I think as long as we make it heavy on the early part, that would
1307 probably solve that problem. Because we will need a couple of breaks, I am sure, if we go to 1
1308 or 2:00 in the morning.
1309
1310 Mr. Jernigan - Can we get a midnight snack, maybe?
1311
1312 Mr. Silber - We offer you cookies. There are cookies back there.
1313
1314 Mr. Vanarsdall - So why don't we set it at 6:00 on the 15th of July then. I move that we
1315 start the July 15, 2004 rezoning meeting at 6:00 p.m. and continue for a lack of better words,
1316 play it by ear.
1317
1318 Mr. Jernigan - Second.
1319
1320 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Jernigan. All in
1321 favor say aye. All opposed say no. The motion passes.
1322
1323 Mr. Vanarsdall - Now, there is one other little subject. Does that then mean we get to
1324 eat at 5:00 p.m.?
1325
1326 Mr. Marshall - I think you lost your chance. Mr. Emerson made you a deal and you
1327 turned him down.
1328
1329 Mr. Vanarsdall - Or do we have to brown bag it that night.
1330
1331 Mr. Jernigan - Well, they might want to come in and give us IV's before the meeting.
1332
1333 Mr. Marshall - He made you an offer and he thought you wouldn't refuse.
1334
1335 Mr. Vanarsdall - Wait a minute. You all realize what you are doing. You are letting the
1336 new Director of Planning off the hook.
1337
1338 Mr. Jernigan - He is watching the budget.
1339
1340 Mr. Vanarsdall - Now, are we going to get a meal or are we going to have to brown bag
1341 it?
1342
1343 Mr. Silber - We will provide you a meal. We will also serve dinner at 5:00 p.m. and
1344 we will give you the location for that. I also wanted to announce that I believe you have
1345 received at least one notice, a recent letter perhaps, but just a reminder, that next week, the 17th
1346 and 18th is the Growth Retreat at the Cultural Arts Center. The Retreat will start at 8:30 a.m.
1347 with the presentations beginning at 9:00 a.m. They should run most of the entire day, so come
1348 prepared. Staff is working very hard on presentations and gathering data, so it should be an
1349 exciting time. There is going to be a lot of information presented and we are looking for some

1350 good dialogue among the Board of Supervisors, the Planning Commission, the School Board and
1351 the Economic Development Authority. So, just a reminder that is coming up next week.

1352

1353 Mrs. Ware - Is that it? Anybody else have anything?

1354

1355 Mr. Marshall - I actually got to do a case tonight. The first case I've heard in two
1356 months.

1357

1358 Mrs. Ware - I move we adjourn.

1359

1360 Mr. Marshall - Second.

1361

1362 Acting on a motion by Mrs. Ware, seconded by Mr. Marshall, the Planning Commission adjourned
1363 its meeting at 8:20 p.m. on June 10, 2004.

1364

1365

1366

1367

1368

1369

Lisa Ware, C.P.C., Chairman

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1371

1372

1373

1374

1375

Randall R. Silber, Secretary