

1 Minutes of the regular monthly meeting of the Planning Commission of the County of  
2 Henrico, Virginia, held in the Board Room of the County Administration Building,  
3 Parham and Hungary Spring Roads at 6:30 p.m., on May 11, 2000, Display Notice having  
4 been published in the Richmond Times-Dispatch on Thursday, April 20, 2000 and  
5 Thursday, April 27, 2000.

6  
7 Members Present: Ernest B. Vanarsdall, C.P.C., Chairman, Brookland  
8 Debra Quesinberry, Vice Chairman, Varina  
9 C. W. Archer, C.P.C., Fairfield  
10 Elizabeth G. Dwyer, C.P.C., Vice-Chairman, Tuckahoe  
11 Mrs. Patricia S. O'Bannon, Board of Supervisors, Tuckahoe  
12 John R. Marlles, AICP, Secretary, Director of Planning,  
13

14 Others Present: Randall R. Silber, Assistant Director of Planning  
15 Liz Via, Principal Planner  
16 Eric Lawrence, County Planner  
17 Jo Ann Hunter, AICP, County Planner  
18 Mark Bittner, County Planner  
19 Lee Householder, County Planner  
20 Judy Thomas, Recording Secretary  
21

22 Mr. Vanarsdall - The Planning Commission meeting will come to order.

23  
24 Mr. Marlles - We have a quorum and we can conduct business.  
25

26 **PLAN OF DEVELOPMENT & TRANSITIONAL BUFFER DEVIATION**  
27 **(Deferred from the April 26, 2000, Meeting)**

**POD-34-00** **Resource International, Ltd. for Bell Atlantic of Virginia:**  
**Bell Atlantic of Virginia,** Request for approval of a plan of development and transitional  
**Inc.** buffer deviation as required by Chapter 24, Sections 24-106  
**Pemberton Road** and 24-106.2(e)(3)(a)(l) of the Henrico County Code to  
construct a one-story, 9,170 square foot addition to an existing  
telephone switching center. The 1.643 acre site is located on  
the west line of Pemberton Road (State Route 157),  
approximately 240 feet north of Mayland Drive on parcel 58-  
A-22. The zoning M-1C, Light Industrial District  
(Conditional). County water and Sewer. **(Three Chopt)**

28  
29 Mr. Wilhite - The land use plan shows this is office, in the future, office  
30 designation would require 25 on this site anyway. Also, the handicapped spaces to the north of  
31 the building would be shifted off of the adjacent property and next to the building, and Bell  
32 Atlantic has also agreed with the adjacent property owner to have at least a 25 foot buffer on  
33 the west boundary of the property, adjacent to the spaces in the rear. With those annotations,

34 staff would recommend approval of this plan, subject to the conditions on the agenda. I would  
35 be happy to answer any questions that you have.

36

37 Mr. Vanarsdall - Any questions by Commission members of Mr. Wilhite? No  
38 questions. All right. Mr. Taylor.

39

40 Mr. Taylor - Is Mr. Sharp in the audience?

41

42 Mr. Wilhite - Mr. Sharp is here tonight.

43

44 Mr. Taylor - Would he like to discuss this project, please?

45

46 Mr. James M. Sharp, Jr. - I am James M. Sharp, Jr. of Resource International, and the site  
47 engineers for the proposed development. It is my understanding that there have been some  
48 conversations with Bell Atlantic and with Commissioner Taylor, and with Mr. Wilhite that Bell  
49 Atlantic and the adjacent owners have met, that the issues are resolved, and final agreement is  
50 pending. I would be happy to answer any questions that the Commission may have.

51

52 Mr. Taylor - I did talk to Mr. Nolde today and he did talk to me about the  
53 BMP and the screening, and he said he was totally satisfied with the agreement that he had  
54 worked out with Resource International and Bell Atlantic. So, with that, thank you very much.

55

56 With that, Mr. Chairman, I would move that POD-34-2000, Bell Atlantic of Virginia, Inc. on  
57 Pemberton Road, I would move for approval, subject to the standard conditions for  
58 developments of this type and additional conditions Nos. 23-31.

59

60 Mr. Archer - Second.

61

62 Mr. Vanarsdall - We have a motion made by Mr. Taylor and a second by Mr.  
63 Archer. All in favor say aye. All opposed say no. Ms. O'Bannon abstained from voting.

64

65 The Planning Commission recommended approval of POD-34-2000, Bell Atlantic of Virginia,  
66 Inc., subject to the standard conditions for developments of this type and the following  
67 additional conditions:

68

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

73

74 24. The easements for drainage and utilities as shown on approved plans shall be granted to  
75 the County in a form acceptable to the County Attorney prior to any occupancy permits  
76 being issued. The easement plats and any other required information shall be submitted  
77 to the County Real Property Agent at least sixty (60) days prior to requesting  
occupancy permits.

- 78 25. The entrances and drainage facilities on State Route 157 shall be approved by the  
79 Virginia Department of Transportation and the County.
- 80 26. A notice of completion form, certifying that the requirements of the Virginia  
81 Department of Transportation entrances permit have been completed, shall be submitted  
82 to the Planning Office prior to any occupancy permits being issued.
- 83 27. The developer shall provide fire hydrants as required by the Department of Public  
84 Utilities in its approval of the utility plans and contracts.
- 85 28. Deviations from County standards for pavement, curb or curb and gutter design shall be  
86 approved by the County Engineer prior to final approval of the construction plans by  
87 the Department of Public Works.
- 88 29. Insurance Services Office (ISO) calculations must be included with the utilities plans  
89 and contracts and must be approved by the Department of Public Utilities prior to the  
90 issuance of a building permit.
- 91 30. Approval of the construction plans by the Department of Public Works does not  
92 establish the curb and gutter elevations along the Henrico County maintained right-of-  
93 way. The elevations will be set by Henrico County.
- 94 31. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the  
95 Planning Office and approved prior to issuance of a certificate of occupancy for this  
96 development.

97

98 BEGINNING AT 7:00 P.M.:

99

100 Mr. Vanarsdall - The Planning Commission will now reconvene. Mr. Secretary.

101

102 Mr. Marlles - Mr. Chairman, the first item on the 7:00 agenda is a request for  
103 deferral and withdrawals. Ms. Via, are you going to be handling that?

104

105 Ms. Via - I am sorry, Mr. Secretary. Yes, we do have three cases that  
106 have requested a deferral this evening.

107

108 **C-28C-00 Henry L. Wilton for Wilton Development Corp.:** Request to conditionally  
109 rezone from A-1 Agricultural District and R-3 One Family Residence District to M-1C Light  
110 Industrial District (Conditional), Parcels 49-A-33 and 34 and 49-5-0-9, containing  
111 approximately 4.35 acres, located at the northeast intersection of Springfield Road and Huron  
112 Avenue. A self-storage mini-warehouse is proposed. The use will be controlled by proffered  
113 conditions and zoning ordinance regulations. The Land Use Plan recommends Suburban  
114 Residential 1, 1.0 to 2.4 units net density per acre.

115

116 Ms. Via - This is Hank Wilton for Wilton Development Corporation.  
117 Deferral has been requested for two weeks, until May 24, at your next POD meeting.

118

119 Mr. Vanarsdall - What is the number on that?

120

121 Ms. Via - It is C-28C-00. This is a request to rezone for self-storage mini-  
122 warehouse at the corner of Huron and Springfield. It is in the Brookland District. It is Page 4  
123 of your agenda.

124

125 Ms. Dwyer - Is there opposition to this case, do we know?

126

127 Mr. Vanarsdall - Anyone in the audience in opposition to C-28C-00 being  
128 deferred? All right. No opposition. I move that Case C-28C-00, Henry L. Wilton for Wilton  
129 Development Corporation, be deferred until May 24, 2000, at the applicant's request.

130

131 Mrs. Quesinberry - Second.

132

133 Mr. Vanarsdall - A motion was made by Mr. Vanarsdall and seconded by Mrs.  
134 Quesinberry. All in favor say aye. All opposed say no. The ayes have it.

135

136 At the applicant's request, the Planning Commission deferred C-28C-00 to its meeting on May  
137 24, 2000.

138

139 **C-36C-00 Gloria L. Freye for McDonald's Corp.:** Request to conditionally rezone from  
140 R-3 One Family Residence District to O-2C Office District (Conditional) and B-2C Business  
141 District (Conditional), Parcels 61-A-29 and 31, containing 2.046 acres, located on the west  
142 line of Staples Mill Road approximately 160 feet north of Parham Road and on the north line  
143 of Parham Road approximately 170 feet west of Staples Mill Road (U. S. Route 33). A fast  
144 food restaurant with drive through is proposed. The use will be controlled by proffered  
145 conditions and zoning ordinance regulations. The Land Use Plan recommends Office.

146

147 Ms. Via - The applicant has requested a deferral of this case to June 15,  
148 2000.

149

150 Mr. Vanarsdall - Anyone in the audience in opposition to the deferral of this case,  
151 C-36C-00, McDonald's? No opposition. I move that case C-36C-00 be deferred to June 15,  
152 2000, at the applicant's request.

153

154 Mrs. Quesinberry - Second.

155

156 Mr. Vanarsdall - A motion was made by Mr. Vanarsdall and seconded by Mrs.  
157 Quesinberry. All in favor say aye. All opposed say no. The motion carries.

158

159 At the applicant's request, the Planning Commission deferred C-36C-00, Gloria L. Freye for  
160 McDonald's Corporation, to its meeting on June 15, 2000.

161

162 **FAIRFIELD:**

163 **Deferred from the April 13, 2000 Meeting:**

164 **C-29C-00 Roy B. Amason for Virginia Center, L. L. C.:** Request to amend proffered  
165 conditions accepted with Rezoning Case C-38C-97, on Parcel 44-A-1, containing 8.416 acres,  
166 located on the north line of Virginia Center Parkway, approximately 570 feet east of its  
167 intersection with Carriage Homes Way and 360 feet west of its intersection with Carriage Point  
168 Lane. The amendment would allow the development of 60 townhouse units instead of a 160  
169 unit assisted care facility. The Land Use Plan recommends Office.

170  
171 Ms. Via - The applicant has requested a deferral to July 13, 2000.

172  
173 Mr. Vanarsdall - Is there anyone in the audience in opposition to this case being  
174 deferred, which is C-29C-00? No opposition. Mr. Archer.

175  
176 Mr. Archer - Mr. Chairman, I move deferral of C-29C-00, Roy B. Amason for  
177 Virginia Center, LLC, to the July 13, 2000 meeting, at the applicant's request.

178  
179 Mrs. Quesinberry - Second.

180  
181 Mr. Vanarsdall - A motion was made by Mr. Archer and seconded by Mrs.  
182 Quesinberry. All in favor say aye. All opposed say no. The ayes have it.

183  
184 At the applicant's request, the Planning Commission deferred C-29C-00, Roy B. Amason for  
185 Virginia Center, LLC, to its meeting on July 13, 2000.

186  
187 Ms. Via - There are no more deferrals, sir.

188  
189 Mr. Vanarsdall - All right. I have one that just came about, and that is on Page 4  
190 of the Commission's agenda. We are going to defer this case for two weeks because Mr.  
191 Rowe, who is one of the citizens, did not get a notice.

192  
193 **BROOKLAND:**

194 **Deferred from the April 13, 2000 Meeting:**

195 **C-47C-99 Ralph L. Axselle and Andrew Condlin for Penrose Corporation:** Request to  
196 amend proffered conditions applicable to the Parham Place Office Park and accepted with  
197 rezoning case C-113C-85, on Part of Parcel 52-A-5, containing 11.75 acres, located on the  
198 south line of Old Hungary Road at the intersection of Hungary Road and Benham Court and  
199 also fronting on the north line of E. Parham Road. The proposed amendments are related to  
200 access to Hungary Road and buffer area on the property. The Land Use Plan recommends  
201 Office.

202  
203 Ms. Via - Is that C-47C-99, Ralph L. Axselle and Andrew Condlin for  
204 Penrose Corporation?

205  
206 Mr. Vanarsdall - Yes, and that will be deferred to the 24<sup>th</sup> of May at the applicant's  
207 request.

208  
209 Mr. Taylor - Second.  
210  
211 Mr. Vanarsdall - The motion was made by Mr. Vanarsdall and seconded by Mr.  
212 Taylor. All in favor say aye. All opposed say no. The ayes have it. Thank you, Ms. Via.  
213  
214 At the applicant's request, the Planning Commission deferred C-47C-99, Ralph L. Axselle and  
215 Andrew Condlin for Penrose Corporation, to its meeting on May 24, 2000.  
216  
217 Ms. Via - Thank you. Mr. Chairman, you did have a request to move Case  
218 C-17C-00, the Cross property, to a little bit later in the agenda. Would you like to take that?  
219  
220 Mr. Vanarsdall - I thought what we would do, when we came to that case and if  
221 Mr. Atack has not come yet, as he has another meeting, that we would go ahead and move it  
222 then.  
223  
224 Ms. Via - Fine, sir. Thank you.  
225  
226 Mr. Vanarsdall - Thank you for reminding me. Mr. Secretary.  
227  
228 Ms. Via - Excuse me. For the first time, this evening we do have an  
229 expedited agenda. We have three cases for expedited this evening.  
230  
231 Mr. Marlles - Thank you, Ms. Via. Would you please review the requests for  
232 expedited items?  
233  
234 Ms. Via - Thank you. As I said, we have three requests for the expedited  
235 agenda. We have not done this before, but I imagine they are the same as deferrals and  
236 withdrawals.  
237  
238 Mr. Marlles - Thank you, Ms. Via. Would you please review the request for  
239 expedited agenda items?  
240  
241 Ms. Via - Thank you. As I said, we have three items on the expedited  
242 agenda. We have not done this before. I will read each case and I will have to have a motion  
243 on each case.  
244  
245 **C-35C-00 Potts & Minter Associates for Curnow Development, Inc.:** Request to amend  
246 proffered conditions accepted with rezoning Cases C-62C-99 and C-38C-96, on part of Parcel  
247 146-A-13 and Parcel 140-6-C-101, containing approximately 0.672, located at the northwest  
248 intersection of Robcurn Drive and Dabbs House Road. The amendment is related to the  
249 number of lots proposed for the property. The Land Use Plan recommends Suburban  
250 Residential 1, 1.0 to 2.4 units net density per acre. The site is in the Airport Safety Overlay  
251 District.

252  
253 Ms. Via - This is a request to amend proffered conditions accepted with  
254 Rezoning Cases C-62C-99 and C-38C-96. Do you have a question, Mr. Secretary?  
255  
256 Mr. Marlles - What was the number? I am sorry.  
257  
258 Ms. Via - C-35C-00.  
259  
260 Mr. Marlles - That is on Page 4 of the Agenda.  
261  
262 Mr. Vanarsdall - Anyone in the audience in opposition to this case? No  
263 opposition? Mrs. Quesinberry.  
264  
265 Mrs. Quesinberry - I would like to - do I need to make a motion to move on the  
266 expedited agenda?  
267  
268 Mr. Marlles - Yes.  
269  
270 Mr. Vanarsdall - Just make a motion to - whatever you want the Board to do.  
271  
272 Mrs. Quesinberry - I will make a motion to recommend approval of Case C-35C-00.  
273  
274 Mr. Archer - Second.  
275  
276 Mr. Vanarsdall - A motion was made by Mrs. Quesinberry and seconded by Mr.  
277 Archer. All in favor say aye. All opposed say no. The motion carries.  
278  
279 The Planning Commission voted to recommend approval of Case C-35C-00 to the Board of  
280 Supervisors.  
281  
282 Ms. Via - The second case is in the Three Chopt District. This is on Page 5  
283 of your agenda. This is Case C-37C-00, Jay M. Weinberg for West Broad Street Properties,  
284 LLC.  
285  
286 **C-37C-00 Jay M. Weinberg for West Broad Street Properties, L.L.C.:** Request to  
287 conditionally rezone from B-2C Business District (Conditional) to B-3C Business District  
288 (Conditional), Parcels 49-9-A-3B, 49-9-A-4C, and 58-2-A-8A, containing approximately 6.32  
289 acres, located on the south line of West Broad Street (U. S. Route 250) approximately 350 feet  
290 west of Old Springfield Road. Periodic tent sales at an existing retail furniture store are  
291 proposed. The use will be controlled by proffered conditions and zoning ordinance  
292 regulations. The Land Use Plan recommends Commercial Concentration.  
293

294 Mrs. Via - This is a request to conditionally rezone from B-2 Business  
295 District to B-3C Business District, parcels 49-9-A-3B, 49-9-A-4C and 58-2-A-8A, for periodic  
296 tent sales at an existing furniture store. Again, it is on Page 5. Case C-37C-00.

297  
298 Mr. Vanarsdall - Is anyone in the audience in opposition to this case? This is C-  
299 37C-00? No opposition. Mr. Taylor.

300  
301 Mr. Taylor - Mr. Chairman, I move that Case C-37C-00 be approved by the  
302 Commission.

303  
304 Mrs. Quesinberry - A motion was made by Mr. Taylor and seconded by Mrs.  
305 Quesinberry. All in favor say aye. All opposed say no. The ayes have it.

306  
307 The Planning Commission voted to recommend approval of Case C-37-C-00, Jay M. Weinberg  
308 for West Broad Street Properties, L.L.C. to the Board of Supervisors.

309  
310 **P-4-00 Bruce D. Perretz AIA for Jeff Habibi:** Request for a provisional use permit in  
311 accordance with Sections 24-58.2(d) and 24-122.1 of Chapter 24 of the County Code in order  
312 to operate an outdoor dining patio on part of Parcel 59-A-6T, containing 463 square feet,  
313 located on the north line of West Broad Street (U. S. Route 250) approximately 50 feet west of  
314 Sundance Way. The site is zoned B-2 Business District.

315  
316 Ms. Via - This is your last case on the expedited agenda this evening.  
317 This is in the Brookland District. This is P-4-00, This is on Page 4 of your agenda at the  
318 bottom, that is a Provisional Use Permit, P-4-00, Bruce D. Perretz, AIA, for Jeff Habibi.  
319 This is a request for a provisional use permit in accordance with Sections 24-58-2(d) and 24-  
320 122.1 of Chapter 24 of the County Code, in order to operate an outdoor dining patio on part of  
321 parcel 59-A-6T.

322  
323 Mr. Vanarsdall - Anyone in opposition to this case, P-4-00? No opposition. I  
324 move that P-4-00 be recommended to the Board of Supervisors.

325  
326 Mrs. Quesinberry - Second.

327  
328 Mr. Vanarsdall - A motion was made by Mr. Vanarsdall and seconded by Mrs.  
329 Quesinberry. All in favor say aye. All opposed say no. The motion passes.

330  
331 The Planning Commission voted to recommend P-4-00, Bruce D. Perretz AIA for Jeff Habibi,  
332 to the Board of Supervisors for approval.

333  
334 Mr. Vanarsdall - Thank you, Ms. Via.

335  
336 Mr. Marllles - Mr. Chairman, before we get into the cases, I do want to make  
337 just a short announcement. Ms. O'Bannon is seated to my far left and is the liaison member



338 from the Board of Supervisors to the Planning Commission. It has been the process in the past  
339 for the liaison member to abstain on many motions in votes of the Commission. Ms.  
340 O'Bannon and her predecessors do hear these cases when they come before the Board at  
341 advertised public hearings, so I just want to clarify that for anyone in the audience who may  
342 not understand the role of the liaison member.

343

344 Mr. Vanarsdall - So noted, and thank you, Mr. Secretary.

345

346 **Deferred from the April 13, 2000 Meeting:**

347 **C-22C-00 Alvin S. Mistr, Jr. for John C. Zehler, Sr.:** Request to conditionally rezone  
348 from B-1 Business District to B-3C Business District (Conditional), Parcel 148-10-C-2,  
349 containing 0.44 acre, located at the northwest intersection of W. Nine Mile Road (Route 33)  
350 and Daisy Avenue. A gas/convenience store is proposed. The use will be controlled by  
351 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends  
352 Commercial Arterial. The site is also within the Airport Safety Overlay District.

353

354 Mr. Marlles - Again, we are in the Varina District. The first item on the  
355 agenda was deferred from the April 13, 2000 meeting. The staff report will be given by Mr.  
356 Lee Householder.

357

358 Mrs. Quesinberry - Mr. Secretary, before we continue with the Varina agenda, I do  
359 have a motion to make that I would like to bring up to the Commission, and that is as you all  
360 know, on April 13, at our regular meeting, we voted to hold a public hearing to consider  
361 changes to the zoning amendment for Section 24-52, paragraph g, and subsequently on April  
362 26, the Commission voted to postpone that public hearing. I would like to discuss it right  
363 now, briefly, if we might. I would like to make a proposal that we set a date to hold that  
364 public hearing that we did previously vote and agree to hold, and I would like to propose that  
365 we hold that public hearing at our next regularly scheduled meeting, which would be June 15,  
366 to allow time to adequately advertise that, and for the purposes I stated previously, at our April  
367 13 meeting, there are concerns and issues around the language in that particular section of the  
368 Code, and differences of interpretation. And, I really can't think of a good reason why this  
369 Commission would not want to hear from the public, certainly on matters that the public is  
370 very concerned about. So, in light of the fact that we have previously voted to hold a public  
371 hearing on this, my motion would be to set the date for June 15, at our next regular meeting.

372

373 Mr. Vanarsdall - Mrs. Quesinberry, and for the public, let me share this with you.  
374 We voted on the 26<sup>th</sup> of April, as you know, to rescind tonight's public hearing. We did that  
375 because we did not know about the May 25<sup>th</sup> BZA involving the Fair. We thought it best to do  
376 nothing until the BZA has made a decision. The BZA has not made a decision and they are  
377 going to take it up on the 25<sup>th</sup>. We do not know what decision that will be. We do not know if  
378 they will even act on it. They may even defer it. If they defer it 30 days, then we are still  
379 back right where we are now. We do not need to rescind this motion and we do not need  
380 another motion. We not need to do anything until the BZA finishes doing whatever they are  
381 going to do.

382  
383 Mrs. Quesinberry - I respectfully disagree, Mr. Chairman. The matter before the  
384 BZA is an entirely different matter that deals with the application of how the Code is  
385 administered. What I am proposing in our public hearing, as I proposed before, is that we  
386 actually look at language in our Ordinance, in Section 24-52, paragraph g, for the purposes of  
387 discussing changes to the Ordinance. The matters are totally separate. They are two different  
388 matters and, again, I respectfully request that the Commission consider that, so there is a point  
389 that regardless of how you view the matter in front of the BZA, the BZA will have heard that  
390 matter and acted on that matter by time the public hearing of this Commission would come up  
391 on June 15<sup>th</sup>, and we have to have adequate time to advertise.

392  
393 Mr. Vanarsdall - You do not know whether they will have acted on it or not. We  
394 did not and I do not know. We do not know what the BZA is going to do, whether it has  
395 anything to do with us or not. It is there and the Director is being challenged, and we do not  
396 need to do anything. We have already said that and I will read to you what we did. That is  
397 “until the first meeting after the BZA makes their decision.” If they don’t make a decision  
398 until July, then we don’t have a meeting, if they don’t make it until August, or if they make it  
399 on May 25, then we would do it at the next meeting, provided staff has time to advertise it and  
400 everything is in order.

401  
402 Mrs. Quesinberry - Well, again, I would like to just state for the purposes of  
403 discussion here that these are two different matters, and the BZA is considering a particular  
404 matter that involves the application of the Code as it applies to a very specific case, the ARE  
405 Case, in particular. What I am asking about is changing the language in the Zoning Ordinance  
406 that affects all people and all systems in this County, because there is no case in front of this  
407 Commission, and there is no case in front of the Board at the present time, but the language  
408 exists. The language exists until such time that this Commission hears any recommendations  
409 to change it and recommends changes to the Board. The language is there, and I very  
410 respectfully submit that that language does not protect the health, safety and welfare of the  
411 citizens of the County and the citizens of Varina, in particular. With the language as it exists,  
412 any applicant can file additional applications pursuant to that part of the Code and proceed  
413 through the regular process, and that, again, gets back to my point that we are actually looking  
414 at two different things here, two different considerations, and regardless, regardless of when  
415 the BZA hears their case and regardless of whatever the outcome is with the BZA, our  
416 language in our Ordinance stays as is up until the time we actually recommend changes. So,  
417 again, my motion is that we direct the staff to advertise and that we have a public hearing on  
418 June 15 for the purposes of discussing this language in this section of the Code, and I can think  
419 of no reason why this Commission would not want to hear from the public. It doesn’t mean  
420 that we have made our decision on what we will or will not do at that time. It simply means  
421 that we open it up for discussion.

422  
423 Mr. Vanarsdall - All right, Mr. Secretary. Can I call on you?  
424

425 Mr. Marlles - Mrs. Quesinberry, if I could just add a comment again.  
426 Respectfully from staff, I do feel it is a matter of opinion that these are unrelated items. Staff  
427 feels that they are related. They both relate to the definition of the fairground and specifically  
428 the state fair park as a permitted use in the A-1 District. I don't think that they are totally  
429 unrelated or separate items.

430

431 Mrs. Quesinberry - Is that your opinion, Mr. Marlles?

432

433 Mr. Marlles - That is my opinion, yes, ma'am.

434

435 Mrs. Quesinberry - And I do respect that, but I would like for you to understand that  
436 my opinion is that they are separate, and that we do have advice of legal counsel that also has  
437 the opinion that they are separate. And, as long as we have different opinions, again, my point  
438 stands. I see no reason why we do not want to hear from the public. Again, it does not mean  
439 that the Commission has to act at that time on June 15, but it just means that we advertise and  
440 we set up an appropriate time to have a public hearing where the public can discuss this matter,  
441 and frankly where we can discuss it, because it is not on our agenda and we are not having a  
442 discussion about it right now, about what we would or would not do, or what we would  
443 consider, but we need a public hearing to have those kinds of discussions. I have not heard  
444 from the County Attorney on whether he thinks they are two separate items, but I don't think  
445 that is relevant, because again, it doesn't matter, for our purposes, what the BZA does and  
446 how they act and where they act, the language stays the same. As you all know, the BZA does  
447 not amend the language in our Ordinance.

448

449 Mr. Marlles - The second item that I would just reiterate that the Chairman  
450 brought up, is, I believe, first of all, staff does believe, in the opinion of staff these two items  
451 are related, but secondly, there is a concern in scheduling a public hearing tonight that the  
452 matter before the BZA could very easily be deferred. It is a very complicated subject. Staff's  
453 concern would be holding a public hearing at this point would be premature, so I just want to  
454 reiterate that comment. Staff does agree with the Chairman on that point, as well.

455

456 Mrs. Quesinberry - Well, I understand that, but again, respectfully, with opinions  
457 that are all up and down this podium, staff has a different opinion on the interpretation of this  
458 particular part of the Ordinance, also. So, I understand that staff would have an opinion that  
459 the two matters are also related, and that is exactly my point. There are other opinions out  
460 there, and the public opinion is one of them, and I think it is one of the most important  
461 responsibilities of Commissioners to hear from the public and that is all I am asking. I am not  
462 asking Commissioners to make a decision or vote on anything in particular, but to hear from  
463 the public. Once again, I can think of no reason why this Commission would not want to hear  
464 from the public on any particular matters that the public deemed important and wanted to bring  
465 before it.

466

467 Mr. Vanarsdall - Let me, respectfully, tell you this, that we have never refused to  
468 hear from the public.

469  
470 Mrs. Quesinberry - Good. I am glad to hear that.  
471  
472 Mr. Vanarsdall - I have been on here for 13 years and since you have been on here  
473 your length of time, and we never will, and we are not saying that we don't want to hear from  
474 the public now. We don't want to hear from the public until after the BZA is over. That is my  
475 opinion. I will not vote for it, and we have already done it, and we said it and we said after  
476 the BZA does whatever the BZA is going to do, and whenever they are going to do it. So,  
477 what I am going to do, Mr. Secretary, is open it up to the Commission.  
478  
479 Mrs. Quesinberry - I would also like to remind the Commission that the BZA could  
480 take quite a bit of time in deciding what they are going to do, and do we want to leave  
481 language open to interpretation in our Ordinance that is vague and does not serve the public  
482 interest, and in fact does not support the health, safety and welfare of the citizens. Regardless,  
483 again, of what the BZA does, and regardless of how they find their cases, that case could be  
484 deferred. It could be, certainly either party in that case could appeal that case, and that could  
485 go on for quite some time.  
486  
487 Mr. Vanarsdall - That is what I am saying.  
488  
489 Mrs. Quesinberry - You know, with the scenario that the Chairman is talking about,  
490 we could wait quite a while before we even considered, I am not saying changed, but  
491 considered, the language in this section. Do we want to wait a year or do we want to wait two  
492 years during an appeal process to even consider or schedule a public hearing to consider any  
493 language change to the Section?  
494  
495 Mr. Marlles - Well, I think the Commission at the last meeting was sensitive to  
496 that issue, when the motion that was made by Mr. Taylor, was amended, that they voted to  
497 hold the meeting as soon as possible, the first meeting after the BZA meets, so I think there  
498 was sensitivity to try and get the public hearing scheduled as soon as possible, however, I  
499 mean just going back and recalling the discussion, there was a feeling that it was not  
500 appropriate to have the hearing before the BZA makes its decision on the interpretation of the  
501 Director. So, I think there was a sensitivity, Mrs. Quesinberry, to try and have the public  
502 hearing as soon as possible on the ordinance amendment, but it was a strong feeling, at least I  
503 sensed that it would be inappropriate to schedule the public hearing before the BZA acted on  
504 the appeal.  
505  
506 Mrs. Quesinberry - And again, that could quite a while, and even if they do act, well,  
507 there is every possibility that they will act in some form or fashion at their very next meeting,  
508 which would put that meeting before our meeting of June 15.  
509  
510 Mr. Marlles - Well, hopefully, they will act.  
511

512 Mrs. Quesinberry - Well, we don't have any reason to think that they won't act in  
513 one shape or form, so, again, I don't understand why we can't advertise and set up our public  
514 meeting for June 15. They will have taken some action at their next meeting.  
515

516 Mr. Marlles - I don't think we can say that. I think there is a chance that it will  
517 be deferred, and, again, I think it would be, expressing the feelings that I heard at the previous  
518 meeting, premature to schedule the public hearing until after the BZA has taken action.  
519

520 Ms. Dwyer - Mr. Chairman, a motion has been made by a Commission  
521 member. Should we not proceed?  
522

523 Mr. Vanarsdall - That was what I was going to ask. Is there any discussion on the  
524 motion?  
525

526 Ms. Dwyer - We have been discussing it.  
527

528 Mrs. Quesinberry - My motion stands and my motion is simply to schedule a public  
529 hearing on the Section 24.52, paragraph g, for June 15, which is, of course, well after the  
530 BZA will have acted.  
531

532 Mr. Vanarsdall - As Chairman, and a member of this Commission, I do not uphold  
533 this. I think we should leave it alone until after BZA. It is not a legal thing in my opinion that  
534 what we have should stand. So the motion is made by Mrs. Quesinberry and do I have a  
535 second?  
536

537 Ms. Dwyer - Second.  
538

539 Mr. Vanarsdall - Second by Ms. Dwyer. You all have heard the motion. All in  
540 favor say aye.  
541

542 Ms. Dwyer - Aye. May I ask a question, first, about the motion? Is the  
543 motion that we hold a public hearing on June 15 to discuss all of the matters that we have been  
544 discussing tonight. I am not sure I would be comfortable on the 15<sup>th</sup> taking a vote on an  
545 ordinance amendment on that date, so do I understand your motion to be to have a public  
546 hearing to discuss the issue and not necessarily vote on the ordinance itself?  
547

548 Mrs. Quesinberry - Correct.  
549

550 Mr. Marlles - Mr. Chairman, just one other additional point for clarification for  
551 staff. It is normally the policy for the Commission to hold ordinance amendments on the  
552 zoning meeting versus the first meeting of the month. I don't know whether we vote on this  
553 before or after, but staff would like some direction from the Commission if this motion, if it is  
554 approved it is going to be on June 15. Normally, we do have ordinance amendments the

555 second meeting, in order for the public to attend, which is the evening meeting of the  
556 Commission.  
557  
558 Ms. Dwyer - June 15<sup>th</sup> is the evening meeting.  
559  
560 Mr. Marlles - Is it? Then I stand corrected.  
561  
562 Mr. Vanarsdall - It is the second meeting.  
563  
564 Mr. Marlles - Then I stand corrected. That is fine.  
565  
566 Mr. Vanarsdall - I mean that is...  
567  
568 Ms. Dwyer - The zoning meeting.  
569  
570 Mr. Marlles - That is why I wanted to make sure to set a time when people  
571 could attend.  
572  
573 Mr. Archer - Mr. Chairman, may I ask one more question before we vote?  
574  
575 Mrs. Quesinberry - Sure.  
576  
577 Mr. Archer - Am I to understand that at the April meeting, was it the April  
578 meeting that we voted?  
579  
580 Mrs. Quesinberry - Yes. April 13 we voted to have a public hearing.  
581  
582 Mr. Archer - Then, the second vote that we took...  
583  
584 Mrs. Quesinberry - On the 25<sup>th</sup>.  
585  
586 Mr. Archer - Was to rescind that vote, so now we would...  
587  
588 Mrs. Quesinberry - I am not sure what vote you took because I wasn't here and it was  
589 done in my absence. Yes, on the 26<sup>th</sup> to postpone it.  
590  
591 Mr. Archer - But we have to do now is put the original motion back as if the  
592 second motion never occurred?  
593  
594 Mrs. Quesinberry - I am asking to go ahead and set the date for the first motion. We  
595 have already voted. We had a motion and we passed to have a public hearing. We did that on  
596 April 13. This entire Commission voted to have a public hearing and we set the date at that  
597 time. You postponed it on the 26<sup>th</sup>, and I am just asking now to set the date for the original  
598 motion, which was on the 13<sup>th</sup> of April, which you all voted for, 5-0, and I am just asking you

599 now to set the date for that on June 15, which is well after the time the BZA will have heard  
600 and acted on the action before them.

601  
602 Mr. Vanarsdall - Mr. Archer, we, the reason that we changed it was because we  
603 found out about the BZA and the Director of Planning being challenged in his decision. We  
604 thought it best not to take any action before the 25<sup>th</sup> of May, regardless of what the Board of  
605 Zoning Appeals, although the 15<sup>th</sup> of June is beyond that, today, is not, as we speak, today is  
606 not beyond it.

607  
608 Mr. Archer - I understand that, Mr. Chairman.

609  
610 Mr. Vanarsdall - If we change it tonight, then we are doing it before the BZA has  
611 done any action and that is the sole reason we changed it last time.

612  
613 Mr. Archer - I understand that. In fact, what I was trying to determine is  
614 whether or not, and I didn't remember if we set a date the first time she made that motion.

615  
616 Mrs. Quesinberry - Yes we did. The date was set for tonight.

617  
618 Mr. Archer - All right, now I understand. I understand why we made the  
619 motion.

620  
621 Mr. Vanarsdall - We have a motion made by Mrs. Quesinberry and seconded by  
622 Ms. Dwyer. All in favor say aye. All opposed say no. Mr. Secretary, would you poll the  
623 vote?

624  
625 Mr. Marlles - Yes, sir.

626  
627 Mr. Taylor - No

628 Mr. Archer - No

629 Mrs. Quesinberry - Yes

630 Mr. Vanarsdall - No

631 Ms. Dwyer - Yes

632 Ms. O'Bannon - Abstain

633  
634 The motion failed on a 3 to 2 vote.

635  
636 Mr. Vanarsdall - And you can explain to those who came what this means.

637  
638 Mr. Marlles - OK. What this means is that the original action by the Planning  
639 Commission that took place at the April 26<sup>th</sup> meeting for the public hearing to be scheduled as  
640 soon as practical or the first available meeting after the Board of Zoning Appeals takes action  
641 on the interpretation of the Planning Director. I would add, Mr. Chairman, that if citizens are

642 interested in being notified first of the date, we will send a notice out. If you would like to call  
643 the Planning Office, we will notify you when that public hearing is scheduled.

644  
645 Mr. Vanarsdall - The motion also reads that “if the Planning Commission meeting,  
646 if it can be advertised, have the proper advertising for the public hearing after the BZA acts.”  
647

648 Ms. O’Bannon - Mr. Chairman and Mr. Secretary, could there not be a list  
649 available for people who are here tonight to sign on. I think that would be courteous, so they  
650 could sign up right now.

651  
652 Ms. Via - If I might suggest, we will go ahead and put a notebook and staff  
653 member out in the back and sign folks up.

654  
655 Mr. Vanarsdall - Thank you. Good suggestion. I do appreciate your attending.

656  
657 Mr. Archer - May I ask one question before we leave this item?

658  
659 Mr. Vanarsdall - Yes, sir.

660  
661 Mr. Archer - Provided the BZA does take action at its meeting on May 25<sup>th</sup>,  
662 when will be the first time that this thing could be set?

663  
664 Mrs. Quesinberry - June 15<sup>th</sup>.

665  
666 Mr. Vanarsdall - June 15<sup>th</sup>. You got your answer.

667  
668 Mrs. Quesinberry - Would you like to make a motion, Mr. Archer?

669  
670 Mr. Archer - No. No. You already did that.

671  
672 Mr. Vanarsdall - We don’t need any motion. Thank you all.

673  
674 Mr. Silber - Mr. Chairman, if the question was if the Board of Zoning  
675 Appeals take action on May 25, the first time that this could be legally advertised for a hearing  
676 would be June 28<sup>th</sup>, and that would be advertised on June 7 and June 14 for the June 28  
677 meeting. If you wanted to hold it on an evening meeting, instead of a daytime meeting, the  
678 first evening meeting that could be advertised would be July 13, advertised on June 22 and  
679 June 29.

680  
681 Mr. Vanarsdall - Thank you, Mr. Silber. All right, Mr. Secretary.

682  
683

683 **VARINA:**  
684 **Deferred from the April 13, 2000 Meeting:**



685 **C-22C-00 Alvin S. Mistr, Jr. for John C. Zehler, Sr.:** Request to conditionally rezone  
686 from B-1 Business District to B-3C Business District (Conditional), Parcel 148-10-C-2,  
687 containing 0.44 acre, located at the northwest intersection of W. Nine Mile Road (Route 33)  
688 and Daisy Avenue. A gas/convenience store is proposed. The use will be controlled by  
689 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends  
690 Commercial Arterial. The site is also within the Airport Safety Overlay District.

691  
692 Mr. Marlles - Mr. Lee Householder will be giving the staff report.

693  
694 Mr. Marlles - Is anyone in the audience in opposition to C-22C-00, Alvin S.  
695 Mistr, Jr. for John C. Zehler, Sr.? Any opposition. All right, sir. Thank you. Mr.  
696 Householder.

697  
698 Mr. Householder - Thank you. The subject of this zoning request, which was heard  
699 originally on March 9, and I will try and summarize that today, is the heating oil aspect of an  
700 existing business, primarily, the parking of fuel oil trucks on the subject property, The  
701 property lies at the northwest corner of Nine Mile Road and Daisy Avenue. You can see by  
702 this zoom-in feature it is the red outlined building there. The applicant has indicated that there  
703 will be two storage trucks parked on the site. The applicant has also indicated that they would  
704 like to park the trucks in front of the garage that I have pictured here. This location is  
705 approximately 10 feet from the R-4 District and approximately 35 feet from the single-family  
706 dwelling that you can see to the right of the garage. While this location helps the appearance  
707 of the site when viewed from Nine Mile Road, staff does feel that it is inappropriate to allow a  
708 large vehicle or vehicles containing flammable liquids to be stored or parked extremely close to  
709 this structure. Many residents in the surrounding neighborhood are concerned about the  
710 potential for spill that may impact the property and the ground-water area. They have also  
711 complained of spills in the past. Complaints were forwarded to the County Public Works  
712 Department and a letter dated May 8, 2000, was passed out to you this evening. Public Works  
713 Department has found evidence of leaking oil from one of the trucks and that it was leaking  
714 into the County's water management system, and to lessen the impact of these common spills  
715 on the property, staff has discussed with Public Works and the Environmental Protection  
716 Department of the State, and we recommend the following for this site if the trucks are going  
717 to be parked there.

- 718  
719 1. They should be parked on a concrete pad with a sill that could collect any oil in case of  
720 spillage that would route spills into some sort of collector. I would like to point out  
721 that gravel surfaces are not adequate to prevent impact upon spills upon gravel.  
722 2. A canopy should be placed over the trucks in the event that there is a spill and then  
723 subsequent rainfall, that could wash the fuel into the groundwater.  
724 3. The applicant should also take daily clean-up measures to ensure proper housekeeping  
725 on the property.

726  
727 The applicant has attempted to address staff's concerns on the property by submitting a new  
728 proffer, which was also submitted to you, tonight. Proffer No. 7 states that landscaping shall

729 be provided along the rear property line, which I will bring up on the photo, which  
730 landscaping and – the pen doesn't work on the aerial too well – landscaping between the  
731 garage and the house that is pictured to the right, and I will bring up the other picture to show  
732 you again. Landscaping in between these two, the residence and the business. Staff does feel  
733 that this proffer would improve the appearance of the site, but it is not adequate to address our  
734 concerns of parking the trucks and other concerns, such as the Highland Springs Commercial  
735 Area Study, which was done in the early 90's. Staff worked on it with the community and  
736 addressed things such as signage, outdoor storage materials, building improvements and  
737 landscaping and screening. Also, staff has concerns about the, basically this gray building to  
738 the north of the site, where the yellow dot is. This is included in this request, and while they  
739 have proffered uses out of the case, they have not proffered or indicated to staff what the actual  
740 use of this structure would be, whether it would be torn down and what would be done on this  
741 site, and staff does feel it is an opportunity to have some proffers that may relate to appearance  
742 and function of the site.

743  
744 We are also concerned with the parking of the storage trucks on the site, and if the applicant  
745 can address this concerning the northern portion of the parcel, the recommendations of the  
746 Highland Springs Revitalization Study and the environmental and screening concerns, we could  
747 recommend approval of this request. I'd be glad to answer any questions.

748  
749 Mr. Vanarsdall - Any questions for Mr. Householder?

750  
751 Mr. Archer - Mr. Householder, was this letter that was received, was that in  
752 response to a complaint?

753  
754 Mr. Householder - Let me clarify that. They are currently parking a truck across the  
755 street. I failed to mention that this relates to the same truck that will be parked on the site but  
756 is now being parked across the street, and still related to the truck.

757  
758 Mr. Archer - So was it a spill or a leak?

759  
760 Mr. Householder - Basically, what has been described to me is a long leak – over a  
761 period of time it has been leaking slowly, which, and I have a picture. It kind of gives you an  
762 illustration of the area around the bottom of the truck. This was taken by the Fire Department  
763 responding to a complaint, and, as you can see, I would imagine that the black area indicates a  
764 long-term leakage into the puddle here, which, in turn, is carried into our stormwater system.

765  
766 Mrs., Quesinberry - Mr. Householder, does this picture apply to this letter from the  
767 Environmental Inspector?

768  
769 Mr. Householder - This picture was given by the Fire Department to our  
770 Environmental Inspector.

771

772 Mrs. Quesinberry - The two are not related in time, so you can't use this picture as  
773 evidence of what they saw the day they went out to this site, but it is evidence of an occurrence  
774 at this site.  
775

776 Mr. Taylor - Mr. Householder, let me get oriented on this street. This is a  
777 photograph from Daisy Avenue towards the trucks?  
778

779 Mr. Householder - Which photograph are you speaking of?  
780

781 Mr. Taylor - The one you had previous to the one you have now. That one  
782 right there. Is that Daisy Avenue? That is not across Nine Mile Road?  
783

784 Mr. Householder - That is actually on Nine Mile Road and let me show you on the  
785 zoning map, because the colors will pick that up.  
786

787 Mr. Taylor - Point that out just on the...  
788

789 Mr. Householder - Right here.  
790

791 Mr. Taylor - That is quite a range.  
792

793 Mr. Householder - So, if you are standing in the middle of the street and you are  
794 looking across, you are looking at that station, that is basically what you would see.  
795

796 Mr. Taylor - So the drainage then, or the oil would run right into Nine Mile  
797 Road or would it run to Daisy Avenue?  
798

799 Mr. Householder - It would be carried off into Daisy by the way that picture is  
800 shown.  
801

802 Mr. Taylor - So, they are backing from North Daisy Avenue going south  
803 basically, southeast?  
804

805 Mr. Householder - I want to point out again, that is not the subject parcel this  
806 happened on. This happened across the street.  
807

808 Ms. Dwyer - Mr. Householder, is there a concern about the trucks being  
809 parked next to the residents on Daisy Avenue that was evidenced by the picture that you  
810 showed.  
811

812 Mr. Householder - Yes.  
813

814 Ms. Dwyer - And there is also a concern that trucks may be parked on or  
815 around the additional site that is being included in this zoning case. I believe you described it  
816 as a gray house on Nine Mile Road. Right?

817  
818 Mr. Householder - That is how I described it. Our concerns mainly are with the  
819 proximity of a large truck to a residence, and then if they were to park it on this building here,  
820 we had talked at length with the applicant about the possibility of demolishing this and having  
821 some sort of landscaping on Nine Mile, landscaping around the back, and some sort of parking  
822 area that would be paved, either concrete or asphalt for them to park it there, and at this point,  
823 they are not exploring that avenue.

824  
825 Ms. Dwyer - Your suggestion to the applicant is a way to accomplish his  
826 purposes, as well as satisfy all the concerns that staff had would be to go ahead and include  
827 this gray house on Nine Mile Road in the rezoning, landscape it from the street, and park the  
828 vehicles here, as opposed to around the corner next to the residents.

829  
830 Mr. Householder - Yes, but it is already included in this rezoning, and that is not  
831 addressed through the proffers, how they will treat that site.

832  
833 Ms. Dwyer - OK, our point is that staff has made a proposal that would satisfy  
834 staff concerns and accomplish the purposes of the applicant, but that has not been followed  
835 through in terms of proffers by the applicant.

836  
837 Mr. Householder - Correct.

838  
839 Ms. Dwyer - Thank you.

840  
841 Mr. Householder - Any other questions?

842  
843 Mrs. Quesinberry - I would like to hear from the applicant.

844  
845 Mr. Mistr - Ladies and gentlemen of the Commission, I am Spud Mistr,  
846 representing John C. Zehler, Sr., the applicant in this case. We deferred this – we requested a  
847 deferral to give the applicant time to study the feasibility of demolishing the house next door.  
848 At this time it is not economically feasible. He had hoped to someday maybe be able to  
849 expand the existing store onto that site, so he is reluctant to proffer demolishing the house at  
850 this time, and also if we parked on that site it would hinder visibility of any expansion. So,  
851 those are the reasons that they would like to park the truck where it is shown in the picture you  
852 see now, and where it is legal to park it during normal hours of operation. The only problem  
853 from this is that you can't park it between 10:00 p.m. and 6:00 a.m. in the morning, which are  
854 the hours of operation. The truck can stay there 18 or 16 hours a day literally right now. You  
855 can park across the street legally, in the B-3 zoning over there, 24 hours a day. We would like  
856 to get the B-3 zoning so that the applicant can park the truck on his own site. That is the main  
857 reason. We have proffered that we will screen between the existing house from the garage out

858 to Daisy Avenue, with landscaping, and we are more than willing to do that. We do have a  
859 gravel driveway that is crush-and-run right now. If there is a drip of oil, this is not a spill that  
860 you have seen, it is drips that come from just about any gas truck that you have. That crush-  
861 and-run can be replaced with new crush-and-run, and it is the oil or spillage or whatever would  
862 be pretty well contained in that area. The picture across the street evidently is an old picture.  
863 It looks like it has a June of 1999 date on it, and it looks like it had been raining, and water  
864 was standing there, and the water may appear oily. I doubt that it was. I am not sure where  
865 the complaint about getting oil into the stormwater system on Daisy Avenue is, because, if I  
866 remember correctly, there isn't a stormwater system on Daisy Avenue, so I am not sure what  
867 is going on. With that, I am sure that the applicant, if he is notified of this complaint, he will  
868 address it, so I think it would be better for everybody concerned if the truck were parked on  
869 the site where it is intended to be and its intended use and be allowed to do it 24 hours a day so  
870 they wouldn't have to park it on the site during the hours of operation and drive it across the  
871 street at night, where it is legally parked just as close to a residence as it would be parked  
872 here. It is just a different resident.

873  
874 Mrs. Quesinberry - Mr. Mistr, could you just talk a little bit about the EPA wells or  
875 monitoring devices that are on the current site?

876  
877 Mr. Mistr - There are, I believe, six EPA monitoring wells on the site in the  
878 center of Daisy Avenue, and this was done several years ago, so they are monitored by EPA, I  
879 believe, twice a year, but periodically, to make sure there are no spills, and that there is no  
880 groundwater contamination. So, by having the truck on the site, if there were a spill or if fuel  
881 was lost, then it would be picked up in these monitoring sites and it would be noted by the  
882 EPA before the oil would get into the groundwater.

883  
884 Mrs. Quesinberry - When the truck is parked across the street, close to the residential  
885 area on that B-3 car lot, is there any monitoring that goes on for any leakage of that truck?

886  
887 Mr. Mistr - None that I am aware of. No. I mean the owner is not allowing  
888 it to leak intentionally, but, I mean, as far as any regulatory agency having any monitoring  
889 wells, I am not aware of any that are over there.

890  
891 Mrs. Quesinberry - So, right now, in normal business hours, that truck is and can be  
892 parked where the applicant wants to park it, on their own property.

893  
894 Mr. Mistr - That is correct.

895  
896 Mrs. Quesinberry - And when they close the business down, they have to move it  
897 across the street to a B-3 property close to residential area where there is no EPA monitoring  
898 wells.

899  
900 Mr. Mistr - That is correct.

901

902 Mrs. Quesinberry - And what are you proposing with the site with the old gray house  
903 on it?  
904

905 Mr. Mistr - I understand the applicant would like to expand the convenience  
906 store, not immediately, but sometime in the future, and if it was zoned B-3, the restrictions are  
907 the uses that we have restricted. He could expand his operation, but he is not going to put new  
908 objectionable operations there.  
909

910 Mrs. Quesinberry - I know on your proffers you have proffered to eliminate all of the  
911 less desirable B-3s. Would you also be willing to include some additional landscaping along  
912 Nine Mile Road on that property that the old gray house sits on to improve the looks there.  
913

914 Mr. Mistr - Do you mean right now?  
915

916 Mrs. Quesinberry - At the time that you actually raze the building.  
917

918 Mr. Mistr - Yes, I believe we'd be under the Highland Springs Renovation,  
919 so yes, he would be willing to landscape Nine Mile Road when an expansion takes place.  
920

921 Mrs. Quesinberry - And on this site of the current property at the garage site, where  
922 the trucks are parked during normal business hours, you are proffering some landscaping  
923 between the applicant's commercial business and the house, the residence that is right next  
924 door.  
925

926 Mr. Mistr - Yes, ma'am, that is correct, and that would be a hedge or red  
927 buds or some type of trees that would screen the entire truck from the residence.  
928

929 Ms. Dwyer - Well, you have really not defined it in this proffer. It just says  
930 landscaping will be provided. You ought to have a more quantitative proffer.  
931

932 Mr. Mistr - We wanted to have it from the front of the garage to the avenue.  
933 We obviously don't really want the landscaping from the garage. I think we are intending to  
934 request - there is a 10-foot ally that runs all the way from Daisy to Cedar - we are going to  
935 request that to be vacated. I am not sure whether the adjoining property owners would join in  
936 that request or not, and it would be up to the Board to how they acted on it, but typically when  
937 it is vacated, five feet would be deeded back to each property owner, so what we would hope  
938 to eventually do is to landscape that five feet, which is now an alley, and really an  
939 unmaintained ally.  
940

941 Ms. Dwyer - I make the point just to...

942

943 Mr. Mistr - We can, if your point is, can we amend the proffer as to exactly  
944 where the landscaping would go, yes, ma'am.  
945

946 Mrs. Dyer - And what landscaping would be put in there. You know, we  
947 have standards in the ordinance that we sometimes rely on, too, to specify quantity and quality  
948 of landscaping materials.

949  
950 Mr. Mistr - I think we can do that between now and the Board meeting. I  
951 know we can do that, in fact.

952  
953 Mr. Archer - Mr. Mistr, it appears to me in looking at the pictures that were  
954 shown of the leaks that were occurring, there was one picture of a bucket that appeared to be  
955 full. Was that fuel in the bucket or do you think it may have been water?

956  
957 Mr. Mistr - There are two buckets setting near that truck or there were  
958 Tuesday, that in no way resemble the bucket in the picture, and I think they were used from  
959 time to time when they were transferring fuel, but you know, it looked like a bucket full of oil,  
960 but you could have a ½ inch of oil and water in that bucket. I am sure the surface of it was  
961 some type of fuel oil.

962  
963 Mr. Archer - I am assuming that the bucket was put there to catch something.  
964 It appears that out of the two trucks that are pictured, that one is the one that seems to have the  
965 chronic leak.

966  
967 Mr. Mistr - One is an antique truck and I believe they are planning on  
968 replacing that at some time in the near future, you know, putting in a new truck in service and  
969 taking that one out.

970  
971 Mr. Archer - Well, the second question I had, the staff report indicates that a  
972 concrete pad would solve the problem. Now, I understand that might not be what you would  
973 call "cost effective" but is there another way, other than having gravel, some kind of a catch  
974 basin that can be used that may not be as expensive as a concrete pad, that would catch the  
975 fuel? Because it appears that this leak has been going on for sometime, and I guess that is why  
976 people are concerned about it.

977  
978 Mr. Mistr - Well, is it a leak or is, you know, every gas station you go to has  
979 fuel or oil that drips from time to time, and if you have concrete it shows up very well. If you  
980 have asphalt down, it will tend to cause the asphalt to deteriorate, so, if you have gravel, there  
981 is not going to be such a leak that it will soak through the gravel, and if you do get it, you can  
982 scrape the gravel up and put more gravel down and that takes care of it. Now you can  
983 certainly shape the gravel that it would, you know, crush-and-run stone is pretty hard. Water  
984 really doesn't soak into it in your driveway. It is considered impervious area for your  
985 environmental calculations on subdivisions. We could certainly shape that so it would keep  
986 anything that did drip from running back to Daisy Avenue or onto the property next door.

987  
988 Mr. Archer - Well, I guess the point I am trying to make is if you use the crush  
989 and run gravel, when it gets to the extent that it has to be picked up and carried away and more

990 gravel put down, still you will ultimately have the problem of being disposed of somewhere,  
991 whereas if you had some kind of hard surface there that could catch it, you could clean the fuel  
992 up and...

993  
994 Mr. Mistr - You'd still have to dispose of it.

995  
996 Mr. Archer - Well, yes, I guess you would, but you could clean it up and use  
997 it, I don't know.

998  
999 Mr. Mistr - I really don't know whether it is better to dispose of it as a gallon  
1000 in a bucket or a yard of crush-and-run stone. It has to go to a landfill that can handle that type  
1001 of material. You cannot legally dump it in a stormsewer or sanitary sewer.

1002  
1003 Mr. Taylor - But you could construct an oil impervious pad with appropriate  
1004 sills and have an adequate oily-water separator installed and avoid any environmental problem,  
1005 could you not?

1006  
1007 Mr. Mistr - Yes, you could. The oil-water separator concrete pads are very  
1008 expensive, you know. I know concrete pads are now required on new service stations. I am  
1009 not sure oil-water separators are required. They are required for a car wash.

1010  
1011 Mr. Archer - I guess what I was asking, That was the one alternative that was  
1012 explored here, in having a concrete pad. I guess I was asking is there any other kind of  
1013 device, maybe something portable that can be used to catch fuel?

1014  
1015 Mr. Mistr - There probably is. I am not aware of it. We can certainly do an  
1016 investigation and see if we could find something. If we could find something we could do  
1017 relatively inexpensively short of concrete, I am certain the owner would be willing to do it.

1018  
1019 Mr. Vanarsdall - All right. Any more questions for Mr. Mistr? All right. I'd like  
1020 to hear from the opposition. Yes, sir.

1021  
1022 Mr. Williams - My name is Carroll Williams and I live over on Elm  
1023 Avenue, which is across the street. This older fuel truck is sitting over there. It has antique  
1024 license plates sitting on it. It can't be used on the street. It is being used right now for a  
1025 storage tank, and that is the one we are questioning that is leaking. Of course, the new truck is  
1026 leaking, too. When they park it over there it is leaking. And anywhere they put it in that area  
1027 is going to be right in somebody's front door. That is what I am concerned about, like it  
1028 shows on the picture. If you move it to where the old house is, there is a house there, too.  
1029 And where it is setting right now, it is setting right next to a residential zone and right across  
1030 Daisy Avenue is a restaurant, and behind that restaurant is some propane tanks for their  
1031 cooking purposes. Now this could create a great catastrophe like that had over here in  
1032 Highland Park. It really concerns me. I did go around just in the immediate area, I haven't  
1033 been out, way out, it was around a three or four-block area, and I got 101 signatures of people



1034 right here who don't want it. And I also have a copy of the spill they had in 1999. It says 150  
1035 gallons of gasoline ran down the street and they had to evacuate some of the people over there,  
1036 and I just don't feel like, and people don't either, that this is a proper place for an oil business.  
1037 It should be out away from a residential area. There is an ordinance, if you are familiar with  
1038 it, that you are not supposed to be parked in a residential area and Highland Springs is, I think,  
1039 a residential area. It is a subdivision and there is a zone in there that is probably legal to park  
1040 on, but I don't think oil trucks are legal for that. I am not up on all of the law, but this is a  
1041 copy of the ordinance that says you are not supposed to park oil trucks other than for delivery,  
1042 make a delivery and then get out. You are not supposed to be parked in a residential area. To  
1043 me an area is different from a zone. You know, Highland Springs area is the whole area, and  
1044 you can have a zone within the area, so I don't know however you all define it, but this truck  
1045 is a problem over there. It is a danger. You can look at the picture and tell that. That is  
1046 about all I can say, I guess.

1047  
1048 Mr. Taylor - Mr. Williams, you say that is a danger. You mention that there  
1049 was a gasoline spill. Did gasoline come from one of the two trucks?

1050  
1051 Mr. Williams - Well, he's got the new truck, and he is apparently hauling  
1052 gasoline at one time and kerosene at another. And that truck is leaking over there. Every time  
1053 he parks it over there you can see where it drips on the ground. At one time I looked it was  
1054 enough puddles on the asphalt where it had eat into it where you could dip your hands in it. I  
1055 don't know. It just don't look like it should be there that close to houses, close to a restaurant,  
1056 and the restaurant holds about, I don't know how many people, but if it was full, or how many  
1057 was in there, but if we have an explosion it is a danger to whoever is there, plus the residents  
1058 that are in that area. I just don't feel like it is a proper place for an oil business. It should be  
1059 out of the way from houses.

1060  
1061 Mr. Taylor - But you are saying that in addition to delivering oil, fuel oil,  
1062 which has a relatively low flash point, somehow, somehow those trucks are handling gasoline,  
1063 either to deliver it or to receive it.

1064  
1065 Mr. Williams - The one new truck, I have noticed they have fuel in it and they  
1066 dump it in an in-ground tank and their kerosene tank is setting above ground, by the way.  
1067 That is another problem, that I don't think you are supposed to have fuel in a tank stored above  
1068 ground not in a service station or anything like that. There are two tanks over there, probably  
1069 500 gallons or so, with a pump on it like a gasoline pump, that are setting on top of the  
1070 ground.

1071  
1072 Mr. Taylor - Do we know if they are licensed to trans-ship gasoline as well as  
1073 fuel oil?

1074  
1075 Mr. Williams - I don't know. I just see, I just notice that they dump a load of  
1076 liquid fuel in the ground, and as far as I know they don't have an underground kerosene tank.  
1077 It must be gasoline.

1078  
1079 Mrs. Quesinberry - Mr. Taylor, that might be a question for the applicant.  
1080  
1081 Mr. Taylor - Is Mr. Mistr here? Can he handle that?  
1082  
1083 Mrs. Quesinberry - We will get him back up here. This is a citizen, when he is  
1084 finished.  
1085  
1086 Mr. Williams - I brought you a copy of the signatures. When you were here last  
1087 time you asked if I brought you a copy. One of you did, and I made copies of the signatures of  
1088 people in the neighborhood that are opposed to this.  
1089  
1090 Mrs. Quesinberry - Where do the people in the neighborhood want Mr. Zehler to  
1091 park his trucks?  
1092  
1093 Mr. Williams - Well,  
1094  
1095 Mrs. Quesinberry - He's got a legitimate business. He has been operating for a  
1096 couple of decades there.  
1097  
1098 Mr. Williams - Well he hasn't had the oil business.  
1099  
1100 Mrs. Quesinberry - That has been a part of that business for a very long time.  
1101  
1102 Mr. Williams - But, too, these above-ground kerosene tanks. You say they are  
1103 "grandfathered" but as I remember when I moved to Highland Springs, there was an air-hose  
1104 there. Those tanks have not been there all that long.  
1105  
1106 Mrs. Quesinberry - Is your primary concern above-ground tanks that are setting on  
1107 the current business, or is your primary concern an oil truck parked in the B-3 car lot next to  
1108 your residential neighborhood.  
1109  
1110 Mr. Williams - Both of them.  
1111  
1112 Mrs. Quesinberry - Well, the Commission is not, regardless of the zoning case, we  
1113 are not considering above-ground tanks on a legitimate business.  
1114  
1115 Mr. Williams - Well, see, but this one, the older oil truck is being used for a  
1116 storage tank, and that is one of them that is leaking, setting over there on the B-3 zone. It is a  
1117 danger to the neighborhood.  
1118  
1119 Mrs. Quesinberry - On the car lot.  
1120  
1121 Mr. Williams - Yes, ma'am.

1122  
1123 Mrs. Quesinberry - So, you would like to see that truck not parked on that car lot.  
1124  
1125 Mr. Williams - I would like to see them out of the neighborhood. Period. It is a  
1126 danger. Wherever they park them, any of the three points, where they are right now, where  
1127 they want to put them either where the old house is or on the north side of Daisy, there is a  
1128 house within 10 feet of the line, the line is within 10 feet of the R-zone, and there is a house  
1129 within about 35 feet of it.  
1130  
1131 Mrs. Quesinberry - I know, there is a commercial area right there on Nine Mile is  
1132 very close to the residential area.  
1133  
1134 Mr. Williams - I just don't feel it is a proper place for a business to be. I realize  
1135 the man wants to put his stuff together, but, not being funny, but suppose he wanted to go into  
1136 the nitroglycerin business, you know. This thing could be bad, like the spill they had that  
1137 spilled 150 gallons down the street. If somebody had dropped a match in that, that oil tank  
1138 would have exploded on that truck. And that would have made a big bang. We just don't  
1139 need that in a residential area we don't feel like.  
1140  
1141 Mr. Taylor - The one thing that is of concern to me, though, is that gas is  
1142 being trans-shipped or loaded some way in there without direct delivery to underground tanks  
1143 and sealed, and that means that someplace in there there is gasoline stored in that truck, while  
1144 it is not being delivered, and that could be a potential explosion hazard. I just wanted to point  
1145 out that is a greater safety hazard than fuel oil.  
1146  
1147 Mrs. Quesinberry - I don't think that is what they are using those trucks are for. Is  
1148 that right, Mr. Mistr? Can we get you back up here? Those trucks are carrying fuel oil?  
1149  
1150 Mr. Mistr - Generally, the new truck is used to bring gas in and deliver it  
1151 from time to time. The older truck, to my understanding, is fuel oil only.  
1152  
1153 Mrs. Quesinberry - Can you address that, I guess it was in 1999, that leak, was that  
1154 from your truck?  
1155  
1156 Mr. Mistr - Probably Mr. Zehler can address that better than I can.  
1157  
1158 Mr. Williams - This is a report from the Fire Department, the exact, every  
1159 movement that was made in cleaning it up and everything, if you'd like to read it. I brought  
1160 you a copy if you'd like to have it, and I'd like to give you all of this while I am here. They  
1161 also had spills in 1994 and 1997 over there,  
1162  
1163 Mr. David Zehler - Mr. Chairman and members of the Commission, my name is  
1164 David Zehler. I am here on behalf of my father who could not make it tonight because my  
1165 mother is bedridden and he has to take care of her. To answer your question, as far as the

1166 gasoline, the laws have changed over the years. When we had that spill, that was before they  
1167 had tight fills. Today the system is a tight fill system and it cannot come out. Before, it was  
1168 just a pipe system and it went into the pipe and any spillage came out and the way service  
1169 stations were designed years ago, the spillage, there is a large cap inside of a cap. The spillage  
1170 goes in there and is absorbed into the ground. That was the purpose and the way it was done  
1171 years ago. Yes, we did have a spillage. It was done by a common carrier, not by our trucks.  
1172 It was cleaned up. We paid to have it cleaned up. It was right at \$8,000 what it costs us to  
1173 have the EPA come out and clean it and monitor it. As far as gas on the fuel oil truck, we,  
1174 periodically, at times, cannot get a common carrier in and rather than being out of gasoline,  
1175 we will send our truck to the loading ramp, load our fuel, come back to the service station and  
1176 drop it. Gasoline is not stored on that truck any length of time, overnight or whatever. We  
1177 drop it when we pick it up.

1178  
1179 As far as the spillage, it is very difficult to explain. You have to understand the process. With  
1180 fuel oil trucks, you have bottom loading. Today, with bottom loading, it is a liquid. Anytime  
1181 you have a liquid, yes you are going to have drippage. As far as the bucket you are seeing on  
1182 the premises on the older truck, is when you snap your hose into that line that the product  
1183 comes out of, when you unhook it you have drippage. Rather than dripping on the group, we  
1184 let it drip into the bucket. When we get a half, 3/4s of a bucket, we take the bucket back up  
1185 top, pump it into the compartment. We felt it was better to drip it into the bucket, put it back  
1186 into the compartment than dripping on the ground. The notice we received at 4:00 today, we  
1187 went over and checked the premises. I have no idea what they are talking about. We called  
1188 the gentleman from the County. He was not in. We are waiting for him to come back. We  
1189 would like for him to meet us on the premises and show us exactly what he is talking about,  
1190 because I can say the ground is dry right now. There is no oil on the ground. There has not  
1191 been any oil laying on the ground. The only oil you will find, and the spots you will find are  
1192 drippage.

1193  
1194 Mrs. Quesinberry - Mr. Zehler, I notice on the letter that you are referring to from  
1195 the Environmental Inspector, he said "It appears."

1196  
1197 Mr. Zehler - Correct.

1198  
1199 Mrs. Quesinberry - So you don't see anything there that he is referring to?

1200  
1201 Mr. Zehler - Well, we received the letter, and like I say, we would like to  
1202 meet him up there and let him show us exactly what he is talking about, because we have no  
1203 idea what he is talking about, and when we received that letter, my father and I went over and  
1204 checked the premises, and as far as we can tell, there is no leakage.

1205  
1206 Mrs. Quesinberry - I know you have had complaints with the truck sitting on the lot -  
1207 on the car lot - and the Fire Department has been out there from time to time but have they  
1208 actually ever found any, have they ever cited you for anything?

1209

1210 Mr. Zehler - We have not been written any violations and Mr. Williams seems  
1211 to know more about our business than we do, and everytime somebody moves over there, he  
1212 calls the Fire Department. They used to come with whistles blowing and horns, but now they  
1213 just come in and say, "Here, we have to answer this call, and we have answered the call," and  
1214 I sign the paper and they leave. We have been harassed by this gentleman right here, and he  
1215 continues to harass us, and I will seek legal counsel in the morning to get this to stop, because  
1216 we do provide a vital business to our community. We do pay a lot of taxes to Henrico County.  
1217 And a good example is the old truck this winter, when product was not available, we had  
1218 3,000 gallons of oil on the truck and we were able to provide 30 families with that truck that  
1219 would not have been able to have oil if it wasn't sitting there, and that is what we use it for,  
1220 for additional storage when the product is not available, when you cannot get it. This winter  
1221 during the ice storm, kerosene was not available. We had a thousand gallons of kerosene on  
1222 that truck. It provided numerous families with heat, just because we were sitting there with  
1223 that truck.

1224  
1225 Mrs. Quesinberry - Thank you.

1226  
1227 Mr. Archer - Mr. Zehler, before you sit down, have you discussed with staff  
1228 the recommendations they made about the concrete pad and the canopy? Do you know if they  
1229 have an alternative to a concrete pad that might work nearly as well, that would be something  
1230 other than...

1231  
1232 Mr. Zehler - Mr. Archer, what they are speaking of is your loading racks that  
1233 load and have numerous traffic, and that is their jobs, that is the type of facility they are  
1234 talking about. Being a Mom and Pop operation, we cannot afford to do what they want us to  
1235 do. I mean it would be impossible.

1236  
1237 Mr. Archer - I am asking because I really don't know.

1238  
1239 Mr. Zehler - The situation is the trucks where they are parked right now is  
1240 legal. It is zoned B-3. We can leave them sit right there. We've got no problems. But when  
1241 you spend \$100,000 for a truck it would be nice to have it on your own premises so you can  
1242 monitor it on a daily basis and know what is going on. And, also, any street that is zoned B-3,  
1243 I can park it on the curb and it is legal, and Mr. Williams keeps complaining. We are actually  
1244 moving that truck further away from his residence when we move it on our premises. It is  
1245 closer to him right now.

1246  
1247 Mr. Taylor - May I ask one question? Mr. Zehler, have you estimated the cost  
1248 of a concrete pad and an oil-water separator in terms of total cost?

1249  
1250 Mr. Zehler - No sir, we haven't at this moment, but right now, through this  
1251 process, where we stand as of today, we have already spent \$10,000, between attorneys,  
1252 rezoning application, it is going to cost us \$5,000 to tear that building down, which we have  
1253 agreed to take down. We just don't have the money that people think that we have that want

1254 us to continue to spend this money. Before you know it, we've got \$50,000 in that corner.  
1255 We can get rid of the trucks. I can leave the trucks parked exactly where they are and spend  
1256 \$100 a month. That is what it is costing us to leave those trucks parked, and it is legal. We  
1257 just spent \$38,000 to update our gasoline tanks and equipment due to the EPA with a change in  
1258 laws. That put a lot of service stations out of business, because they could not afford to do it.  
1259 So, it is not just Henrico. It is the State. It is the Federal. We have a lot of people. In the  
1260 past eight months between the EPA, the Department of Health, Building and Zoning, Fire,  
1261 Environmental today, and this is over a six-month period...

1262  
1263 Mrs. Quesinberry - The ABC Board.

1264  
1265 Mr. Zehler - Yes, the ABC Board, the Board of Health, we've had, we've  
1266 gotten to the point where we are being harassed.

1267  
1268 Mr. Williams - You are not blaming that on me.

1269  
1270 Mr. Zehler - We are being harassed, but it will stop.

1271  
1272 Mr. Williams - I hope you're not blaming this Board of Health stuff on me.

1273  
1274 Mr. Taylor - In the area where you have macadam? Do you have Blacktop  
1275 macadam? Then it is not impervious to runoff? Isn't there a fuel proof coating that you could  
1276 put over macadam to protect the macadam and use macadam curbs to some lesser expense than  
1277 you might have to pay for concrete? Has that been evaluated by anybody?

1278  
1279 Mr. Zehler - This service station was constructed in the 1950s and it was built  
1280 in the 1950s based on the concrete pad theory, that when you had oil spills, that you would just  
1281 sweep it off into the street and whatever and get it up. Today's system as far as what you are  
1282 asking, I don't know because we haven't professed it, because we are not building a new  
1283 location. We are an existing location. We have been there. We bought that location in 1972.  
1284 We put the fuel business there in 1976.

1285  
1286 Mr. Taylor - I believe that you may find that there are some coatings that you  
1287 can put on macadam? To fuel proof those.

1288  
1289 Mr. Zehler - When you speak of macadam, what are you speaking of?

1290  
1291 Mr. Taylor - Black top.

1292  
1293 Mr. Zehler - OK. When you spill it, where is it going to go? It is going to go  
1294 into the gutter.

1295  
1296 Mr. Taylor - Unless you curbed it and provided some area where you could  
1297 collect the runoff.

1298  
1299 Mr. Zehler - There is no way to do it with this particular location.  
1300  
1301 Mr. Taylor - But at least at that point it would not penetrate the soil.  
1302  
1303 Mr. Zehler - I don't know what you are talking about.  
1304  
1305 Mr. Mistr - We can do what he says. I am not aware of a coating for asphalt,  
1306 but we can certainly find out if there is one and that would work.  
1307  
1308 Mr. Taylor - I would appreciate that.  
1309  
1310 Ms. Dwyer - Did you say you'd be willing to tear this building down and park  
1311 the trucks along Nine Mile Road as staff was talking about earlier? Did I hear you say that  
1312 you had agreed to do that, or...  
1313  
1314 Mr. Zehler - We, originally, Ms. Dwyer, agreed to do that, but after checking  
1315 with the pad, canopy, and all of the expenses, dollars and cents-wise, it is not worth it.  
1316  
1317 Ms. Dwyer- You are not planning to do that? You are planning to park the  
1318 trucks...  
1319  
1320 Mr. Zehler - That lot was purchased years ago for expansion of the store and  
1321 basically our offices are on the end of the store, right now. What we would do is convert that  
1322 office in the store and add a new office to the end of the building. We would take it into that  
1323 lot. That is why we really don't want to commit to doing anything on that lot at the present  
1324 time until we determine what we are going to do.  
1325  
1326 Ms. Dwyer - I am sympathetic to the business issue, but from a planning  
1327 standpoint, I find it difficult to expand, B-3 into the area, and granted there is a patchwork in  
1328 the zoning along Nine Mile here, but just looking at the site, it seems that parking a fuel truck  
1329 that close to a home would not be the best idea and that maybe the best alternative available  
1330 would be to use that lot that fronts Nine Mile.  
1331  
1332 Mr. Zehler - Well, those trucks have been parked there since 1976 and nobody  
1333 has complained other than Mr. Williams. That garage was purchased from the house next  
1334 door in question. That garage went with that house, and we purchased it, probably in the  
1335 1970s, late 1970s for the purpose of the storage of our paper goods, cups, whatever for the  
1336 store. There are no perishable foods in there at all.  
1337  
1338 Ms. Dwyer - Yes. I am just concerned about the trucks being so close to the  
1339 house, being parked there.  
1340

1341 Mr. Mistr - Well, you keep in mind that they are close to the house, but we  
1342 have sort of a dilemma because we are trying to make the Highland Springs area look better  
1343 and have some beautification and upgraded, so is it better to have an oil truck 100 feet away  
1344 from Nine Mile Road where it is a little more aesthetic to everybody that passes by, or should  
1345 we protect, you know, one home, and put the trucks on Nine Mile Road. That is, I guess, just  
1346 a matter of opinion, if you live in that house or not.  
1347

1348 Ms. Dwyer - I just want to say that, in my opinion, safety would come first and  
1349 aesthetics would come second, and, in addition to that, I think aesthetics could be addressed.  
1350 You know, you plant a row of Leyland Cypress along Nine Mile Road to hide the truck, and  
1351 that is minimal expense, and it hides the truck.  
1352

1353 Mr. Mistr - I agree. Safety should come before aesthetics, and we can  
1354 certainly take care of the aesthetics, but keep in mind, when you talk about the safety, there is,  
1355 generally, 90 to 95% of the time, the fuel oil which is on these trucks, which are very low  
1356 flash point, the gasoline is used for delivery when picked up. They try to put it in the tanks as  
1357 soon as it gets there, or if they fill the trucks up and they take it somewhere else, it is taken  
1358 immediately, and if you are worried about safety, the house we are parking beside has a 250  
1359 gallon tank above-ground right beside the house between the house and the garage.  
1360

1361 Ms. Dwyer - I am sorry. Say that again.  
1362

1363 Mr. Mistr - The house has an above-ground fuel storage tank beside the  
1364 house, and that is perfectly legal. Most houses in Highland Springs have them.  
1365

1366 Ms. Dwyer - You mean that is...  
1367

1368 Mr. Mistr - For the residents. The fuel storage for the residents is above-  
1369 ground beside the house, so, you know, I don't know that the fuel truck is anymore dangerous  
1370 than the tank by the house.  
1371

1372 Ms. Dwyer - How big is the truck relative to the tank?  
1373

1374 Mr. Mistr - Three thousand gallons, but I mean, if it wasn't 3,000 gallons,  
1375 you'd have a problem with 250 gallons, or it could be a problem. I haven't heard of any fuel  
1376 oil trucks sitting there and exploding recently.  
1377

1378 Ms. Dwyer - I am not going to argue the point, but I think a tank designed to  
1379 serve a residence is different from a commercial vehicle that has fuel oil in it of that  
1380 magnitude.  
1381

1382 Mr. Mistr - I agree with that.  
1383



1384 Mr. Williams - Those tanks he is speaking of sitting above ground, on that other  
1385 lot, they are not for that house. They are for people that come there and pump. They have got  
1386 a pump, just like a gas pump. The tanks are setting over on the other lot, but the pump is on  
1387 the lot with the service station.

1388  
1389 Mrs. Quesinberry - Mr. Williams, he is not talking about that. He is talking about  
1390 fuel oil that heats those homes, that every home around this commercial property is heated  
1391 with fuel oil. That is the point Mr. Mistr was making.

1392  
1393 Mr. Williams - I thought he meant those tanks that are above ground, but I have  
1394 some pictures here of oil. I showed these last time when I was here, and they said...if you  
1395 want to see them.

1396  
1397 Mrs. Quesinberry - We saw those last time.

1398  
1399 Mr. Williams - Yes, I am sure you did.

1400  
1401 Mrs. Quesinberry - Are there any other questions? Thank you.

1402  
1403 Mr. Vanarsdall - If there are no more questions, then we will have a motion. Mrs.  
1404 Quesinberry.

1405  
1406 Mrs. Quesinberry - OK. This is kind of a difficult case in that you have a long-  
1407 standing commercial property in the area that has been serving the citizens for quite some time,  
1408 and a situation where the applicant would like to rezone to B-3, just to be able to keep their  
1409 fuel oil truck on their own property, and in a situation where they have the ability to monitor  
1410 their trucks closer and actually have the trucks in an area that has EPA well monitors that will  
1411 assure the area is not contaminated if there is leakage to any degree. The applicant has also  
1412 stated that they will landscape between the property and the residence on Daisy and also across  
1413 their property on Nine Mile, after they tear down the existing old gray house. It is not an ideal  
1414 situation, but it is one of those situations where you get something better than what exists right  
1415 now, which is a couple of fuel oil trucks parked in a B-3 area, which is perfectly legal, at least  
1416 some point during the day or evening, after business hours, and parked on the property as it  
1417 exists right now and at other times when the property is open for business. I think as far as the  
1418 residents in the area are concerned in trying to improve the situation in that area, and  
1419 considering the applicant and the commercial business that is going on, it is a better situation  
1420 and it is a safer situation for all concerned if the applicant has his trucks parked on his site, in  
1421 sight, and able to be monitored by the owner and applicant. So, I am going to make a motion  
1422 to recommend approval of Case C-22C-00, to the Board of Supervisors, with the additional  
1423 proffers dated March 9, 2000, and the understanding that Mr. Zehler and Mr. Mistr are going  
1424 to address the landscaping issue for specific quantity and quality in the areas we discussed  
1425 prior to the Board meeting.

1426  
1427 Mr. Vanarsdall - I need a second. A motion was made by Mrs. Quesinberry.

1428  
1429 Mr. Taylor - I would like to add one thing to Commissioner Quesinberry's  
1430 motion, if I might, and that is we look at impervious coatings for that macadam which I believe  
1431 to exist, and this may go a long way to preventing hydrocarbon penetration through the slab  
1432 and also if that technology does exist, it would be possible to provide a macadam curb around  
1433 the areas that you are going to park those trucks to provide some residual runoff protection,  
1434 and I would want to amend the motion that be reviewed by the applicant.

1435  
1436 Mrs. Quesinberry - So you want to add to my motion the applicant also address the  
1437 impervious coating on macadam at the Board meeting?

1438  
1439 Mr. Taylor - Yes. I would appreciate it.

1440  
1441 Mrs. Quesinberry - Could you address it prior to the Board meeting?

1442  
1443 Mr. Mistr - Yes. We will address that well before the Board meeting.

1444  
1445 Mr. Taylor - And if you will see me after, I may have a source for that  
1446 material.

1447  
1448 Mrs. Quesinberry - That is the motion, with the addition from Mr. Taylor. Thank  
1449 you.

1450  
1451 Mr. Taylor - With that, I will second Commissioner Quesinberry's motion.

1452  
1453 Mr. Vanarsdall - We have a motion made by Mrs. Quesinberry and seconded by  
1454 Mr. Taylor. All in favor say aye. All opposed say no.

1455  
1456 The vote was as follows:

1457  
1458 Mr. Taylor - Aye  
1459 Mr. Vanarsdall - No  
1460 Mr. Archer - Aye  
1461 Mrs. Quesinberry - Aye  
1462 Ms. Dwyer - No

1463  
1464 The Planning Commission recommends that Case C-22C-00 be recommended for approval to  
1465 the Board of Supervisors, subject to motion by Mrs. Quesinberry and amendment by Mr.  
1466 Taylor.

1467  
1468 **C-26C-00 Gail L. Sailes for Gail & James L. Sailes:** Request to conditionally rezone  
1469 from A-1 Agricultural District to R-2C One Family Residence District (Conditional), Parcel  
1470 202-A-20A, containing 3.87 acres, located on the east line of New Market Road,  
1471 approximately 200 feet north of its intersection with Chatsworth Road. A single family

1472 residential subdivision is proposed. The applicant proffers no more than five lots to be  
1473 developed on the property. The Land Use Plan recommends Suburban Residential 1, 1.0 to  
1474 2.4 units net density per acre.

1475

1476 Mr. Marlles - The staff report will be given by Mr. Mark Bittner.

1477

1478 Mr. Vanarsdall - Anyone in the audience in opposition to C-26C-00, Gail L. Sailes  
1479 for Gail and James L. Sailes? All right. Thank you. Mr. Bittner.

1480

1481 Mr. Bittner - Thank you, Mr. Chairman. The applicants have stated that they  
1482 intend to develop these lots for their children; however, they would not be prohibited from  
1483 selling these lots to non-family members. The property is designated suburban residential on  
1484 the 2010 Plan with a suggested net density range of 1 to 2.4 units per acre. The requested R-2  
1485 zoning is consistent with this designation. Because of the layout of the property, staff  
1486 estimates that only four or at most five lots could be developed on the site. However, the  
1487 applicants have proffered to develop no more than four lots, which equals a net density of 1.4  
1488 units per acre. The applicants have also proffered that no lot will have direct driveway access  
1489 to Route 5. The applicants intend to build a road to serve all of the lots in this subdivision.  
1490 This would limit the number of new entrances onto Route 5 to one and help facilitate traffic  
1491 flow and safety along this roadway. In summary, this proposal is consistent with the 2010  
1492 Plan in this area. It would limit new driveways onto Route 5 to aid traffic safety and flow, and  
1493 staff recommends approval of this application. I'd be happy to answer any questions.

1494

1495 Mr. Vanarsdall - Any questions of Mr. Bittner by Commission members? All  
1496 right. Would you like to hear from the applicant, Mrs. Quesinberry?

1497

1498 Mrs. Quesinberry - Yes. Is the applicant here?

1499

1500 Mr. Vanarsdall - Is the applicant in the audience or back in the back on this case?

1501

1502 Mrs. Quesinberry - Is anybody here to speak for the Sailes?

1503

1504 Mr. Vanarsdall - Gail and James L. Sailes?

1505

1506 Mr. Vanarsdall - Go ahead and her from the opposition then. You all can take  
1507 turns who wants to be first and come on down. We will be glad to hear from you.

1508

1509 Mr. William Langford - Good evening. My name is William Langford and I can't see the  
1510 numbers real good, but my property is the property next to the Sailes going toward Midview,  
1511 the back parcel No.1340. There is some problems I have in the development that nobody came  
1512 forth with a plan of development. You have, as you see, going through a parcel, a drainage  
1513 easement of one, which I know of and another one which I cannot find on the thing, but it does  
1514 go through there. This land lies in a way that, to me, you might have a soup-bowl effect. My  
1515 main question is how this gentleman is proposing drainage for this property without impacting

1516 the other people around him. The parcel next to me, previously, was developed by Signet  
1517 Bank which is now going to be took over by Varina Veterinary Clinic, and when they regraded  
1518 there thing they added water that washed out part of my driveway, so I know there is a lot of  
1519 velocity of water coming from there to this day, and now we have also got water coming from  
1520 Midview, which is now a curb and gutter down to where my driveway entrance is, and you  
1521 have got high velocity of water, where it used to be that you had a grass area, and you had the  
1522 roots and all to slow the velocity down. With all this additional velocity and the way the water  
1523 now jets down through that drainage easement during the fall rainy season, you do have some  
1524 flooding and some backup sometime in this area, and where this water goes, it stands  
1525 sometimes in some of these parcels and the main thing, the old drainage way VDOT bought  
1526 long years ago, did not address, you know, go to a creek, to a river, it is going to spread out  
1527 and absorb into the ground, and with development and asphalt and concrete, this is not going  
1528 to happen. So, therefore, my main issues with the owner is if he can show me a way he can  
1529 get the drainage, which I have not been talked to about a plan of development or anything, then  
1530 I have no question in how he is going to further develop it. And until then, practically most of  
1531 the people here are concerned on this drainage issue. Also, a lady could not be here tonight,  
1532 Ms. Goode, she asked me to give a letter of her concerns about the drainage easement, too.  
1533 She lives across the street. A lot of times the State has to come out to clean the drainage pipe  
1534 because the water is blocking the leaves in and when they move it, all that flush down one  
1535 easement, which is shown, and she is concerned about the drainage problem that is going to  
1536 take place on this development. Now, I am sorry VDOT people omitted or failed to see this  
1537 easement here. It causes a lot of water in the Fall rainy season. I mean, for some people who  
1538 have been down Route 5, especially when we had that last rain, you had sections of Route 5  
1539 flooded, and this area here carries a tremendous amount of water in a Fall rain.

1540  
1541 Mrs. Quesinberry - Mr. Langford, is your property adjoining the applicant's  
1542 property? Are you right next to this?

1543  
1544 Mr. Langford - I apologize. I do not have my reading glasses. I am right here.

1545  
1546 Mrs. Quesinberry - So you are right next to them.

1547  
1548 Mr. Langford - I am right there, so I know this property well, and the reason I  
1549 have also got concerns on the drainage, I worked for VDOT as a construction inspector for  
1550 eight years, and I am also doing consulting work on road building, and by the lay of the land,  
1551 of course, eye-balling it. I can't go on the person's property; I've got major concerns of  
1552 drainage of what he going to do with the drainage if he develops it.

1553  
1554 Mrs. Quesinberry - Did the applicant not talk to you about this, or talk to the  
1555 neighbors about their plans?

1556  
1557 Mr. Langford - I saw the developer, the proposed developer, Mr. Sailes, one  
1558 time only, when I came from my mail box, and he said he wanted to develop for the family.  
1559 So I couldn't get much more from him. I called the Planning Office to see if anybody know of

1560 any subdivision plans proposed so I would know what was happening. That is why I am here  
1561 tonight. I got no information what he is proposing to develop, what he going to do with  
1562 drainage, where the road is going to be located at. You look at that triangular shape of the  
1563 property, it looks like only one place the road is going to be, and if it is going to be going in  
1564 there, is he going to build it like an easement, which is 15 to 20 feet, or is it going to be an  
1565 approved County road with 50 foot right of way with ditch lines and everything.  
1566

1567 Nothing has been addressed about drainage at all for this area. And I am real concerned with  
1568 my property on the drainage issue. That is basically my whole, I've got no problem with  
1569 development if somebody tells me they are going to do a retention pond or what for the  
1570 drainage. I don't know.  
1571

1572 Mr. Marlles - Mr. Langford, you may be aware of this as part of your working  
1573 with VDOT, drainage is something that is looked at very closely by the Department of Public  
1574 Works and usually as part of the subdivision approval process, and, of course, we are at the  
1575 rezoning stage. That is not to say that the applicant should not be here to address some of those  
1576 general concerns that you are raising about drainage, but I do want to point out that normally  
1577 drainage is looked at in detail as part of the subdivision preview and approval process.  
1578

1579 Mr. Langford - I understand what you are saying, but if the man wants us not to  
1580 have a hassle and go along with it, I don't want to go along with something knowing what is  
1581 coming forth. If he would fill us in ahead of time, say this is what I do, this is how I am  
1582 proposing to do it, I mean when the bank opened up I knew what they was going to do before.  
1583 It was an open line of communication. We have had no communication. I mean it may be if  
1584 he proposed it, I wouldn't have a problem with the houses, but I am not going to say I want  
1585 two acres per acre under R-2 or one house per acre. I don't want all of that development and  
1586 additional runoff until we find out what his plans of operation are going to be. I'd rather go  
1587 back with a farm being developed there where you are going to have plenty of grass and  
1588 everything to absorb this water.  
1589

1590 Ms. Dwyer - I agree with Mr. Marlles. I know that this is normally a POD or  
1591 subdivision issue, but I also think if there is a substantial concern about something like  
1592 drainage, that really needs to be addressed at zoning, because that this is not an appropriate  
1593 zoning case if those issues are outstanding.  
1594

1595 Mr. Langford - Like I said, the lady up in age, Mrs. Goode, could not be here,  
1596 and I have got a letter from her, because of her age and health could not be here, questioning  
1597 the drainage, also.  
1598

1599 Mrs. Quesinberry - Would you share that letter with the Secretary, Mr. Langford?  
1600

1601 Mr. Langford - Like I said, I do not know what the content is because I didn't  
1602 think it would be appropriate, because you all can read it out loud, what it is, because I didn't  
1603 think it would be appropriate, reading somebody else's mail.

1604  
1605 Mr. Vanarsdall - We will let Mr. Secretary decide that.  
1606  
1607 Mrs. Quesinberry - Thank you very much, and you thank her for sending that, too.  
1608 No, we are going to hear from some other folks who have some opposition.  
1609  
1610 Mrs. Margaret Bigger - Good evening. I am Margaret Bigger and I live at 1364 New  
1611 Market Road Parkway. I am next door. No one has said anything about any kind of plan as to  
1612 what is going to be developed and I see those people every day, and about the drainage.  
1613 Across the back, I notice there is an easement or some drainage on this little parcel from right  
1614 here to Chatsworth, and going on over to Freeleef, but that drainage also is on a portion of my  
1615 property, but nothing is on the property next door that they are trying to develop. The  
1616 drainfield starts on my property - right on the line - and goes across Chatsworth into Freeleef,  
1617 and I don't know how many feet they have to be from my property before they put four to five  
1618 houses up there. That 2.87 acreage for four developments, whether they are going to do with  
1619 the 11,000 - the new square acreage for a lot now - or are you going to 7,000 that you passed  
1620 a couple of weeks ago? Four houses is too many to be cluttered up behind you. If you look at  
1621 it, they say keep the first house on the front, and the Planner said Scenic Route 5, and I wish  
1622 you would come down there and see what Scenic Route 5 looks like out there, Sanford and  
1623 Son. Six or seven vehicles and that son has been there for like three or four years, putting up  
1624 shacks and everything everywhere. Nobody has been down there. We have not complained  
1625 until now; adding on to the back of the house.  
1626  
1627 Mrs. Quesinberry - And that is actually the Sailes property?  
1628  
1629 Mrs. Margaret Bigger - Right, that they are supposed to be buying. But I wish you could  
1630 see the trash that is out there now, and If you are going to put three or four more children in  
1631 the back and they sell to somebody else, we don't need all of that, not on Route 5. But no one  
1632 said anything. I am next door. Been there 60 some years.  
1633  
1634 Mr. Vanarsdall - Thank you. We appreciate your input.  
1635  
1636 Ms. Amy Toiaivo - My name is Amy Toiaivo and I live directly across the street, and  
1637 I believe it is 70. I have a couple of concerns. One, I'd like to know what the plan is for  
1638 Route 5? Are they clear? Are they planning to widen Route 5 anytime soon, and 2, I would  
1639 also, my property adjoins Mrs. Goode, that you have the letter, and we have a drainage ditch  
1640 that adjoins our property that is always full, rainy season or not. Rainy season is horrible and  
1641 the rest of the year is bearable, and it drains to the front of Mrs. Goode's property under the  
1642 road and across over to this property that is to be developed. There is just a ravine, that's  
1643 basically what it is where the water runs off into that. So, I also am concerned about the  
1644 drainage, and I am curious, too, the way the property is with a narrow portion to Route 5, and  
1645 no other road behind it except Midview, which is a pretty good distance behind them, where  
1646 they are planning to put this other exit road, so that there won't be but one road coming to  
1647 Route 5. I think that is going to be interesting to see how they do that.

1648  
1649 The other thing I've been neighbors there for five years and have heard no mention of this until  
1650 the zoning sign went up, and so it would be nice to have a little communication between  
1651 neighbors, to say we are going to build. The other thing that concerns me, too, is are they  
1652 planning to knock down the current property, which is an old dilapidated two-story Sanford  
1653 and Son kind of a dwelling, and you know, I don't mind them improving the property. It  
1654 would certainly help my own property value, but I would like to know what they are planning  
1655 to do. At this point we have got no idea other than that they want to put some - divide the  
1656 property up to build for their children, but I would like to know what their plans are, where  
1657 the road is going to go, and what they are planning to do with the drainage, because it does  
1658 back onto my property, and in the summer, when it is a rainy summer, and in the fall, the  
1659 mosquitoes are horrible because the drainage is not well planned. But those are my concerns,  
1660 and also I would like to know if Route 5 is planning to be widened in the next five years, that  
1661 needs to be something that is considered also in this redevelopment.  
1662

1663 Mrs. Quesinberry - I can tell that Route 5 being widened or not is not within our  
1664 purview. That is a State route, as you know, so we can't answer what VDOT is going to do or  
1665 if they get money or appropriations to do anything at all on Route 5.  
1666

1667 Mr. Vanarsdall - Mrs. Quesinberry.

1668  
1669 Mrs. Quesinberry - Yes.  
1670

1671 Mr. Vanarsdall - We have Todd Eure in the audience. Do you know anything  
1672 about that Todd? It has been said, and I guess you know, it has been said that Route 5 is  
1673 studied more than any highway in the United States.  
1674

1675 Ms. Amy T? I believe that and I have heard more rumors about it, too, what  
1676 they are planning to do and what they are not planning to do.  
1677

1678 Mr. Todd Eure - Good evening. I am Todd Eure, Traffic Engineering. At this  
1679 point I am not aware that there is any major projects planned for Route 5 in VDOT's Six-Year  
1680 Plan. They do have at least one small project that I am aware of at Route 5 and Laburnum to  
1681 add some left-turn lanes but that is very isolated to that corridor. I don't know of any planned  
1682 widening in this area.  
1683

1684 Mr. Vanarsdall - Thank you.  
1685

1686 Ms. O'Bannon - Weren't they going to do a bike path and wasn't that part of a  
1687 plan in the long-range plan?  
1688

1689 Mr. Vanarsdall - They have talked about that, too. Didn't they?  
1690

1691 Mr. Eure - Yes, they have studied, as Mr. Vanarsdall said, extensively, and  
1692 one of the things they did look at was a bike path. I don't believe that is included in any  
1693 widening for a travel lane other than for bikes. I am not sure what the status of that project is.  
1694  
1695 Ms. O'Bannon - But that would be directly on the side of the road or a few feet  
1696 off? I remember seeing some...  
1697  
1698 Mr. Eure - I am not sure what the layout of that would look like. I would be  
1699 glad to follow up on it and let the citizens know.  
1700  
1701 Ms. O'Bannon - What would require for that to be decided upon? What sort of  
1702 procedure would have to be done?  
1703  
1704 Mr. Eure - It would have to go through public hearing process, which would  
1705 mean notification would go to all of the adjacent property owners on Route 5, and I am not  
1706 aware of it going through that process yet.  
1707  
1708 Ms. O'Bannon - Thank you.  
1709  
1710 Mr. Bittner - I would like to answer one question brought up by a citizen. The  
1711 existing house that you refer to is actually not a part of this rezoning. That is right about here  
1712 (pointing on map). The reason being is that they want to keep it there. They do not want to  
1713 bring it down and they originally came in and wanted to include that part in the rezoning. I  
1714 informed them that if they wanted to rezone it to R-2, the house would have to be demolished  
1715 as it does not meet current setback standards, so as a response they took it out of the rezoning.  
1716  
1717 Mr. Vanarsdall - Thank you, Mr. Bittner. Well, Mrs. Quesinberry, I guess you  
1718 have a case of the missing applicant here.  
1719  
1720 Mrs. Quesinberry - I think we have another speaker.  
1721  
1722 Mr. Vanarsdall - Oh, you want to speak? Come on. I am sorry. The missing  
1723 applicant.  
1724  
1725 Mr. Claude Gerst - Good evening. My name is Claude Gerst. My mother, she is  
1726 deceased. She was the one that originally sold this property to the Sailes. Her house is at  
1727 1591 Midview and also she has property at 1375 New Market Road. This property, I am quite  
1728 familiar with it. I grew up there from childhood. I grew up in the neighborhood and it has  
1729 always been a problem with drainage there, and the property at 1591 Midview already has a  
1730 problem with water in the back. With a lot of rain, it is always soaked back there. There is  
1731 water up to your ankles, and I am concerned, too, about the drainage. I don't know what they  
1732 are going to do for sewerage back there. I don't know what they are going to do for water  
1733 back there. And the other thing, I don't know what they are going to do for a highway, for a  
1734 driveway, because her property, it joins the property to the bank, and I don't know if they are



1735 going to take the property to the bank to get a driveway in. I just don't know. I am here from  
1736 New York. I live in New York. They haven't said anything to me. I am still collecting  
1737 mortgage on it. The property has not been paid for yet, but they didn't say anything to me  
1738 about what their plans were, and I just don't see how they are going to get in with a highway. I  
1739 don't know if the land is going to perk. I just don't see how they can do it. And I am very  
1740 concerned about the drainage.

1741  
1742 Mr. Archer - Mr. Gerst, it seems to me that most of the people who have  
1743 spoken tonight have indicated that their main concern is that they don't know what is going to  
1744 happen. Normally, this is a two-step process, and this being the first step in the process to  
1745 obtain the zoning, and then you file a plan of development to build, but as Ms. Dwyer said,  
1746 under extenuating circumstances it seems reasonable to have some development plan to go  
1747 along to accompany the zoning plan so people can have an idea. Do you think, based on what  
1748 you and the other speakers have said, that a meeting would be appropriate so you can  
1749 determine whether or not you really object to this, or so that, you know, the applicant is not  
1750 here. I don't know why, but there is nobody here to answer a question for us, either. We  
1751 don't have any idea of what is being planned either.

1752  
1753 Mr. Gerst - At this point, I think it would be feasible. You should have a  
1754 meeting. I mean it is quite hard for me to keep coming down from New York, but if I have to,  
1755 I will. I am still concerned about this drainage situation.

1756  
1757 Mr. Archer - Well, it seems like that is everybody's concern, mostly, and  
1758 apparently there is a bad situation now.

1759  
1760 Mr. Gerst - The second thing is where is the driveway coming in at? They  
1761 say that they are not coming in from Route 5, New Market Road. It is no way they can come  
1762 in Midview.

1763  
1764 Mr. Archer - I understand. I guess that is what I am saying. It appears to me  
1765 that the applicant needs to be able to address some of this, at some point in time. We don't  
1766 have any idea what we are discussing, to be honest with you except that at this point nobody  
1767 wants it because the drainage is bad, and we don't know where the road might go. He might  
1768 be able to address these answers. I don't really know. None of us know, and we are hearing  
1769 the same thing from everybody. It would seem to me that at some point in time there needs to  
1770 be a meeting with him and you all can at least know what he plans to do, because at this point I  
1771 don't think we know anymore than anybody else does.

1772  
1773 Mrs. Quesinberry - Can I ask Mr. Bittner, did you hear from the applicant recently,  
1774 or do we know why he is not here?

1775  
1776 Mr. Bittner - No. I have no idea why they are not here. I have had a lot of  
1777 extensive conversations with them about this application. As far as the design of the  
1778 subdivision, they really, in my view, have only one option, to build a road coming out here

1779 (pointing to map) and coming straight back, and then having four lots come off in this  
1780 direction, so they would all face the road, and then the road, of course, would come out to  
1781 Route 5. As to why the applicant is not here, I can't answer that.

1782

1783 Ms. O'Bannon - Can I ask you a question? When you say all four would face the  
1784 road, would that be one behind the other?

1785

1786 Mr. Bittner - That is the only way I can see to do the subdivision under R-2  
1787 zoning.

1788

1789 Ms. O'Bannon - Isn't that something that we just had a concern about as part of  
1790 our rewriting of flag lots? Didn't it have to do with houses can't look into the back of another  
1791 house?

1792

1793 Mr. Bittner - Yes, but in this case, under the sketches I have seen, and I have  
1794 actually worked on myself, there would be no flag lots. They would build a public road  
1795 coming out to Route 5 and four lots would front onto it.

1796

1797 Ms. O'Bannon - So the houses would then front the new road?

1798

1799 Mr. Bittner - Yes.

1800

1801 Ms. O'Bannon - Oh, I see. They would then front a new road.

1802

1803 Mr. Marlles - Mr. Gerst, do you feel like you own a portion of this property? I  
1804 think you indicated they were paying a mortgage.

1805

1806 Mr. Gerst - Yes. This was something that my mother, a deal that she had  
1807 with the Sailes. My mother died in 1998, December of 1998, and I am the one now that is  
1808 taking care of her business. So, I don't know, as far as I know, she is the one that is carrying  
1809 the mortgage for them.

1810

1811 Mr. Marlles - Our records indicate that you own Parcel 4N, which is off the site  
1812 that is being rezoned. It is to the north.

1813

1814 Mr. Gerst - Yes. 4N, right, and that is at 1591.

1815

1816 Mr. Marlles - Is that the parcel that you are referring to that you own, or they  
1817 are paying the mortgage on?

1818

1819 Mr. Gerst - No. That is my mother's home.

1820

1821 Ms. Dwyer - So, does he have to be a signatory to this case?

1822

1823 Mr. Marlles - That is what staff is questioning right now. Staff was not aware  
1824 of that. The applicant may have to get your signature, your mother's signature as an owner of  
1825 the property, but that is certainly something staff is going to have to look into.  
1826

1827 Mr. Bittner - I just want to say that I have spoken myself previously with Mr.  
1828 Gerst and I have also spoken with Joe Rapisarda about this. I don't know exactly what the  
1829 ownership situation is. I have not seen any documentation. Our records indicate that the  
1830 Sailes own the property and that, as I understand the situation and Joe Rapisarda understands  
1831 it, Mr. Gerst probably does hold the mortgage, but that would not prevent the Sailes from  
1832 bringing in an application for rezoning. It would be the same as if someone owned a single-  
1833 family house but was still paying a mortgage to a bank or some other party.  
1834

1835 Mr. Marlles - OK. Thank you, Mr. Bittner.  
1836

1837 Ms. Dwyer - I guess I didn't quite understand that. Why wouldn't, if a person  
1838 had a piece of property and they owed money to a bank as part of a mortgage, and they were  
1839 petitioned to rezone that property, then the bank would not have to be involved in the  
1840 application?  
1841

1842 Mr. Bittner - Not to my knowledge. This is in the legal area, which I am not  
1843 well versed in, but I have said those same things to Joe Rapisarda, our County Attorney, and  
1844 he agreed with me. Now, of course, as I said, there could be other documentation out there  
1845 which we have not seen which could change that, but at this point the Sailes own the property,  
1846 even though they owe a mortgage to someone else they can apply to rezone the property.  
1847

1848 Mrs. Quesinberry - This case just gets stickier and stickier. I want to make a motion  
1849 now before anybody else comes up here to speak, if it is OK with the rest of you. Do you  
1850 have anything else you want to add?  
1851

1852 Mr. Bittner - No, that is it for now.  
1853

1854 Mr. Archer - Sir, before you take your seat, is this Rev. Sailes from Antioch  
1855 Church?  
1856

1857 Mr. Bittner - Correct.  
1858

1859 Mrs. Quesinberry - There is a lot of unknowns in this case and the more people that  
1860 speak, the less any of us know exactly what the facts are, and I would like to make a motion  
1861 that, since the applicant is not here, and we obviously need the applicant here to be able to take  
1862 any action on this case, I would like to make a motion that we defer this case for 30 days to  
1863 our next zoning meeting, which is June 15, I believe, and at that time, Mr. Bittner, in-between  
1864 then and now, if you could contact the applicant and let the applicant know that we have some  
1865 pretty significant concerns among the community, and the adjacent property owners, and that  
1866 we would like to suggest very strongly that the applicant meet with those property owners and

1867 answer some of these questions concerning exactly what this subdivision is going to look like  
1868 and the drainage issues, and the access onto Route 5, and any other questions that they might  
1869 have to the June 15<sup>th</sup> meeting. That would be very, very helpful. So, I recommend that we  
1870 defer this case for 30 days at the request of the Commissioner, since the applicant is not here.  
1871 Can I push it off on the applicant, since he is not here, and make it at his request. No. OK. I  
1872 tried.

1873  
1874 Mr. Archer - Second.

1875  
1876 Mr. Vanarsdall - We have a motion made by Mrs. Quesinberry and seconded by  
1877 Mr. Archer. All in favor say aye. All opposed say no. The motion passes.

1878  
1879 The Planning Commission deferred C-26C-00, Gail L. Sailes for Gail & James L. Sailes, to its  
1880 meeting on June 15, 2000.

1881  
1882 **AT THE TIME THE PLANNING COMMISSION TOOK A TEN MINUTE RECESS.**

1883  
1884 Mr. Vanarsdall - The Planning Commission will now reconvene. Mr. Secretary.

1885  
1886 **C-34-00 Jeanne E. McNeil:** Request to rezone from M-1C Light Industrial District  
1887 (Conditional) to R-3 One Family Residence District, part of Parcel 146-A-112, Parcels 146-A-  
1888 119 and 119N, Parcel 146-4-A-52 and Parcel 146-4-A-49, containing 6.902, located on the  
1889 north line of Nine Mile Road (Route 33) approximately 580 feet west of Laburnum Avenue  
1890 and also along the east line of East Richmond Road approximately 1300 feet north of Nine  
1891 Mile Road (Route 33) and at the western terminus of Steeple Lane. The property will be used  
1892 for single family residences. The R-3 District requires a minimum lot size of 11,000 square  
1893 feet. The Land Use Plan recommends Office and Office/Service. The site is in the Airport  
1894 Safety Overlay District.

1895  
1896 Mr. Marllles - The staff report will be given by Ms. JoAnn Hunter.

1897  
1898 Ms. Hunter - Would you like to see if there is any opposition?

1899  
1900 Mr. Vanarsdall - Is there any opposition to this case? C-34-00? There is none.

1901  
1902 Ms. Hunter - Members of the Commission, the applicant is proposing to rezone  
1903 three properties from M-1C to R-3. The purpose of the rezoning is to allow the properties to  
1904 remain residential. Under the M-1C zoning, these properties are nonconforming and could not  
1905 be currently expanded or could not currently be reconstructed if destroyed by more than 50%.  
1906 No new housing units are proposed. There are two historic homes on the property, one is  
1907 located on this property in the rear of Watson Lane and one here along the frontage of Nine  
1908 Mile Road. One of these homes was built in 1884, and here is a picture (referring to slide)  
1909 from the turn of the century and it was actually built by the applicant's grandfather. The other  
1910 house, this is what the house looks like currently (referring to slide) and it is currently under

1911 renovation, and this is the house that is on the front along Nine Mile Road, which is also being  
1912 renovated. One of the property owners has had trouble obtaining conventional financing due to  
1913 the industrial zoning for the property. The property was zoned M-1C in 1990. Since the 1990  
1914 rezoning, Nine Mile Road has changed considerably. We have had several residential rezoning  
1915 requests here along Richmond Road (referring to slide) and the road goes up, and if you make  
1916 a left, it is Dabbs House Road, and we have had considerable residential development in that  
1917 area also, since 1990. Also, East Richmond Road is not scattered residential, but just about  
1918 every single property is developed for residential use. The industrial zoning for this property  
1919 no longer appears appropriate, and the existing single-family homes would be better protected  
1920 by the change in zoning. Staff does have some concern with the split of the M-1C zoning.  
1921 This property would still leave about 18 acres for M-1C zoning and the access would be from  
1922 Steeple Lane. With the proffers, it is proffered to an Office/Service standard, so there are  
1923 some appropriate controls to protect the residents if this was zoned to single-family. It would  
1924 leave these two properties here (points to properties) industrial, and this could limit their  
1925 ability to develop in an industrial nature; however, with the changing nature of the corridor,  
1926 we don't believe the industrial zoning is appropriate anymore. The County has also done a  
1927 Nine Mile Road Study for this corridor recently. The area in this portion of the study indicates  
1928 that it is the high potential for residential uses, and one of the recommended design guidelines  
1929 for the area is to incorporate and preserve existing older farm houses. The rezoning request  
1930 would be consistent with this. At the time of the rezoning staff report, we did not have Parks  
1931 and Recreation's comments. They have since submitted comments and said that the proposed  
1932 restoration of the property would preserve a good example of the Queen Anne style  
1933 architecture home, and they also indicated that this was an oversight and it should have been  
1934 included in our inventory of historic properties. While the zoning request is inconsistent with  
1935 the 2010 Land Use Plan that is reflective of the zoning at the time the Plan was done, and  
1936 preservation of our existing historic structures is consistent with our 2010 Plan. This area is  
1937 changing in its nature and residential use appears more appropriate and staff supports this  
1938 proposal. We have not one, but two applicants here, for this case and we also have a resident  
1939 here in support of it, an adjacent property owner. I'll be happy to answer any questions.

1940  
1941 Mr. Vanarsdall - Any questions for Ms. Hunter by Commission members? All  
1942 right. Do you want to hear from the applicant, Mrs. Quesinberry?

1943  
1944 Mrs. Quesinberry - I don't really desire to hear from the applicant unless one of the  
1945 Commission members has a question for them. I think this is a real outstanding case,  
1946 especially to the ones I have heard earlier tonight, and it certainly does support the objectives  
1947 in the 2010 for the preservation of existing historic structures. The applicant's family did own  
1948 this property, built on this property, and they are just thrilled to death to have been able to  
1949 acquire this property and to use it for their own residential use and to restore it, and it is going  
1950 to be just a wonderful addition to the neighborhood. So, I would like to make a proposal to  
1951 recommend approval of Case C-34-00 to the Board of Supervisors.

1952  
1953 Ms. Dwyer - Second.

1954

1955 Mr. Vanarsdall - Motion was made by Mrs. Quesinberry and seconded by  
1956 Ms. Dwyer. All in favor say aye. All opposed say no. The motion passes.

1957  
1958 The Planning Commission recommends that Case C-34-00, Jeanne E. McNeil, be sent to the  
1959 Board of Supervisors for approval.

1960  
1961 Mr. Vanarsdall - Mr. Secretary, we would like to take C-33C-00.

1962  
1963 **Deferred from the April 13, 2000 Meeting:**

1964  
1965 **C-33C-00 Henry L. Wilton for Wilton Development Corp.:** Request to conditionally  
1966 rezone from RTH Residential Townhouse District to O-1C Office District (Conditional), part  
1967 of Parcel 56-A-1B, containing approximately 1.4 acres, located at the northwest intersection of  
1968 Gayton Road and Lauderdale Drive. An office district is proposed. The use will be controlled  
1969 by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends  
1970 Environmental Protection Area.

1971  
1972 Mr. Marlles - The staff report will be given by Mr. Eric Lawrence.

1973  
1974 Mr. Vanarsdall - Is anyone in the audience in opposition to C-33C-00, Wilton  
1975 Development Corp.? All right. Thank you. Mr. Lawrence.

1976  
1977 Mr. Lawrence - Thank you, Mr. Chairman. This application is a request to  
1978 rezone 1.4 acres from the RTH to O-1C. The proposed use would be an office building. The  
1979 site is predominantly flood plain and it has been designated environmental protection area on  
1980 the 2010 Plan. This proposal is not consistent with the 2010 Plan. The site is also within the  
1981 100 foot Chesapeake Bay Resource Protection Area. The applicant will need to get a reduction  
1982 in the buffer in order to enable development of the site as proposed. This request for a buffer  
1983 reduction would be considered by the Public Works Department during the development  
1984 process. It is important to point out that the approval, if you choose to approve this rezoning  
1985 this evening, the approval will not negate the requirements of the RPA, so if the approval is  
1986 accepted, the applicant will still have to go through the Public Works Department in getting a  
1987 reduction in the buffer. A number of proffered conditions have been submitted with this  
1988 application. Such conditions include a 20 foot planting strip along both Lauderdale Drive and  
1989 Gayton Road, parking lot lighting height limitations, a maximum finished floor area of 5,000  
1990 square feet, and an architectural style of Colonial brick. They provided an illustration and  
1991 when you look at the graphic here, these are the goals concentrated in the architectural  
1992 characteristics, not necessarily the surroundings and landscaping. So, they have proffered this  
1993 illustration regarding the architectural building, and they have also proffered a conceptual site  
1994 layout, which you can see, with the site, there are limitations. As I mentioned, the RPA,  
1995 actually the 100-foot limit on the RPA goes through a majority of the site, so, before they  
1996 could even develop the site they would have to get the waiver. The applicant has presented this  
1997 proposal to the Wellesley Homeowners Association and gained their support. The letter of  
1998 support and the revised proffers were both circulated to you this evening. The applicant's

1999 request is not consistent with the 2010 Land Use Plan. The applicant has offered a number of  
2000 proffers to lessen the impact on the surrounding properties and the environmental areas. Staff  
2001 believes that the submitted proffers and the proposed use may be more appropriate than the  
2002 existing RTH zoning, and, therefore, would support the application. I'd be happy to answer  
2003 any questions you may have.  
2004

2005 Mr. Vanarsdall - All right. Any questions of Mr. Lawrence by Commission  
2006 members?  
2007

2008 Ms. Dwyer - Is this dash line the RPA buffer on the site plan you showed us.  
2009

2010 Mr. Lawrence - Yes. This is the 100-foot limits, and if they are successful in  
2011 achieving a reduction, that would be the 50-foot one.  
2012

2013 Ms. Dwyer - OK. What is permitted without a reduction? What?  
2014

2015 Mr. Lawrence - They can't develop the property without a reduction.  
2016

2017 Ms. Dwyer - No change, no grading, no nothing?  
2018

2019 Mr. Lawrence - That is correct.  
2020

2021 Ms. Dwyer - And what is involved in getting...  
2022

2023 Mr. Lawrence - That I don't know. Through the POD process, they would have  
2024 to work with the Department of Public Works Department and I don't know the details of that;  
2025 provide some kind of a plan. The only thing that they could place within the reduced area  
2026 would be parking, so they would have to make sure that the building is not within that area.  
2027

2028 Ms. Dwyer - This shows the building within that area.  
2029

2030 Mr. Lawrence - That is correct.  
2031

2032 Ms. Dwyer - Is the site plan proffered?  
2033

2034 Mr. Lawrence - The site plan is proffered but, as I pointed out, they still need to  
2035 achieve and satisfy the RPA before the site plan can be implemented, so it is conceptual in  
2036 nature, so it would have to be tweaked and satisfy all of the requirements when they come in  
2037 for the POD requirement.  
2038

2039 Ms. O'Bannon - How could they satisfy the RPA?  
2040

2041 Mr. Lawrence - How could they?  
2042

2043 Ms. O'Bannon - How could they?  
2044  
2045 Mr. Lawrence - I submitted this site plan to the Public Works Department and I  
2046 got a response from them which said they will look at it when we come through for the POD  
2047 section, the POD review, so I don't know what is going to be required to satisfy them. Public  
2048 Works is aware of what is proposed here, and they didn't write back and say, "It is not going  
2049 to happen." "We can't accept it." They just said that we will consider it until the POD is  
2050 submitted.  
2051  
2052 Ms. O'Bannon - So they are willing to let it go through the zoning process?  
2053  
2054 Mr. Lawrence - They are willing to let it go through the zoning process and when  
2055 they get the POD they will consider whether or not the buffer reduction is appropriate.  
2056  
2057 Ms. Dwyer - But in no event could a building be built on the location that is  
2058 shown on the site plan, even if a reduction were obtained?  
2059  
2060 Mr. Lawrence - That is my understanding.  
2061  
2062 Ms. Dwyer - I know it is policy not to consider these issues at zoning time, but  
2063 this would be the kind of case in which I think it might be advisable for the County to look into  
2064 the specifics of the environmental issues at zoning time.  
2065  
2066 Mr. Lawrence - If you like, I can work with Public Works and try to get a  
2067 recommendation. My initial thought was to get a recommendation from them, and their  
2068 response was, "We are going to wait for the POD."  
2069  
2070 Mr. Archer - Mr. Lawrence, in looking at your last paragraph on Page 3,  
2071 should you clarify this conceptual layout does not obligate the County to allow the disturbance  
2072 of the RPA and so forth? Would that then negate this zoning case if the conceptual layout is  
2073 made a part of the zoning case, and then the RPA exception is not granted? What affect would  
2074 that have on it?  
2075  
2076 Mr. Lawrence - If we can change the zoning of it, we can just say that without the  
2077 RPA they can't build on it, so they would have the zoning on the property, but until they could  
2078 satisfy the RPA requirements, they would not be able to develop it. I have spoken with the  
2079 representative from the applicant and they were aware of this, and Mr. Wilton is here this  
2080 evening to address that, also.  
2081  
2082 Mr. Vanarsdall - Any other questions for Mr. Lawrence? No more questions.  
2083  
2084 Mr. Lawrence - Thank you.  
2085  
2086 Mr. Vanarsdall - Mr. Wilton.



2087  
2088 Mr. Wilton - Mr. Chairman and members of the Commission, for the record  
2089 my name is Henry Wilton. Tonight I am here representing Wilton Development Corporation,  
2090 owner of the subject property. This parcel was originally zoned RTH in the 1970s and my  
2091 family has owned it since then and paid taxes on the RTH property. Under the current zoning,  
2092 approximately three townhouses could be developed on the site, even with the RPA the way  
2093 that it is currently drawn here. You can put parking in it. We might have to go ahead and  
2094 move our building a little forward or move it around a little bit to go ahead and adjust it to the  
2095 site, but 5,000 feet is the maximum amount of square footage that we would be putting on  
2096 here. It could be after we meet with Public Utilities or Public Works that we would have a  
2097 3,500 square foot building vs. a 5,000 square foot building, but we can get it on the site, we  
2098 can park on that additional RPA in regard to that question. We know. We already did our  
2099 homework on that. The question is how large the building can be and what we can do with the  
2100 site. Again, it has been zoned for RTH since the 1970s. It is our opinion that townhouses at  
2101 this intersection is not a logical or appropriate use and we have submitted the request to rezone  
2102 the property for a small office. We worked with Mr. Taylor and the staff to develop a quality  
2103 office - with a proffered rendering - and it is our intent also to use the existing topography and  
2104 also the vegetation of the site for some berming. The final landscape plan, obviously, will  
2105 come back to you, and if you can go ahead and push back, how do I get back to the actual  
2106 rendering of the building? What we did, Mr. Taylor and I went out to another building I  
2107 actually constructed at Cambridge and Gayton and we took this as our model, and basically  
2108 designed this setting (At this time, Mr. Wilton points out points of the building to the  
2109 Commission.)

2110  
2111 We have also committed to extensive buffering of the parking areas to reduce any impact on  
2112 the residential neighborhood. We had a meeting with the neighborhood. We worked with the  
2113 Wellesley Association and have a letter of support from them, and as late as today we spoke to  
2114 the people on the other side, the Broadview Subdivision, that was developed by Eagle Homes,  
2115 and we have also, they are not in opposition to it at this time. We took a packet over to them,  
2116 and again, we offered a deferral if they wanted a deferral and that said they were happy with  
2117 what we were doing here. We do have a letter from the Board of Directors at Wellesley, and  
2118 I'd like to make this a part of the case, if you would like a copy of it. In regard to the  
2119 proffers, again the maximum floor area here is 5,000 square feet. That could be reduced. That  
2120 would be the maximum if we could some relief from that 50. I am not saying that we need  
2121 relief from the entire 50 feet. We might need, because of the way the building is situated, we  
2122 might need 20 feet in one area. The actual parking can go in that area, so it is only that small  
2123 portion of the building we are talking about. Obviously there is a planning-strip easement that  
2124 was requested. That was partially by the staff and also by some of the neighbors. Hours of  
2125 operation were 7:00 a.m. to 7:00 p.m. Architectural style, what we tried to do here,  
2126 obviously, is put a Colonial brick building. The topography of the site may allow us to use  
2127 some of the, the ground in the front will actually produce a berm. It is a wooded site, so we  
2128 will try to leave as many trees as we can on it, but just in case we had to take down the entire  
2129 site, this would be a minimum landscape plan. Again, our commitment to the people next  
2130 door, as far as buffering it and the parking. The trash receptacles, the parking lot lighting,

2131 again, just to make sure that it doesn't affect the residents, and then the signage. We would  
2132 expect about the signage we've got here, we have got it regulated for no more than 10 feet.  
2133 This would probably be no more than about five or six feet. They wanted a restriction that no  
2134 childcare center would be there, because of the safety issues, and we went along with that.  
2135 Coming back and turning it to a C-1 Conservation zone, we also, the Wellesley people asked  
2136 us to put a sidewalk to connect the next parcel down going into Wellesley, a commercial area.  
2137 The people from behind us would use that to get to the commercial district and the shopping  
2138 center right there. We also planned to put in some benches along that walk, too. Then, that is  
2139 pretty much what the proffers would be.

2140  
2141 Ms. Dwyer - Mr. Wilton, would the sidewalks be in the planting-strip  
2142 easement?

2143  
2144 Mr. Wilton - Whatever the Planning Commission at the time of POD approval  
2145 would do, what they wanted us to do, obviously, is to connect them to the shopping area, to  
2146 the Wellesley Shopping Center. In summary, let me say again, the townhouse property has  
2147 been available since, for about 20 years now, and it is obvious now to me, I think, and the  
2148 staff, that that is not an appropriate use and I think we found an appropriate use here. Through  
2149 the proffered conditions that we have addressed, I think the concerns of the staff and the  
2150 adjacent neighborhood, and certainly the architectural style is in keeping with the residential  
2151 character. For these reasons, we respectfully request rezoning approval of Case C-33C-00. If  
2152 you have any questions I will be happy to answer them.

2153  
2154 Mr. Vanarsdall - Do you have any questions for Mr. Wilton?

2155  
2156 Ms. Dwyer - Does substantial conformance with the conceptual plan include  
2157 limiting access to Gayton Road only?

2158  
2159 Mr. Wilton - Yes, ma'am. We are not going to access this to Lauderdale. It is  
2160 a safety issue there, too. We have already agreed to that.

2161  
2162 Ms. Dwyer - Mr. Wilton, did you work with the neighborhood across the  
2163 street?

2164  
2165 Mr. Wilton - Yes. That was the Broadford Subdivision. We sent notices to  
2166 everybody. We had a meeting scheduled and then we were contacted by the people  
2167 immediately across the street, and we were working with them today. Again, we said if they  
2168 would like a deferral, we had no problem with it. I believe the neighbors did meet. They  
2169 informed us at 4:30 p.m. that they were fine with it, and, so I think we have taken care of the  
2170 opposition in the neighborhood.

2171  
2172 Mr. Vanarsdall - All right. Thank you, Mr. Wilton.

2173  
2174 Mr. Wilton - Thank you.

2175  
 176 Mr. Vanarsdall - Mr. Taylor. Sir, do you want to come on down now? (Speaking  
 2177 to someone in the audience.) Sir, that was heard very much earlier in the evening. Sorry.  
 2178  
 2179 Voice in the Audience - Was that approved?  
 2180  
 2181 Mr. Vanarsdall - Yes, it was. It was approved. Mr. Taylor.  
 2182  
 2183 Mr. Taylor - Mr. Chairman, on this particular one, I just wanted to mention  
 2184 that we had worked with, Mr. Lawrence and I had worked with the Wiltons from the outset,  
 2185 particularly with regard to the environmental aspects, and right now this site is heavily wooded  
 2186 but unkempt and basically unusable for even recreational purposes. Looking at the parcel and  
 2187 the environmental aspects, I think that this might be a recapture of some land that for many  
 2188 years had laid fallow, and we have worked with the staff on the style of the building and, in  
 2189 fact, the building we have looked at as a model is really about the size of a residence in a very  
 2190 attractive Colonial style. And, I think that that particular style would be a credit to that site.  
 2191 We have worked with the Wellesley people and we even offered them fee simple ownership of  
 2192 the environmental areas, but they declined because of liability and the expenses that the  
 2193 continued maintenance would result in, and also the fact that they thought that it would be  
 2194 better if they didn't allow access through that parcel. Mr. Wilton, though, has agreed to  
 2195 provide some recreational facilities in here, places that we can sit and appreciate nature, and I  
 2196 just think it is a constructive use of the area and, frankly, I think it will improve the area.  
 2197 Therefore, I would move that we conditionally rezone from RTH Residential Townhouse to  
 2198 Office District, O-1C, as requested.  
 2199  
 2200 Ms. Dwyer - Second.  
 2201  
 2202 Mr. Vanarsdall - We have a motion made by Mr. Taylor and seconded by Ms.  
 2203 Dwyer. All in favor say aye. All opposed say no. The motion passes.  
 2204  
 2205 The Planning Commission voted to recommend approval of C-33C-00, Henry L. Wilton for  
 2206 Wilton Development Corp., to the Board of Supervisors.  
 2207  
 2208 Ms. Dwyer - We didn't need to waive time limits on that, did we?  
 2209  
 2210 Mr. Taylor - No.  
 2211  
 2212 Mr. Vanarsdall - Do we need to waive the time limits on these proffers?  
 2213  
 2214 Ms. Via - I will address that in just a moment. We will need to waive the  
 2215 time limits on these proffers, yes. I will explain what is being handed out to you in just a  
 2216 second. Mr. Lawrence is handing out to you new proffers that were received after your time  
 2217 limits, so the time limit will need to be waived in order for you to accept them. He has also  
 2218 handed out a memorandum from the County Traffic Engineer that responds to the issue that

2219 was addressed in the staff report concerning the lack of a Traffic Impact Study. Mr. Todd  
2220 Eure, from the County Engineer's office, is here if you have any questions on that  
2221 memorandum. The last item that is being passed out is inadvertently a drawing was left out of  
2222 your proffer package, and so that is not a change. That is merely a drawing that is referenced  
2223 in the proffers that was not provided to you.

2224

2225 Mr. Marlles - Ms. Via, if I can get a word in, I would like to read the case.

2226

2227 Ms. Via - I am sorry.

2228

2229 Mr. Marlles - That is OK.

2230

2231 Ms. Via - Someone asked a question, Mr. Secretary. I was responding.

2232

2233 **C-17C-00 (REVISED) Robert M. Attack for Staples Mill L. C.:** Request to conditionally  
2234 rezone from A-1 Agricultural District and R-2 One Family Residence District to R-2C and R-  
2235 2AC One Family Residence Districts (Conditional); R-5AC and R-6C General Residence  
2236 Districts (Conditional); O-2C Office District (Conditional); and B-1C Business District  
2237 (Conditional), Parcel 40-A-1A, 30-A-67 and part of Parcel 40-A-24, containing approximately  
2238 374.1 acres, located along the northern boundary of Revilo Subdivision then along the north  
2239 line of Hungary Road beginning at the northeast intersection of Hungary Road and Vantay  
2240 Drive to approximately 50 feet east of its intersection with the 150 foot Virginia Power  
2241 easement, then extending northward long the west line of Staples Mill Road (State Route 33)  
2242 following the property lines of Parcels 1A and the included part of 24 to approximately 1100  
2243 feet north of its intersection with Courtney Road or as more accurately described on the plat on  
2244 file in the Planning Office. A mixed-use development is proposed. The R-2 District requires a  
2245 minimum lot size of 18,000 square feet; the R-2A District requires a minimum lot size of  
2246 13,500 square feet; the R-5A District requires a minimum lot size of 5,625 square feet; and the  
2247 R-6 District requires a maximum density of 19.8 units per acre. The office and business uses  
2248 will be controlled by proffered conditions and zoning ordinance regulations. The Land Use  
2249 Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

2250

2251 Mr. Marlles - The staff report will be given by Ms. Elizabeth Via.

2252

2253 Mr. Vanarsdall - Is anyone in the audience in opposition to C-17C-00? All right.  
2254 Thank you very much. Ms. Via.

2255

2256 Ms. Via - Thank you, Mr. Chairman, and members of the Commission.  
2257 The applicant in this case is Staples Mill, LLC and they are requesting multiple zoning on  
2258 approximately 374 acres shown on the screen in front of you, on land located west of Staples  
2259 Mill and north of Hungary Road in this area (pointing to screen). The Virginia Power  
2260 easement that the Secretary alluded to in the ad runs through the property in this general  
2261 location (pointing) here. The site is adjacent to the existing Duncroft Park in this location  
2262 here (pointing), and as you can see, it is surrounded by built-out residential neighborhoods.

2263 Castle Point being this neighborhood and Duncroft, West End Manor, Hungary Woods,  
2264 Brittany, Courtney, and then Laurel Glen in this area here. The Land Use Plan does  
2265 recommend Suburban Residential development of this site at a density of 1 to 2.4 units per  
2266 acre. The surrounding land uses are primarily residential and have been developed under a  
2267 combination of suburban-residential zoning categories.

2268  
2269 Portions of this property, the Cross Farm, were rezoned in the 1950s when the 80 unit  
2270 Courtney Subdivision that is this subdivision here (pointing to screen), the corner of the  
2271 screen, was developed, and there was also a piece of commercial zoning, the B-1, shown in  
2272 this location here (pointing to screen), right there, that is not a subject of this rezoning. It was  
2273 a part of the original farm and it is owned by the applicant and will be developed as part of the  
2274 overall development. This proposal has three major elements including a single-family  
2275 residential subdivision, a retirement community, and two non-residential uses, in addition to  
2276 the existing B-1, they are a day care and an office building, which I will explain shortly. This  
2277 exhibit here, to orient you to single-family residential is planned for the outer ring of the  
2278 development - primarily Tract 1, Tract 2 and Tract 3. The applicant is proposing to develop  
2279 these three tracts as a traditional single-family residential neighborhood at a density of two  
2280 units per acre. There is a proffer that the aggregate of these three tracts, not necessarily each  
2281 individual tract, but the aggregate, would yield two units per acre in density.

2282  
2283 The interior of the development, which would be Tract 8, right here (pointing to screen), Tract  
2284 5, and Tract 4, are proposed to be part of what Mr. Attack is calling Cross Ridge and a  
2285 retirement community that the applicant will explain a little bit further, but it involves a mix of  
2286 housing types, including villas, townhouses, condominiums and may also include an assisted  
2287 living complex, but that is not a definite at this time.

2288  
2289 To go back to the single-family subdivision real briefly, there is an option in Tract 3, 60 acres,  
2290 that could be used potentially as a school and park site, and the School Board is looking at that  
2291 site to acquire 40 acres for the school and 20 acres that would be added to Duncroft Park, so  
2292 there is an opportunity there for a school site, but at this point it is not a proffered school site  
2293 and the staff report deals with it as part of the subdivision.

2294  
2295 The commercial zoning that I alluded to earlier is shown on Tract 7, which is right here  
2296 (pointing to screen). Tract 7 is proposed for an office building and, I'm sorry, the day care  
2297 center is proposed over here. It is proposed to be included in Tract 5. The office building is  
2298 proffered to be 90% brick and shall be a maximum height of two stories, and a maximum size  
2299 of 36,000 square feet. The Courtney Subdivision, which is here, will be screened from the site  
2300 at this point with a masonry wall, eight-foot masonry wall. Tract 6, just to add in the  
2301 additional tract, located right here (pointing to screen) is a little piece of B-1, 2.7 acres, that is  
2302 only needed to access the existing B-1 Commercial site, and so the proffer on that is that it will  
2303 only be used for access and landscaping. There will not be any buildings built on that site. As  
2304 I mentioned, the applicant will walk through the details of their proposal, but let me just briefly  
2305 touch on the main issues that we are addressing in the staff report. The first is the residential  
2306 density of the development. The applicant, as I mentioned, is proffering an aggregate density

2307 for the R-2 and R-2A zoning for the single-family that will be no more than two units per acre.  
2308 This is consistent with the Land Use Plan designation for the area. The retirement community,  
2309 however, which includes a variety of housing types, will work out to a range of 3.49 to 5.42,  
2310 is not necessarily consistent with the Suburban Residential designation, but it does meet other  
2311 goals in the Comprehensive Plan, which talk about providing a range of housing opportunities  
2312 and high quality development, particularly the plan encourages “planned large tract  
2313 development with effective design standards, which is to protect established residential  
2314 neighborhoods.” Staff feels that the applicant, having surrounded the retirement community,  
2315 with a single-family residential development meets the goal and intent of the Land Use Plan.  
2316

2317 The second issue was transportation and access. Staff was concerned that a Traffic Impact  
2318 Study had not been provided, so that we were not able to state whether there was a  
2319 transportation problem with the site or there wasn’t, but that the information was needed. We  
2320 do have a memo, provided to you this evening, with some comments from the Department of  
2321 Public Works, and the applicant has proffered between now and the plan of development or  
2322 subdivision plan for this site, that he will provide the Traffic Impact Study and the information  
2323 and work out the details of what will be required, based on that study, between now and the  
2324 time that you need to act on the subdivision and the plan of development. A couple of other  
2325 comments, in the proffers that were handed out to you tonight, there is an additional fence  
2326 proffer that was requested of the applicant. That has been provided, and also the density  
2327 originally in the proffers that you saw on the staff report, the density for the single-family  
2328 residential did not include Tract 3. The applicant has included that in the proffer.  
2329

2330 In summary, staff is supportive of this case. We would still appreciate a layout or a conceptual  
2331 plan as noted in the staff report, however, we feel that these issues, minor issues that are in the  
2332 staff report will be worked out and addressed between now and the Board of Supervisors  
2333 hearing. I will answer any questions that you might have at this time.  
2334

2335 Mr. Vanarsdall - Any questions for Ms. Via by Commission members?  
2336

2337 Mrs. Quesinberry - I have one. On the staff report, we don’t have any comments  
2338 from Schools. Do we still not have comments from Schools?  
2339

2340 Ms. Via - We do have comments and let me address that very quickly.  
2341 School comments were a little bit late on all cases. At this point they had some staffing  
2342 problems and review problems with getting the comments out. In summary, the comments on  
2343 this case at the present time, secondary schools can accommodate the students from this  
2344 request. Staff, however, remains concerned regarding the large number of students that might  
2345 be generated, particularly at the elementary level, and as these students move into middle and  
2346 high school grades they will push membership beyond capacity in these facilities. Another  
2347 elementary and middle school are proposed to be open in 2004 that could provide relief for  
2348 these schools. The site that the School Board is interested in is Tract 3 would potentially be a  
2349 middle school site, so I think their comments are consistent with the comments that we have  
2350 received from the School Board, and that there is capacity currently, but they are concerned

2351 about the increase in density. However, I would point out the retirement community has been  
2352 taken out of the mix, because that would not be providing any school children to the system.

2353  
2354 Mrs. Quesinberry - So those comments really were just looking at the single-family?

2355  
2356 Ms. Via - Single-family, yes.

2357  
2358 Mr. Vanarsdall - And had it been developed completely single-family, it would  
2359 have been a tremendous impact on the school system and its services.

2360  
2361 Ms. Dwyer - The density, without Tract 3 for the whole piece, is what?

2362  
2363 Ms. Via - Without Tract 3? I don't know that I have run those numbers.  
2364 I've got the density for the entire, including Tract 3, because again the school site is not  
2365 proffered, so we have assumed that it will be developed. That is included in the staff report.  
2366 Page 2, first table, the total is 3.34.

2367  
2368 Ms. Dwyer - Does that include 60 acres of R-2 which may not be a part of  
2369 this?

2370  
2371 Ms. Via - Right. If we were to take out 60 acres and estimate 111 units, it  
2372 would give you the aggregate density. I don't have a calculator on me. I can't do math in my  
2373 head.

2374  
2375 Mr. Vanarsdall - Any more questions?

2376  
2377 Ms. Dwyer - In your staff report you stated that you wanted a traffic study to  
2378 be done and what we received tonight, which I obviously cannot read because I can't read a  
2379 memo in five seconds, could you summarize what Public Works has provided to us tonight  
2380 regarding the traffic study issue?

2381  
2382 Ms. Via - Certainly. The first two paragraphs address, from the  
2383 information that has been provided by the applicant, address the number of trips per day that  
2384 would be on to Staples Mill Road and Hungary Road. It mentioned that two points of access  
2385 will need to be provided for any internal single-family development with more than 50 lots and  
2386 any multi-family development with more than 82 lots, and adds that the proffer regarding the  
2387 Traffic Impact Study does require a little bit of changing of the language that is included in the  
2388 applicant's proffers that were submitted to you tonight. So, there is agreement that a Traffic  
2389 Impact Study will be provided, and some of that language needs to be worked out between  
2390 Public Works and the applicant.

2391  
2392 Ms. Dwyer - So this language suggested by Public Works is different than what  
2393 has been provided in the new proffers that were handed out to us tonight?

2394

2395 Ms. Via - Slightly, yes. That is correct.  
2396  
2397 Ms. Dwyer - One of the issues that you also mentioned relating to traffic, I  
2398 don't know if, I guess in your summary this was apparently not addressed, but the question of  
2399 proposed Nuckols Road and the extension of that, is that, would that be part of the traffic study  
2400 or is that something that Public Works obviously has not commented on then.  
2401  
2402 Ms. Via - Right. We have not received comments from Public Works on  
2403 that particular issue. At this point staff is assuming that it will be addressed in the Traffic  
2404 Impact Study, or at least portions of it. To bring you up to speed on Nuckols Road, the  
2405 graphic here shows the Nuckols Road alignment. It is a Major Thoroughfare Plan road and it  
2406 is shown to go from Springfield Road through this area across Francistown Road and this is the  
2407 applicant's site here (pointing to screen), and then on to Staples Mill Road in this direction.  
2408 The color graph to this graphic shows you the black is constructed portions to Nuckols Road,  
2409 the green has been dedicated. We have the right of way. We just haven't built the road, and  
2410 the yellow is the pieces that are missing from the road, so it is our assumption that alignment  
2411 of this road, whether it continues on this alignment or is shifted in anyway would be addressed  
2412 between now and plan of development or the subdivision plan.  
2413  
2414 Ms. Dwyer - Don't we normally have commitments in zoning cases where we  
2415 have a road such as this on the Major Thoroughfare Plan; isn't that usually committed to, the  
2416 applicant will dedicate that roadway as part of the rezoning?  
2417  
2418 Ms. Via - That is staff's preference, as I believe it is outlined in the report,  
2419 that the issue be resolved at the zoning level.  
2420  
2421 Ms. Dwyer - OK. Thank you.  
2422  
2423 Mr. Vanarsdall - Are there anymore questions by Commission members? Thank  
2424 you, Ms. Via.  
2425  
2426 Ms. Via - Thank you, sir.  
2427  
2428 Mr. Vanarsdall - Now we will hear from the applicant please.  
2429  
2430 Ms. Gloria Freye - Good evening. My name is Gloria Freye and I am an attorney  
2431 and here on behalf of Bob Attack, and I will ask Ms. Via to help me with some of the exhibits.  
2432 Also here this evening with me is Mr. Bob Attack. He is owner of this property. This  
2433 property, as Ms. Via said, is generally known as the Cross property and I am told that Ms.  
2434 Cross actually lived here and owned this property until she died at the age of 102, so the idea  
2435 of having a retirement community on this property makes perfect sense. Her nephews needed  
2436 to sell the property to help settle her estate and Mr. Attack did purchase the property and  
2437 immediately realized what a great opportunity it would be to have a planned, coordinated  
2438 residential community that offered a variety of housing types and designs for people ages 65



2439 and older. Then, also, to make the transition to the existing residential development in the  
2440 area by providing traditional single-family homes on three borders of the property. The  
2441 project does have a piece of office zoning proposed along Staples Mill Road along side  
2442 Courtney Subdivision, and a small sliver of commercial zoning that is needed for access for  
2443 landscaping that Ms. Via spoke to. The application does request four different residential  
2444 districts with the R-2C and R-2A for the traditional single-family development, R-5AC for  
2445 single detached housing on filler lots for seniors and the R-6C for senior housing as well, but it  
2446 would be condominiums and town homes for sale, apartments for seniors, and a day care and  
2447 assisted living facility would also be permitted in the R-6C District.  
2448

2449 As an overview, I would like to discuss the case first by just going through some of the  
2450 proffers that have been submitted for the R-2 and R-2A traditional single-family subdivision  
2451 that is on three sides, and then I will talk about the Central Retirement Committee, and I will  
2452 talk about the office part along Staples Mill. The developer has spent five months, along with  
2453 a lot of cost and effort from the County and the Planning staff, to meet with adjacent land  
2454 owners in this area and the surrounding subdivision. I think they tried to target and inform as  
2455 many of those residents as possible. They have had seven public meetings, which were,  
2456 actually, very well attended. Two of them were all-day Saturday meetings that, again, were  
2457 very well attended, and I know that thousands, literally, of mail outs have gone out to people  
2458 to inform them about this property and to give them opportunities to have input. I'd like to say  
2459 that I am really glad that even this evening that there are neighbors here who have an interest  
2460 in this property and have issues that they would like to see discussed further, such as Ms. Tate,  
2461 who we talked with earlier out in the lobby and we are planning to continue that dialogue with  
2462 Ms. Tate to make sure that we can address her concerns as best we can, and want to assure  
2463 you, the Planning Commission, that we will continue to work with the neighbors between now  
2464 and the Board, whenever, to address concerns as they come up. It is a large piece of property,  
2465 a lot has been done to reach out to the neighbors. But there may be some people that we  
2466 missed and we certainly do not want to close any opportunity to continue our dialogue with the  
2467 neighbors.  
2468

2469 On the traditional single-family subdivisions that are shown on Tracts 1, 2 and 3, as Ms. Via  
2470 explained, combined or aggregate density is proffered at less than two units per acre. Ms.  
2471 Dwyer, you had inquired about "what if" that 60 acres and Tract 3 were taken out, what  
2472 would the density be then. I have talked with Mr. Atack and he assures me that regardless of  
2473 what the acreage is, the combined aggregate between the single-family residential development  
2474 would be less than two units per acre. So, I hope that answers that question you had.  
2475

2476 Ms. Dwyer - Well, I was looking for the overall density including the non R-2  
2477 zoning. That was my question.  
2478

2479 Ms. Freye - Oh, I see. I thought your concern was if the 60 acres were taken  
2480 out, would it change from less than two units per acre, and it wouldn't.  
2481

2482 Ms. Dwyer - No, not in the R-2, I am assuming that wouldn't be the case, but  
2483 the number would certainly, the overall density would certainly change if you take 60 acres of  
2484 R-2 zoning out of it. The density would be higher. That is all.

2485  
2486 Ms. Freye - As to the single-family, Mr. Atack is proffering and committed  
2487 that there would be for the single-family development, the combined density would be less than  
2488 two units per acre.

2489  
2490 Ms. Dwyer - Yes. I am talking about the whole case though. I was wondering  
2491 what the bottom line number was for the whole case.

2492  
2493 Ms. Freye - On Tract 1, is the one piece of property we are asking for the R-  
2494 2AC, and that is the tract that borders Dove Hollow Subdivision, Brittany Subdivision and  
2495 Duncroft Subdivision. The owner has proffered no access into those subdivisions and that  
2496 was the majority of the residents in every one of the subdivisions that adjoins this property,  
2497 that there not be any access into their subdivision, and we have proffered that in this case. The  
2498 access to Tract 1 would be from Staples Mill and Hungary Road. We have provided  
2499 emergency accesses into this property that would be through adjacent Cross Ridge property for  
2500 emergency vehicles, by proffering that there would be pavers and a cable across the access, so  
2501 that emergency vehicles would have better access. The owner has proffered several proffers to  
2502 assure the quality of the R-2A development, a minimum of 2,000 square feet of finished floor  
2503 area, paved driveways, 80% of the garages would have side and rear entry. The front yards  
2504 would be sodded and irrigated. Sidewalks would be provided.

2505  
2506 On Tract 2, the R-2 zoning on the other side of the property that is adjacent to the undeveloped  
2507 land and to Castle Point, again, we have proffered no access to Castle Point. The access to  
2508 Tract 2 would be from Staples Mill. Again, the minimum house size is 2,000 square feet and  
2509 any garage would have a side or rear entrance. Again, sidewalks, and sodded irrigated  
2510 landscaping in the front yards.

2511  
2512 On Tract 3, the 60 acre parcel that we just talking about, is what is adjacent to Duncroft, and  
2513 similarly there is no access to Duncroft and the same proffers that we proffered on the other  
2514 R-2, Tract 2, are being repeated for that property as well.

2515  
2516 Next, I would like to talk about the Retirement Committee in the center, the yellow portion  
2517 that you see on the map. That does cover about 167 acres. That entire yellow area is going to  
2518 be age restricted. The housing would be age restricted, 55 and older. It is designed to be a  
2519 very unique community with a number of quality amenities that are going to be built into the  
2520 proffers, which I can illustrate by showing you exhibits that have been proffered with the case.  
2521 For Exhibit A, (shows Exhibit A), Exhibit A which is on the screen now shows the proposed  
2522 entrance with a landscaped boulevard entrance, and that would leave the project, the beginning  
2523 of the project into a gated guardhouse, and the next exhibit shows you the driveway into the  
2524 property. It is a smaller version, but that is going back from Staples Mill to a gated  
2525 guardhouse, and then back to a one-acre park. The next exhibit shows you the gated

2526 guardhouse. It is going to be equipped with electronic surveillance, and it is also designed that  
2527 it can be manned if the homeowner's association decide they want to actually hire someone to  
2528 be there. Right up front, between the entrance to Staples Mill and before you get to the  
2529 guardhouse, is, Exhibit C, shows the pavilion that is being provided for the residents of the  
2530 retirement community. It is a 4,000 square foot building that has a lounge, a meeting room, a  
2531 director's office, a celebration room that will accommodate up to 200 people for special events  
2532 and activities. They have a card playing room, fireplaces. It is a very nice facility that is  
2533 going to be available to all of the residents to use. There will be an activity director who will  
2534 be available to plan and coordinate classes, trips, events, special affairs. There will also be a  
2535 swimming pool and tennis courts provided. Now the residents may elect not to take advantage  
2536 of these amenities, however, the dues for support of these amenities are required of every  
2537 resident and are included in their homeowner's dues, so that this will be supported. Once you  
2538 pass through that gate house, the parkway then leads back to the one-acre park that I was  
2539 referring to earlier. This is a tract of land that would be reserved for a passive park, and then  
2540 the streets around that park then would lead off to various different resident neighborhoods that  
2541 will be part of the community, and if we go back to the zoning map, because the very first one  
2542 that you had on the screen, I can talk about the different zonings and different tracks, and what  
2543 the housing types are going to be.

2544  
2545 Ms. O'Bannon - Can I ask you a question real quickly right here? Where does  
2546 Nuckols Road end on this?

2547  
2548 Ms. Freye - Nuckols Road, I think, ends right there (pointing to map).

2549  
2550 Ms. O'Bannon - And where is Courtney Road? Where does it connect?

2551  
2552 Ms. Freye - I do not know where Courtney Road is. It is on the other side of  
2553 Staples Mill.

2554  
2555 Mr. Vanarsdall - It is on the other side of the road, near Warren.

2556  
2557 Ms. O'Bannon - So Nuckols Roads doesn't bisect or transect - go through the  
2558 property?

2559  
2560 Ms. Freye - No, it is shown on the Thoroughfare Plan as being a proposed  
2561 alignment for Nuckols Road, but no. We have not shown that on this plan.

2562  
2563 Ms. Dwyer - So it is not your intention to comply with the Major Thoroughfare  
2564 Plan in Nuckols?

2565  
2566 Ms. Freye - What I understand, Ms. Dwyer, is that the alignment of Nuckols  
2567 Road is currently being studied and there are discussions going on about what is the best  
2568 alignment to Nuckols Road. I understand that that design or that alignment may have been  
2569 designed 20 some years ago. A lot of things have changed. Development has occurred and

2570 that there might be a better alignment with Springfield or some other arrangements, and so  
2571 with the uncertainty of that, I think that we have to wait and see what the Traffic Impact Study  
2572 says as they look at the Traffic Impact of this development.  
2573

2574 Ms. Dwyer - It seems like a major missing piece of the case, to me, and again,  
2575 a lot of the stuff we just received tonight, so I am trying to grasp it all, but the Major  
2576 Thoroughfare Plan shows Nuckols connecting from Hungary to Staples Mill, through this  
2577 property, and we have already built and/or acquired Nuckols for most of the existing  
2578 alignment. I am not sure how much leeway we have, since we already have existing Nuckols,  
2579 from, I believe, Hungary all the way over. There may be a few missing pieces, but basically  
2580 Hungary all the way over towards Innsbrook.  
2581

2582 Ms. Freye - I know that from our discussion with people at the County that  
2583 there is no certainty that Nuckols Road is actually going to come through this property and that  
2584 other alignments are being considered.  
2585

2586 Ms. Dwyer - Well, that seems to me that we really do need the  
2587 Traffic Study for the zoning case then to know what the outcome of that analysis is.  
2588

2589 Ms. Freye - I don't really think so, and I remember, I think I recall in the  
2590 staff report that even the staff commented that that would be a development issue, that they  
2591 would like to see that addressed now, but that it certainly could be addressed prior to any  
2592 subdivision or plan of development approval, as a development issue.  
2593

2594 Ms. O'Bannon - That is one of the things that I read here, it is several of them,  
2595 page 2 of 3 and 8 of 17, about six lines down on Section 17, Traffic Impact Study. It says,  
2596 "No such plan of development or subdivision plan will be approved until such time as the  
2597 County of Henrico and the owner has mutually agreed to (1) the improvements in roads in  
2598 roads which are necessitated by such development, and (2) when and if the proposed  
2599 development is to be phased, and which phased improvements shall be completed and (3) who  
2600 will complete or cause completion of such improvements?" Does that mean the intent is that  
2601 Henrico will build the road system?  
2602

2603 Ms. Freye - No, ma'am. That does not presuppose anything. That is an  
2604 opportunity, that if there is a situation where there could be participation on the County's part  
2605 that, that would be possible. It doesn't presume anything. It just fills that opportunity in  
2606 there.  
2607

2608 Mr. Vanarsdall - Let me add that on the Nuckols Road, the Manager and Public  
2609 Works has studied this and are talking to VDOT. They would like to use Springfield Road to  
2610 come out to Staples Mill. If they use the Nuckols Road that was put there 20 years ago, you  
2611 come out to Staples Mill, you either go right or left. If you come out Springfield, you go right  
2612 or left or I-295. So that's what they're working on now, but has not been completed.  
2613

2614 Mrs. O'Bannon - Are they going to do a presentation, tonight?  
2615  
2616 Mr. Vanarsdall - What part?  
2617  
2618 Mrs. O'Bannon - Are they going to do some type of presentation, so we can hear  
2619 what they have to say about that? I'd rather hear it from the source.  
2620  
2621 Mr. Vanarsdall - I don't know.  
2622  
2623 Mrs. O'Bannon - You know, rather than a secondary, I appreciate your knowledge  
2624 of it, but there's not someone here from Public Works who can address it?  
2625  
2626 Mr. Vanarsdall - No.  
2627  
2628 Ms. Freye - No. Mrs. O'Bannon, that's why we went ahead and put the  
2629 proffer in that the Traffic Impact Study would be done. And, of course, all that will be looked  
2630 at and studied. I just can't answer the question now about whether Nuckols Road; the  
2631 alignment that's shown on the plan is going to stay the alignment that the County ultimately  
2632 ends up with.  
2633  
2634 All I can say is that, that's an issue that will need to be decided and addressed prior to a POD  
2635 or subdivision approval. And, hopefully, by then, we will have all of the necessary  
2636 information to make that decision. We don't have that today.  
2637  
2638 Mr. Marlles - Mrs. O'Bannon, I would just also like to point out, I know there  
2639 has been discussions with Public Works on this issue, and they are comfortable with the  
2640 proffer that has been submitted. So, you know, it has been looked at, and there are other  
2641 alternatives that are being explored.  
2642  
2643 Ms. Dwyer - Was Public Works comfortable with the proffer what they  
2644 recommended, because, again, trying to compare the two as I sit here trying to listen and read  
2645 and compare which is kind of nerve racking to do. I see what could be some substantial  
2646 discrepancies between which Public Works recommended for the Traffic Impact Study proffer  
2647 and what has been submitted by the applicant.  
2648  
2649 Ms. Freye - In what way?  
2650  
2651 Ms. Dwyer - Well, let's see. You know, I haven't had a chance to study it,  
2652 because we just got these as we sat up here.  
2653  
2654 Ms. Freye - Rather than maybe getting into word smithing at this point, one of  
2655 the things that we've committed to do, is to continue our dialogue working with the County  
2656 transportation department about the exact language of the proffer. They feel comfortable

2657 enough to go forward with the case knowing that we are going to continue that dialogue  
2658 between now and the Board of Supervisors taking any action on the zoning case.

2659  
2660 Ms. Dwyer - But was there an understanding that the proffer they  
2661 recommended would be part of your case?

2662  
2663 Ms. Freye - No. They suggested that language after we had already submitted  
2664 our Traffic Impact Study language. And, knowing that we still needed to work that out, and  
2665 we didn't have a resolution for it, they felt comfortable going forward with the language that  
2666 we have today, knowing that we were going to continue that dialogue.

2667  
2668 Ms. Dwyer - Because, well, for instance, you're right, we can't sit down and  
2669 do a "blow by blow, line by line" comparison. You know, the Public Works proffer doesn't  
2670 say anything about the County having to build anything and it also is very clear that no plans of  
2671 development will be approved until all these things are accomplished. And, then the one that  
2672 you've submitted says, you know, doesn't have those kinds of imperatives included in it. And,  
2673 it seems to also place a burden on the County to, perhaps, build parts of the road. So, I mean,  
2674 it looks like a substantial difference to me. It just seems like there are a lot of questions about  
2675 the traffic aspect of this that are unanswered.

2676  
2677 Ms. Freye - Which is why we're doing the Traffic Impact Study and why  
2678 we've proffered to do that to answer those questions and not to disagree with your reading of  
2679 it. But, in drafting that proffer, the proffer does not obligate the County to participate in any  
2680 way. It just offers options and alternatives. It keeps the discussions open. It doesn't obligate  
2681 the County. A proffer cannot do that. This one doesn't do that either.

2682  
2683 Ms. Dwyer - Yes. It requires agreement by the County and the owner. Again,  
2684 I'd have to sit down and really study it to know. But it looks like it's a substantial difference  
2685 to me. I guess my question is, "Shouldn't we have the Traffic Impact Study before we make a  
2686 recommendation to the Board because we're supposed to know answers to things before its  
2687 recommended to the Board?"

2688  
2689 Ms. Freye - The purpose of a Traffic Impact Study is to determine what road  
2690 improvements, if any, are needed, and would be required for the development, which is a  
2691 development issue. That issue and that question has to be determined at the time of a POD  
2692 because that's one of the critical elements of approving a POD. That's why it is a development  
2693 issue. It is not a zoning issue. It's a development issue. And, until we get the facts to support  
2694 that, which is why we're proffered the impact study, not put that burden on the County, but  
2695 put that burden on ourselves to provide that information, then we can continue that dialogue  
2696 and work that out, long before we get to the POD, which will come back to the Planning  
2697 Commission, at that point with a lot of information to base an informed decision on.

2698  
2699 Mr. Marlles - Mrs. Dwyer, let me say again, that the staff also did verify with  
2700 Public Works that they were comfortable with the wording. If there were any changes that

2701 needed to be made, it could be made prior to the rezoning going to the Board. So, it was  
2702 something that staff did check out.

2703  
2704 Ms. Dwyer - I guess I wouldn't have as much of a problem with it if you didn't  
2705 have a major road that's on the Thoroughfare Plan that has already been built on the other side  
2706 of Nuckols and that's being ignored and not dedicated in this zoning case. I guess that's my  
2707 stumbling block on this traffic question.

2708  
2709 Ms. Freye - Right. And I just want to assure you, it's not being ignored.

2710  
2711 Ms. Dwyer - But on here?

2712  
2713 Ms. Freye - No. It hasn't been resolved, but it's not being ignored. It is  
2714 being addressed. It is being studied. It will be dealt with and it will be resolved.

2715  
2716 Ms. Dwyer - By "ignored," it's not being mentioned or committed to in  
2717 proffers. Normally, those kinds of roads are committed to in proffers.

2718  
2719 Ms. Freye - And, all I can say is, this is not one of those normal kinds of  
2720 roads. Apparently, there is a lot of discussion about whether this is still an appropriate  
2721 alignment. So, given the uncertainty of that, we're not in a position to make a commitment at  
2722 this point. But we are willing to commit to the Traffic Impact Study, to continue our dialogue  
2723 with the County traffic engineers and to come to some resolution before a POD would get  
2724 approved, which the Planning Commission will have the opportunity to review at that time.  
2725 We may even be able to get some things resolved before the Board. I don't know that for  
2726 sure, but we are going to continue that dialogue and try to address that.

2727  
2728 Mrs. O'Bannon - Is it possible to make this less fuzzy, the wording on here? I  
2729 might be able to answer my own questions. Can you adjust the screen? No. Thank you.

2730  
2731 Ms. Freye - OK. I'd like to go on and talk about Tracts 4 and 5, which are  
2732 the single-family detached housing for 55 and older. We are referring to those as "Villa Lots  
2733 for Sale for Seniors." The density of that development is being restricted to 120 units.

2734  
2735 There is a minimum lot size there of 6,000 square feet, and a minimum unit size of 1,100  
2736 square feet if you have up to a two-bedroom facility; and 1,700 square feet if it's a three  
2737 bedroom. Again, all the front yards would be sodded and irrigated. There would be sidewalks  
2738 and driveways would be paved.

2739  
2740 Going to Tract 8, that would really encompass the rest of the retirement community which  
2741 would be zoned R-6. We do have a variety of housing types to offer to 55 and older. It would  
2742 permit condominiums and townhomes for sale. It would also permit rental apartments for  
2743 seniors. It would allow a day care and also assisted living facility and, of course, the pavilion  
2744 facility that I showed you earlier.

2745  
2746 The owner has developed 36 proffers to talk about these housing types. Again, all the front  
2747 yards would be sodded and irrigated with sidewalks, pedestrian trails being provided.  
2748 Specifically, the townhomes and condominiums would not exceed six attached units in a row.  
2749  
2750 There would be minimum unit sizes for the townhomes and condominiums of 1,700 square  
2751 feet. There would be an average of 2,000 square feet, and 30 percent of those units would  
2752 have a minimum of 2,300 square feet.  
2753  
2754 Each townhome and condominium would have a one-car attached garage. That's assuming  
2755 they're not configured in a multi-storied building.  
2756  
2757 The number of townhomes and condominiums is also restricted and limited to 420 units.  
2758  
2759 We also have apartments for seniors which would be rental. And there is a limitation on the  
2760 numbers of those as well to 300. The one-bedroom units would be a minimum of 760 square  
2761 feet. The two-bedroom units would be a minimum of 1,028 square feet. And the three-  
2762 bedroom unit would be a minimum of 1,246 square feet.  
2763  
2764 The multi-family building, apartment buildings; 40 percent of that building would be of brick.  
2765 The design and quality of that apartment building is comparable to what we have in Exhibit E,  
2766 which we can put on the screen for you to give you an idea of what the design of the  
2767 apartments we are proposing.  
2768  
2769 The apartments would also have extra soundproofing built into them by providing concrete  
2770 between the floors. And, I think that with the apartments there, actually are going to be  
2771 marketed in the range of \$800 to \$1,000 a unit.  
2772  
2773 The day care facility that could go in the R-6 District we have proffered to restrict the hours of  
2774 operation to between 6:00 in the morning and 12:00 Midnight. Any outside recreational area  
2775 affiliated with that day care would be enclosed. And, plus, the architecture and the building  
2776 materials of any day care facility would be comparable to what used on the pavilion, because  
2777 they're going to be in close proximity with one another.  
2778  
2779 Mrs. Quesinberry - Can I just ask you a quick question about it? Is that day care for  
2780 children or day care for seniors?  
2781  
2782 Ms. Freye - It could be either. The last proposed use in the R-6 is an assisted  
2783 living facility that would be subject to stage regulations and licensing.  
2784  
2785 That brings us around to the Office zoning along Staples Mill. It is a little over eight acres and  
2786 its shown as Tract 7, if you want to put the zoning map back up (referring to slide).  
2787



2788 We have restricted the size of that office building to no more than two stories in height.  
2789 We've also restricted the size of it to 36,000 square feet. It was very important to the  
2790 neighbors of Courtney that there not be a child care center there or a funeral home permitted in  
2791 that district. So, we have proffered those out.

2792  
2793 We've also proffered the quality of that office building, that 90 percent of it would be  
2794 constructed of brick. There would be a 30-foot landscaped area provided along Staples Mill.  
2795 And, we're also provided a masonry or split-block wall along the boundary of the homes at  
2796 Courtney. And, just this evening, in talking with Mrs. Tate, we understand there might be  
2797 some differences of opinion about whether landscaping would be preferred instead of a wall.  
2798 We are committed to continue to have a dialogue with those neighbors, or maybe to do a  
2799 combination.

2800  
2801 The other concern that was raised is the proximity that the office building would be, or how far  
2802 it would be set back from the property line. We have committed to Mrs. Tate to meet with  
2803 here and her neighbors to have that engineer look at that to see if we could make a setback  
2804 commitment that would make them feel comfortable so that if the two-story office building;  
2805 they would not feel that it was towering over their homes. So, there is sufficient distance.  
2806 And we're going to take a look at that between now and the Board of Supervisors and work  
2807 with them on that question.

2808  
2809 We do have that little sliver of B-1 beside the existing B-1. And as Mrs. Via said, that's only  
2810 going to be used as a landscape buffer, and for access out to Crossridge Parkway.

2811  
2812 I've rushed through the highlights of this case. And, as Mrs. Via said, we do have the revised  
2813 proffer with the fence. We hope that you will please waive your 48 hour rule and accept those  
2814 revised proffers and consider them part of this case with your consideration this evening.

2815  
2816 We really are very excited about the opportunity to do this development. There's been a  
2817 tremendous effort on the part of the County staff, and the developer to get the word out to  
2818 people. There are people here this evening, but with the thousands of residents that have been  
2819 contacted, I think it is a testament that there was great interest and great participation in  
2820 developing all these proffers.

2821  
2822 I did not go through each and every one of the proffers. I just didn't think that that was worthy of  
2823 your time. I'll be glad to respond to any questions that you have about any of the other proffers  
2824 or any issue that I haven't addressed and may be addressed by the proffers.

2825  
2826 Every proffer that we've submitted has been to protect the residents and to assure the County  
2827 and the residents that this will be a first class, unique, one of a kind of development that the  
2828 County can be proud of.

2829

2830 We'll be glad to answer any questions that you have. We feel that it is compatible. It is  
2831 consistent with the Land Use Plan and we ask that you recommend approval to the Board of  
2832 Supervisors.

2833  
2834 Mr. Vanarsdall - Any more questions for Mrs. Freye?

2835  
2836 Mrs. Quesinberry - May I just ask you a question about the age restriction in the R-  
2837 5A and R-6C?

2838  
2839 Ms. Freye - Yes.

2840  
2841 Mrs. Quesinberry - Just because I'm not familiar with the verbatim language of the  
2842 Virginia Fair Housing Law, the proffer states that the property shall be restricted to "the  
2843 housing for older persons" as defined in the Virginia Fair Housing Law. Can you just expand  
2844 on that? Does that specifically mean 55 and older, or is that your interpretation, and are there  
2845 any exceptions? In other words, do we have assurances that all of this residential property,  
2846 whether it be apartments for rent or residences that are for sale would, in fact, have to be  
2847 owned or rented by persons that were 55 and older?

2848  
2849 Ms. Freye - The reason that you have a Fair Housing Act is to protect people  
2850 from being discriminated against because of their familial status. And so when you do an age  
2851 restriction, you're discriminating against children, is what you're doing.

2852  
2853 There is an exception in the Fair Housing Act that allows you to do that discrimination against  
2854 children if your project is designed for seniors, if you have amenities for seniors. If I think it's  
2855 at least 80 percent of your units are owned or occupied by at least one person who's 55 and  
2856 older.

2857  
2858 So, when we say we have to abide by the Fair Housing Act, the only way the developer can  
2859 protect himself from a discrimination suit is by complying with the Fair Housing Law. But  
2860 that exemption is in there. If you project is designed for 55 and older and you have these  
2861 certain amenities and other things built in there.

2862  
2863 It will be up to the developer and his agents to make sure that they have met all those criteria,  
2864 because if they don't, they're setting themselves up for liability for a discrimination suit.

2865  
2866 Mrs. Quesinberry - I guess what I want to know is, regardless of how the developer  
2867 sets up the property with amenities and how he markets it and so forth, is there anything that  
2868 really does prevent anyone younger than 55 from either renting or buying property in that  
2869 section?

2870  
2871 Ms. Freye - As long as 80 percent are owned or occupied by at least one  
2872 person 55 or older, they're going to be within the Fair Housing Act.

2873

2874 Mrs. Quesinberry - So, if less than 80 percent of the units are owned, rented, or  
2875 otherwise occupied by persons over 55...  
2876  
2877 Ms. Freye - Not only are they in violation of the Fair Housing Act, but  
2878 they're in violation of this proffer.  
2879  
2880 Mrs. Quesinberry - OK. So, in other words, if they couldn't sell or rent these units  
2881 to at least 80 percent of them to people that were 55 and over to stay within compliance, they'd  
2882 have to just go empty?  
2883  
2884 Ms. Freye - Yes.  
2885  
2886 Mrs. Quesinberry - OK.  
2887  
2888 Mr. Archer - Ms. Freye.  
2889  
2890 Ms. Freye - Yes, sir.  
2891  
2892 Mr. Archer - What happens; is that a continuing rule, or does that just apply to  
2893 initial ownership?  
2894  
2895 Ms. Freye - That is a continuing rule.  
2896  
2897 Mr. Archer - I guess the reason I asked that question, I'm wondering who  
2898 would be penalized. Let's just say that I was 55 or older?  
2899  
2900 Mrs. Quesinberry - You mean you're not?  
2901  
2902 Mr. Archer - Let's just say that.  
2903  
2904 Ms. Freye - Hypothetically, yes, sir.  
2905  
2906 Mr. Archer - And I died and I left my unit to one of my children. Could they  
2907 not use it if we were already at the 80 percent?  
2908  
2909 Ms. Freye - That's what I was just going to say. If it fell within the 20  
2910 percent, it wouldn't be a problem. It could potentially be a problem if the 80 percent were  
2911 already...It doesn't say you can't do more than 80 percent. It just says that you have to have a  
2912 minimum of 80 percent to come within the act. It is an issue.  
2913  
2914 Mrs. Quesinberry - I guess what I was concerned about and getting at, with this  
2915 number of multi-family types of housing, just concerned about younger persons and children  
2916 moving in and the impact on schools. It really makes a difference when you're looking at

2917 something this large if you intend it for a retirement community or for seniors rather than  
2918 starter families with a lot of impact on County facilities and schools.

2919  
2920 Ms. Freye - This is designed to really thwart that inclination. There's a  
2921 growing demand for 55 and older housing. This proffer has been accepted by the County  
2922 before. And it seems to have worked very well with the senior housing product that exists.  
2923 We've never had a problem. And I really think that even the people who market these  
2924 properties have found that even in existing established senior housing communities, that  
2925 they've had one or two children, that's all. It has not been a problem. It, traditionally, has not  
2926 been a problem.

2927  
2928 Now, anything's possible, but it is designed and would be operated for 55 and older. This  
2929 proffer, this age restriction does run with the land. It's not just at the beginning. It's a  
2930 continuing requirement.

2931  
2932 Mr. Vanarsdall - All right, any more questions for Ms. Freye? Thank you, Ms.  
2933 Freye. Now, we will hear from the opposition. I believe we have one gentleman who would  
2934 like to speak in favor. Mrs. Tate, I need for you to go to the mike because we're recording  
2935 this. Thank you.

2936  
2937 Mrs. Tate - We have already had a lengthy discussion out in the lobby  
2938 tonight. When I came, I was very concerned about the 8-foot...

2939  
2940 Mr. Vanarsdall - I know it.

2941  
2942 Mrs. Tate - ...wall at the back edge of my property. It's 10 houses that face  
2943 Lanceor Drive that come against this office space. Ten houses would be affected with the wall  
2944 and would have the office zoning behind us.

2945  
2946 Also, we are much higher on Lanceor Drive than this other land. In fact, my own home has  
2947 maybe four more steps at the back door than it does at the front. So that land does have a  
2948 rolling downhill towards this development.

2949  
2950 And I was very concerned about the drainage, if the solid wall went up. So, I hope that  
2951 something would be done that that would let it through to their side and they would dispose of  
2952 it rather than opening just a cement drainage ditch or something on our side.

2953  
2954 Now, I'm still not real happy about the office building. But, I'm still thinking about that until  
2955 this thing comes up at the zoning. I really don't see why they couldn't have gone in a road off  
2956 of Staples Mill and had houses on it like they've done all up Parham and every where else.  
2957 You go in, you have the little cul-de-sacs and its small. That's true. They said 8.5 acres. But  
2958 I think on Parham and on Purcell Road, Hungary Road, they've gone in on much smaller  
2959 properties than that and build cul-de-sacs and put houses on them. So, I'm not sure they  
2960 shouldn't have considered buffering their own business rather than putting the office to call it a

2961 buffer to us. But I'm hoping we'll be able to work through some of these things between now.  
2962 I talked to Mr. Glover at length last night. He was very disappointed in me that I don't like  
2963 this particular plan. But, this is our home. They are nice homes. They'll all built maybe  
2964 between 1954. Mine was built in 1970. And I think three more after that. But we love them.  
2965 They're our home.

2966  
2967 Mr. Vanarsdall - How many houses...

2968  
2969 Mrs. Tate - I believe its 85 houses. We have the Syndor Pump and Well  
2970 water and all the lots seem to run about 110 feet across the front and maybe 150 feet.

2971  
2972 Mr. Vanarsdall - It has been there for 50 some years or more?

2973  
2974 Mrs. Tate - I have only been there - I was one of the last to go in. I  
2975 originally came from Hungary and Purcell Roads until they took all our land on either side of  
2976 that, and we moved and left it to be vandalized and destroyed.

2977  
2978 I had earlier been run out from Lakeside because of the Hardee's and all of that. Lakeside  
2979 seemed to have a way you couldn't keep business in some of the areas. But there are still  
2980 some of those individual houses that never changed. The one's near the (unintelligible), and  
2981 that sort of thing.

2982  
2983 But I can see that, of course, they tell me that once this one is put in there, there'll be no more.  
2984 But there are a lot of concerns for people and to be sure that they are in there and they are  
2985 covered. This is a nice neighborhood whether you all know it. Maybe it's not the most  
2986 expensive, but at least we're brick. We have fireplaces. We have chimneys. We have  
2987 hardwood floors.

2988  
2989 Mr. Vanarsdall - Good.

2990  
2991 Mrs. Tate - So, I think they're right in there with the best of them.

2992  
2993 Mr. Vanarsdall - Mr. Atack and Ms. Freye are going to work with you on this.

2994  
2995 Mrs. Tate - Well, I thank you.

2996  
2997 Mr. Vanarsdall - And thank you for coming Mrs. Tate and for bringing your  
2998 daughter, or she brought you. Yes ma'am, come on down and state your name.

2999  
3000 Miss Susan Schermerhorn - Mr. Chairman, Mr. Secretary, members of the Planning  
3001 Commission and distinguished guests. My name is Susan Schermerhorn and I am a concerned  
3002 citizen. As a Henrico County resident in the process of moving from the Fairfield District to  
3003 the Brookland District, I find myself most concerned with Robert Atack's proposed rezoning  
3004 C-17C at Staples and Springfield Roads.

3005  
3006 I do not see Robert Atack as a candidate for sainthood simply because he may be a deacon at a  
3007 Glen Allen Church, as has been intimated by another Board of Supervisors' member and I do  
3008 not fathom the reasons for the mixed usage at this site.  
3009  
3010 An 8-foot masonry wall which divides the proposed rezoning site from private property, which  
3011 appears to be on an area of wetland would have a disproportionately high and adverse affect on  
3012 drainage on the property owners as well as the elder population who would presumably occupy  
3013 this dwelling.  
3014  
3015 It appears to me that Henrico County already has more than enough assisted living and  
3016 subdivisions financed by taxpayers. An example is a planned development at Woodman and  
3017 Parham called Chestnut Grove, which is now in the works.  
3018  
3019 Perhaps, the Board of Supervisors could explain to me now or at a later time why Robert  
3020 Atack, developer of Magnolia Ridge is the only developer and cited subdivisions to be exempt  
3021 from new lot restrictions recently put into affect by the Board of Supervisors. Perhaps, Mrs.  
3022 O'Bannon could enlighten me on that.  
3023  
3024 The Board stands on conservation easements and purchase of development rights as well as  
3025 transparencies in all public dealings with regard to rezoned property would also be much  
3026 appreciated. I may note that it was suggested that in fact told that Mrs. Cross had retired and  
3027 needed to sell her land. And Mr. Nuckols as well at Innsbrook had said, "Had conservation  
3028 easements or purchase of development rights been an option, that Mr. Nuckols certainly would  
3029 have taken it." I submit that this proposed purchase of development rights and conservation  
3030 easements be proposed at every Planning Commission meeting.  
3031  
3032 A commercial building by subdivision at this site for use by the Methodist Church seems out of  
3033 character and out of keeping with the property owner's right at this site and also with Mr.  
3034 Atack's preoccupation. And from those with whom I have discussed the situation is very much  
3035 in opposition to their wishes. Thank you for your time.  
3036  
3037 Mr. Vanarsdall - Any questions? Did you come to one of the meetings we had?  
3038  
3039 Miss Schermerhorn - What?  
3040  
3041 Mr. Vanarsdall - Did you come to any meetings that were held?  
3042  
3043 Miss Schermerhorn - I was not invited, nor was I notified.  
3044  
3045 Mr. Vanarsdall - OK. Thank you.  
3046  
3047 Mrs. O'Bannon - Are you an adjacent property owner?  
3048

3049 Miss Schermerhorn - I am not, but I plan on moving to the Brookland District and I'm  
3050 also a Henrico County resident.  
3051  
3052 Mrs. O'Bannon - You mentioned something about part of the rezoning is a zoning  
3053 classification that no longer exists? Where is that? What are you referring to?  
3054  
3055 Miss Schermerhorn - I was at a planning meeting not long ago by the Board of  
3056 Supervisors when I think it was, correct me if I'm wrong, think that no more than 5 houses to  
3057 an acre. I believe it was you, Mrs. O'Bannon, who said that only Magnolia Ridge was exempt  
3058 from this.  
3059  
3060 Mrs. O'Bannon - I never said that. What is exempt?  
3061  
3062 Miss Schermerhorn - Magnolia Ridge would be exempt from this for some reason.  
3063  
3064 Mrs. O'Bannon - I didn't say that. I know I didn't say that, because I don't know  
3065 that much of that area.  
3066  
3067 Miss Schermerhorn - Magnolia Ridge is not exempt from this?  
3068  
3069 Mrs. O'Bannon - Well, I know what Magnolia Ridge is.  
3070  
3071 Miss Schermerhorn - Which is previously under construction, apparently?  
3072  
3073 Ms. Dwyer - If it was already zoned before the law was changed, then it would  
3074 still...  
3075  
3076 Miss Schermerhorn - So, it's the only area that was under construction before the law  
3077 was changed?  
3078  
3079 Ms. Dwyer - I'm not sure I understand your question. But any property that  
3080 was rezoned before the law was changed wouldn't be affected at all.  
3081  
3082 Miss Schermerhorn - So, this was the only one that was rezoned before the law was  
3083 changed? This is the only one that is exempt?  
3084  
3085 Ms. Dwyer - I don't know of any exemptions.  
3086  
3087 Mr. Marlles - Miss Schermerhorn, maybe I can add to it. The Board of  
3088 Supervisors deleted three single family districts; R-3A, R-4, and R-4A and the controlled  
3089 density provisions. But none of those apply to this particular rezoning request.  
3090  
3091 Ms. Dwyer - She's talking about Magnolia Ridge.  
3092

3093 Mr. Marlles - All right. Then, I still don't understand your point.  
3094  
3095 Miss Schermerhorn - OK. I am very sorry to have wasted your time. Thank you, very  
3096 much.  
3097  
3098 Mr. Vanarsdall - Thank you very much. Who would like to be next?  
3099  
3100 Ms. Dena Brower - My name is Dena Brower.  
3101  
3102 Mr. Vanarsdall - How are you doing?  
3103  
3104 Ms. Brower - Fine. Thank you. Ms. Dwyer brought up the point I'm most  
3105 concerned about and that is the Nuckols Road area. At the first informational meeting, I think  
3106 Ms. (unintelligible) went to that and we were told that Nuckols Road would definitely not hook  
3107 through at that point. I was surprised and called the County to find out about when the plans  
3108 had been changed and they said they had not. And then at a subsequent meeting, I understand  
3109 the same thing was said that, Nuckols Road was not going through. I think we definitely need  
3110 to have it continue on, because I think the planners when they made the Major Thoroughfare  
3111 Plan had just this site in mind when they were planning for the future. And it needs to go  
3112 through. I would urge you to not approve this plan until Nuckols Road is decided.  
3113  
3114 The main concern I have for Nuckols Road is because I live on Hungary Road. And we have  
3115 an abundance of traffic now. And having Nuckols Road go through would alleviate a lot of  
3116 traffic coming through I guess Innsbrook and down from Wyndham.  
3117  
3118 And one of the other areas of concern is that there would be an access point to Hungary Road  
3119 when there could be an easy access point to Duncroft just a little bit I guess it is still west of  
3120 where it would go now to where there is an existing road. I think another point of entry onto  
3121 Hungary Road would be just endangering more people's lives out there.  
3122  
3123 And let's see what else I have on my list here. Oh, the other thing I was going to ask about  
3124 was the Traffic Study, if that had been done. Because I don't know, I can't remember the  
3125 figures when Hungary Road was widened a few years back. I don't know how long ago that  
3126 was.  
3127  
3128 In 1999 we were having 19,273 cars a day on Hungary Road.  
3129 And that's been a year ago. I think that was in April of 1999 that was done. I don't remember  
3130 what they said the road could bear at that point. But the main thing is Nuckols Road.  
3131  
3132 One other thing during one of the other projects here was about a historic building, saving  
3133 those. I understand about the six tobacco barns that haven't been brought up. In the staff  
3134 report they said they were going to try and save them, perhaps, and move it. And, if that is a  
3135 unique thing to Henrico County, then I think a great deal of effort ought to go into saving those  
3136 buildings on the site where the historic value lies. And, I think that's it.



3137  
3138 Mr. Vanarsdall - Thank you.  
3139  
3140 Ms. Dwyer - What was your name again, ma'am?  
3141  
3142 Mrs. Brower - Dena Brower.  
3143  
3144 Mr. Vanarsdall - All right, who would like to be next?  
3145  
3146 Mr. David Horton - Good evening. My name is David Horton. I live on Hungary  
3147 Road, myself. I really just want to kind of back up what Dana said about Hungary Road and  
3148 Nuckols Road.  
3149  
3150 I think Nuckols Road is a road we really need. Hungary Road is really jammed up with  
3151 traffic. It's at least 20,000 cars a day. I believe the traffic count said that.  
3152  
3153 When that road was widened, I went to some of the original meetings and they were suggesting  
3154 that road could handle 12,000 cars a day. That's what they were going to build it for. It's  
3155 well over that now. I don't see how they can eliminate Nuckols Road going through this  
3156 property. Personally, I don't see why the traffic study wasn't done before now. I mean this is  
3157 something you need to have to make a decision.  
3158  
3159 It's a lot of traffic coming off of Innsbrook on Nuckols Road, something like 27,000 cars a  
3160 day. I think Hungary Road is going to be like Parham Road in short order real soon,  
3161 particularly if that road's not put in. Parham Road, parts of it carrying 30,000 to 40,000 cars  
3162 a day. Hungary Road is going to be the same way. It's going to be lights at every  
3163 intersection. It's not needed. Hungary Road is a residential road; completely residential.  
3164 There are no businesses on it anywhere. Maybe even the speed limit ought to be brought  
3165 down. I mean it is a residential road. But, certainly we can't be stopping these other big roads  
3166 that are supposed to go through. We really need Nuckols Road to go all the way through and  
3167 hook up with Staples Mill. That's my big concern here. Thank you.  
3168  
3169 Mr. Vanarsdall - Thank you, Mr. Horton. Any one else want to speak? Glad to  
3170 have you.  
3171  
3172 Mr. Steve Lamén - Good evening. I'm Steve Lamén. I am actually finding myself  
3173 coming out speaking before you. I'm the President of D. O. Allen Homes. I am a competitor  
3174 of Mr. Atack's, but I'm here to advocate his proposal. You'll find it unique, but as we are  
3175 building Park West down the street, I can offer some comments about the age restriction that  
3176 was brought up earlier. It is the occupants, not the owners of the property that must be the age  
3177 restrictions.  
3178  
3179 There is yearly reporting of those residents so that they comply. That's typically done with the  
3180 homeowners' association. And, you'll find that in the traffic counts, the trips per day for an

3181 age restricted community are by far less than a conventional community. And they're typically  
3182 the non-peak hours as well.

3183  
3184 The very responsible presentation for the active adult component in the yellow (referring to  
3185 slide) is because of the large demand the County has and I can suggest that the fulfilling of  
3186 those needs as County residents is a very important responsibility that we bear and it has to be  
3187 affordably as well. I believe that this is a very unique proposal that also allows the smaller  
3188 units size as well as being able to provide the price points that the clients would like. I don't  
3189 have anything further to say, but I advocate your sensitivity to the needs of the active adult  
3190 residents and this proposal.

3191  
3192 Mr. Vanarsdall - Thank you very much.

3193  
3194 Mrs. Tate - May I make one more quick statement that I forgot?

3195  
3196 Mr. Vanarsdall - All right. Come on down, Dana. Any one else want to speak?  
3197 All right.

3198  
3199 Ms. Dana Brower - I don't think that the question of Nuckols Road not going through  
3200 came up until this project came up. I don't think there was any discussion about discontinuing  
3201 it until that point.

3202  
3203 Mr. Vanarsdall - There wasn't any reason for it.

3204  
3205 Ms. Brower - Right. And there still is not. When I was talking to the Public  
3206 Works Department, when I was concerned about this and couldn't understand why we were  
3207 told it was definitely not going through when they had no hearings or anything about it. And it  
3208 was suggested that one possible reason was that Mr. Atack would have to bear the burden of  
3209 the expense of the road, and, understandably, he wouldn't want to do that. That was just what  
3210 I heard, so.

3211  
3212 Mr. Vanarsdall - Appreciate that information. He may end up bearing the burden  
3213 on it. Mr. Duke, come on down.

3214  
3215 Mr. Michael Duke - Mr. Chairman, members of the Board, my name is Michael  
3216 Duke. I've been a resident, employed in Henrico County for 25 plus years. I reside on  
3217 Courtney Road approximately 200 yards from the boundary from the Cross property. And as I  
3218 exit my driveway each day, I look into this property.

3219  
3220 I was in attendance of several of the many town meetings that were presented to the various  
3221 neighborhoods and communities. And those meetings were well attended. It was a very  
3222 professional and well informed presentation of this development jointly by the developer and  
3223 his staff, and also by Brookland Representative to the Board of Supervisors and this Board was  
3224 represented at all of those meetings that I attended.

3225  
3226 I think there's a healthy level, and comfort zone throughout the communities with the project;  
3227 the quality of the project; the components in the project; and a very good feeling on the  
3228 forethought that has gone into the development. And, I think the vast majority of people look  
3229 forward with anticipation and excitement to this vision becoming a reality. And I want to  
3230 thank the Board and the staff of the County for their input in this, the design of this project.

3231  
3232 Several items I would like to address that were mentioned previously. First of all, as a deacon  
3233 of Glen Allen Baptist Church, I'm very disturbed to find out that we are not automatic  
3234 candidates for saint hood. That's one of the things that bothered us. But, I want to extend an  
3235 invitation to everyone, including Miss Schermerhorn, you have an open invitation to come to  
3236 Glen Allen Baptist Church any Sunday and we would love to have you.

3237  
3238 Every question was answered thoroughly and all questions were addressed at these meetings.  
3239 And two that were presented here tonight were also addressed, I felt, adequately, by Mr.  
3240 Glover and the developer. One was on the barns. The historical significance of buildings on  
3241 this property. That was a very good comment, because actually it was brought up at one of the  
3242 meeting and I may be out of school here, but those buildings have been either donated or  
3243 maybe sold to or destined to be disassembled and relocated I believe over to Meadow Farm  
3244 which is at the end of Courtney Road. This property is on one end of Courtney. Meadow  
3245 Farm, as you know, is on the other end of Courtney. And I hope that is the reality. Isn't that  
3246 right? It gives us a comfort zone, and I hope it will for you, too. It does for me on that.

3247  
3248 On the Nuckols Road issue, this actually is—the gentlemen on Hungary Road that spoke about  
3249 the traffic that this should not be stopped the development of Nuckols Road, I don't think that's  
3250 at issue here. It's whether the relocation and continuance of that road, what is the appropriate  
3251 and proper destination of Nuckols Road? Whether it should dead end a mile away from a  
3252 major intersection of I-295 and Staples Mill Road, or whether it should enter into Staples Mill  
3253 Road much closer to, such as Springfield Road.

3254  
3255 And I think the concern of those neighbors, including myself, was that it would be much more  
3256 of liability congestion and an impairment on our neighborhood to enter, as has been proposed  
3257 by the plans of 20 years ago.

3258  
3259 The representations that were made to us is that there is strong consideration to the completion  
3260 of Nuckols Road coming into Staples Mill Road at the intersection of Springfield and Staples  
3261 Mill for the right reasons.

3262  
3263 A lot of traffic. A high volume of traffic, closer to a major artery; highway around the city, I-  
3264 295.

3265  
3266 Nevertheless, I would like to compliment the County and the staff on the input that you have  
3267 provided to the neighborhoods, and I think there's—Again, those neighbors that are directly  
3268 affected, as I am. I live in close proximity, I feel have their concerns, issues and questions

3269 have been addressed. Again, we have a high comfort zone with the quality of the  
3270 development. And we feel that it not only will complement our neighborhood, it actually will  
3271 enhance it. Thank you for your time this evening.

3272  
3273 Mr. Vanarsdall - Thank you, Mr. Duke. Yes sir.

3274  
3275 Mr. Kenneth Meiser - I'd say, "Good evening, " but I think "Good Night," is more  
3276 appropriate.

3277  
3278 Mr. Vanarsdall - Take your time.

3279  
3280 Mr. Meiser - That guy kind of stole my thunder a little bit. I'm here to  
3281 advocate this as well. My name is Kenneth Meiser. I live in Dunncroft. I would absolutely  
3282 delighted to see what's quite obviously a quality development bordering my neighborhood.

3283  
3284 From a couple of standpoints, you know, over 55 community is one of the fastest growing  
3285 segments of the population. There's no place for them in Brookland District, very few, if any,  
3286 that they can live in.

3287  
3288 Something of this nature is absolutely appropriate for this piece of property as far as  
3289 something's so pretty out there being developed, why not have it done right. And the staff and  
3290 the County personnel and the developer have done a great job proposing, I think, a very  
3291 appropriate mixed use type of scenario here.

3292  
3293 I've heard people talk about Nuckols Road. I went to the meetings. I mean I must have gotten  
3294 a half dozen notices to make sure that anybody in the surrounding areas that wanted to have  
3295 some input would be there. And I went to them. I remember them talking about Nuckols  
3296 Road and saying that, it wasn't a matter of whether it was going to be cancelled or stopped.  
3297 It's just a matter of what's a more appropriate location for it to come up to Staples Mill Road.

3298  
3299 I don't see it coming through this property, stopping at Staples Mill Road and dead ending,  
3300 basically, and going right or left. I mean, that, to me, would cause more problems than having  
3301 it may be moved I guess that would be westerly back towards Springfield. So, the Nuckols  
3302 Road issue doesn't really bother me at all. It's actually kind of timely that something that was  
3303 proposed so long ago gets readjusted now when something like this happens. It seems very  
3304 appropriate.

3305  
3306 As far as just the general layout of the community, it is fabulous. I'm very excited, because I  
3307 think it's probably going to help the property values in the area. And the fact that it is such a  
3308 dynamic piece in that it involves a lot of different segments; single-family, some business, and  
3309 these restricted things too. So, you can count my vote. I'll tell you, there were a lot of people  
3310 at those meetings. I mean they were very openly cheering that this was an appropriate use for  
3311 this property. Thank you for your time.

3312

3313 Mr. Vanarsdall - I don't believe you gave us your name.  
3314  
3315 Mr. Meiser - Kenneth Meiser. I live in Duncroft.  
3316  
3317 Mr. Vanarsdall - Thank you. Thank you very much.  
3318  
3319 Mrs. Brower - I'm sorry, I have just one more rebuttal here. I'm not an  
3320 adjacent property owner, but I have a good friend who is. She's 79 years old and she is an  
3321 adjacent property owner and every time she gets any mail or anything like this, she comes to  
3322 me with it. And she received two notifications of meetings. I only attended the first one. And  
3323 there was no clarification about Nuckols Road except it definitely was not going through. And  
3324 at the second meeting, I know someone who was there. And there was no clarification at that  
3325 point either. So, I don't know when all these other meetings took place, but all the adjacent  
3326 property owners were not notified, and all of us were not given an opportunity to go to all of  
3327 the meetings. Thank you.  
3328  
3329 Mr. Vanarsdall - Thank you, again, Mrs. Brower. Ms. Freye.  
3330  
3331 Ms. Freye - I just wanted to make just two points about issues that we didn't  
3332 discuss during the major part of the cases. There are wetlands on the property. And, of  
3333 course, they will be delineated and we will follow all local, state, and Federal regulations in  
3334 that regard.  
3335  
3336 The gentleman was correct; Mr. Duke was correct. An offer has been made to the Department  
3337 of Parks and Recreation to donate the barns so that they can be relocated in another location.  
3338 And we feel certain that's probably going to happen.  
3339  
3340 You can imagine in a project this size, and with 3,000 residents that you're trying to reach out  
3341 to, and to incorporate their wishes, not all of which are going to necessarily agree. You  
3342 cannot agree with everybody 100 percent of the time.  
3343  
3344 The one lady suggested that there should be access through Duncroft. Those people in  
3345 Duncroft don't want that. It's kind of hard to please everybody. But, I think with the  
3346 proffers that we have submitted have been in the response to the wishes of the majority of the  
3347 people that we heard. And so like many situations, people who are in favor don't come. And  
3348 I do appreciate the speakers who did speak in support of this, because they don't have issues.  
3349 It's the people who have issues. And I also appreciate the people that did come to speak about  
3350 issues, because it now gives us the opportunity to meet with them and work with them,  
3351 particularly, people like Mrs. Tate who said, "Are there specific things that we can do to  
3352 improve this?" And we will continue to have those dialogues and work with those people  
3353 between now and the Board, just as we will continue to work with the County about the  
3354 concerns that they have about any issues that have been raised.  
3355

3356 So, again, we think there are far, far more positives on this case than negatives. Left as it is, I  
3357 think the development would have a tremendous impact on the road system and the County;  
3358 whereas, this type of development we have minimized those impacts, both from traffic and  
3359 schools and other services that are demands on the County. And at the same time, addressing  
3360 a growing need that the County has for senior housing.  
3361

3362 I don't know if you are aware, but there is a long waiting list for quality housing. For  
3363 example, Cedarfields has a four year wait for people who want that kind of housing.  
3364

3365 So, we want the opportunity to develop this project. We hope that you'll recommend approval  
3366 to the Board.  
3367

3368 Mr. Vanarsdall - Thank you, Ms. Freye.3369

3370 Ms. Dwyer - I have a question for Ms. Freye. I wonder if we could put the  
3371 graphic back up that shows Nuckols Road? Given that Nuckols Road has been built to  
3372 Francistown, is that right?  
3373

3374 Ms. Freye - I don't know. I don't believe so. Perhaps, Mrs. Via...  
3375

3376 Ms. Dwyer - ...or built or reserved to Francistown?  
3377

3378 Mrs. Via - It's more correctly, "built to reserve." The green areas show  
3379 where it has not been built.  
3380

3381 Ms. Dwyer - OK.  
3382

3383 Mrs. Via - In particular, this area here (referring to slide), traverses a very  
3384 steep ravine, which would take a very expensive bridge structure, and that has not been  
3385 constructed.  
3386

3387 Ms. Dwyer - OK. I guess I have one comment, first, Ms. Freye. There  
3388 seemed to be some intimation that because this has been on the Thoroughfare Plan for 20 years  
3389 that it's about time it was changed. And I think one of the citizens alluded to that as well.  
3390

3391 I think one of the reasons that we have roads on the Thoroughfare Plan for a long time is so  
3392 that people don't build in the thoroughfare so that it is, in fact, reserved, and people have a  
3393 long time to be notified to be of where existing roads are planned.  
3394

3395 I'm just very concerned. I think it would be a grave mistake for this Commission to vote on  
3396 this one way or the other. At this point, it just seems premature without the traffic study and  
3397 without knowing where Nuckols Road is going to go. I think it's our responsibility to uphold  
3398 the Thoroughfare Plan. And, if there's a question about it's alignment, given that's it already  
3399 been built or reserved all the way to Francistown, or actually been dedicated beyond

3400 Francistown, it is not clear to me how it could be realigned. And I think that realignment issue  
3401 needs to be addressed before this zoning case is decided by the Commission. And, I guess my  
3402 question for you is, "How in the world could Nuckols Road be extended without affecting this  
3403 property?"

3404  
3405 Ms. Freye - Ms. Dwyer, I think that we're not disagreeing that the road needs  
3406 to be addressed. And we are proffering a Traffic Impact Study where that issue will be  
3407 addressed, what is appropriate for the Planning Commission, and the question that is before us  
3408 this evening is, "Whether this is appropriate zoning and development for this tract of land:"  
3409 The road improvements, the alignment of the road are all under study, and they will be decided  
3410 before a POD can be approved. It's a development issue. It's not a zoning issue. And staff  
3411 has even said that in their staff report. So, that is how the Planning Commission could see its  
3412 way to recommend approval of the zoning as being appropriate and compatible for this  
3413 property.

3414  
3415 Ms. Dwyer - Well, it's interesting, you see how this road has been built or  
3416 dedicated on this whole area. And I've sat at this seat and seen many other cases come in  
3417 mostly in the Three Chopt District in which other developers have had to dedicate this Nuckols  
3418 Road right of way. And they've had to work around it, and build all of their subdivisions.  
3419 And you can see how densely developed that is. You know, I don't think the question has  
3420 been answered and I don't think it can be answered tonight, at least to my satisfaction as to  
3421 why we should consider a case that is in direct contradiction of the Major Thoroughfare Plan.

3422  
3423 Ms. Freye - I think that Mr. Atack would agree with you, that other  
3424 developers have been in the situation where they've either had to dedicate right of way or  
3425 actually participate in the construction of roads that are shown on a Thoroughfare Plan. And  
3426 you're exactly right. They are on the books so people will have notification that the road  
3427 potentially could be there. Just because it's on the Plan doesn't mean that that's what will  
3428 ultimately happen, that that's ultimately is the right alignment, or the right location for it.

3429  
3430 Times change. Situations change. Developments change. And the County has the opportunity  
3431 to look at the issue and make an informed decision. And that's what we're trying to do.  
3432 We're trying to work with the County to get the facts; study the issue, and make an informed  
3433 decision at the appropriate time, which would be prior to a POD approval or subdivision  
3434 approval.

3435  
3436 The appropriateness of the zoning, regardless of the development issues, you may say the  
3437 zoning is perfectly appropriate. There may be other reasons that the development could not go  
3438 forward, or a POD approved. Perhaps, the wetlands could be an issue, that even in spite of  
3439 the zoning, as being appropriate, could not be developed the way its proposed because of other  
3440 issues. The road falls into the same category as that. It is a development issue that will be  
3441 dealt with. It doesn't stop the Planning Commission from deciding "is this appropriate and  
3442 compatible zoning for this property. The majority of the residents feel that it is. They are not

3443 here to say that, but they have expressed that in the many, many meetings that have been held  
3444 prior to this public hearing.

3445  
3446 Ms. Dwyer - Is this proffered – this Master Site Plan?

3447  
3448 Ms. Freye - No, it is not.

3449  
3450 Mr. Vanarsdall - Thank you.

3451  
3452 Mr. Archer - Ms. Freye, before you sit down, do you know what the timing is  
3453 of the Traffic Impact Study? When did they plan for, assuming that this would go to the Board  
3454 next month and the next logical step would be to file a plan of development, so it would have  
3455 to be done prior to that time. Do you know when that would be?

3456  
3457 Ms. Freye - It would be in conjunction with developing those plans. It would  
3458 be in conjunction with that and in time to have a decision available before time for the  
3459 Planning Commission to make a decision on any subdivision or POD. So, it would be in  
3460 conjunction with the development of the plan.

3461  
3462 Mr. Archer - Is that sooner or later?

3463  
3464 Ms. Freye - I think the projection is for next summer to begin work on the  
3465 property if the zoning is approved.

3466  
3467 Mr. Vanarsdall - OK. Thank you.

3468  
3469 Ms. Via - Mr. Chairman, if I might go back to a question that was asked by  
3470 Ms. Dwyer about the density. We weren't able to find a staff person who can still do long  
3471 division, but we did find a computer, and the overall density would increase to 3.64 if you  
3472 took the park site out, the overall density.

3473  
3474 Mr. Vanarsdall - All right. We have to waive the time limit on the proffers. I  
3475 move that the time limits on the proffers be waived.

3476  
3477 Mr. Taylor - Second.

3478  
3479 Mr. Vanarsdall - Motion by Mr. Vanarsdall and seconded by Mr. Taylor. All in  
3480 favor say aye.

3481  
3482 Mr. Marlles - Mr. Chairman, do you want me to do a roll call vote?

3483  
3484 Mr. Vanarsdall - Yes.

3485  
3486 Mr. Marlles - Mr. Taylor – aye



3487 Mr. Archer - aye  
3488 Mrs. Quesinberry - no  
3489 Mr. Vanarsdall - aye  
3490 Ms. Dwyer - no  
3491  
3492 Mr. Marlles - The motion to waive the time limits is approved on a 3 to 2 vote.  
3493  
3494 Mr. Vanarsdall - I move we make a motion on C-17C-C, Staples Mill, LC. There  
3495 is not a lot left to say about this. I will say I have never seen one worked any harder. I have  
3496 never seen, 2700 notices sent to the people. If somebody didn't get one, I don't know where  
3497 they live. We have had seven public hearings, not public hearings like we are having tonight,  
3498 but seven hearings with the people. We had two all-day Saturdays and the first Saturday we  
3499 had people from this entire area, all come, and it was all day. We had hundreds of people.  
3500 The second time we had it on a Saturday, which was the 22<sup>nd</sup> of April, it took it by the hour,  
3501 like at 9:00 a.m. we had maybe Duncroft Subdivision, at 10:00 a.m. or 11:00 a.m. we had  
3502 Brittany and Dove Hollow. Mr. Glover presented it with Mr. Atack and after every single  
3503 session he said, "Tell me what you don't like about it and what is wrong with it." And, so  
3504 they kept working on the proffers. Mr. Atack kept changing them. He had all kinds of  
3505 renderings and I can't remember anything in the County that has ever done anymore hard work  
3506 and any more style. We had all of us appointees there to assist the people with the posters and  
3507 the renderings and drawings. We had the staff there. Mr. Marlles was there. Mr. Silber, Ms.  
3508 Via, Mr. Householder was there. Having said that, it is very much needed in the Brookland  
3509 District. It is first class, very high quality development. We do need, there is hardly any  
3510 place in the Brookland District for senior citizens. The assisted living is needed. Someone  
3511 said that we have enough of them. We don't there. This is a part of Glen Allen that needs to  
3512 be developed and it should be, and I understand why the Nuckols Road is a problem, but that  
3513 will be addressed, and that will be taken care of. So, it is a pleasure for me to recommend to  
3514 the Board approval of C-17C-00.  
3515  
3516 Ms. Dwyer - Mr. Chairman, may I just make a quick comment. Obviously a  
3517 lot of work has gone into this, and as you say, a lot of meetings have been held, and that is  
3518 clear from the proffers, and I agree that there is a need for housing for older people, and I  
3519 think that is a laudable concept, and I don't have a problem with the development. My only  
3520 concern is upholding the Major Thoroughfare Plan.  
3521  
3522 Mr. Vanarsdall - I understand that. Do I have a second on the motion?  
3523  
3524 Mr. Taylor - Second.  
3525  
3526 Mr. Vanarsdall - We have a motion made by Vanarsdall and a second by Mr.  
3527 Taylor. All in favor say aye. All opposed say no. Mr. Secretary, would you poll the  
3528 Commission?  
3529  
3530 Mr. Marlles - Yes, sir.

3531

3532 Mr. Taylor - Mr. Taylor votes aye.

3533 Mr. Archer - Aye

3534 Mrs. Quesinberry - No

3535 Mr. Vanarsdall - Aye

3536 Ms. Dwyer - No

3537

3538 The motion is approved on a 3 to 2 vote.

3539

3540 The Board of Supervisors voted to recommend approval to the Board Case C-17C-00, Staples  
3541 Mill, LC.

3542

3543 Mr. Vanarsdall - All right, thank you very much. And I want to thank everyone  
3544 who came, whether you spoke in opposition or in favor, and thank you.

3545

3546 Mr. Marlles - Ms. Via. We are on the discussion considering waiving the  
3547 number of rezoning cases for the June 15<sup>th</sup> meeting.

3548

3549 Ms. Via - Yes, sir, and we do have an issue. Mr. Chairman and members  
3550 of the Commission, for the June Planning Commission, you did have 10 zoning cases  
3551 submitted by the time of the cutoff and one provisional use permit. Your policy does state that  
3552 you will take the first 9 cases in the door, and three provisional use permit cases. By your  
3553 policy, let me wait one minute while we pass that out.

3554

3555 Mr. Vanarsdall - I think we've been very successful since we started last year.

3556

3557 Ms. Via - We have been very successful in holding to your policy. There  
3558 has been a request that I will let Mr. Taylor speak to about the Glen Allen Community Church.

3559

3560 Mr. Vanarsdall - So, I need a motion to accept only the nine? Is that right?

3561

3562 Mr. Taylor - Mr. Chairman, I received a call the other day from the Glen  
3563 Allen Community Church and they were aware of this, but sought out approval to add them as  
3564 an extra case, and recognizing the aspect of that addition, in the interest of equity and attribute  
3565 to the religious community, I recommend that we add 11 and stretch ourselves a little bit in the  
3566 interest of the church.

3567

3568 Mr. Vanarsdall - All right. I appreciate that, Mr. Taylor. Now, I need a motion.

3569

3570 Ms. O'Bannon - May I say that churches are the worse cases. Most difficult  
3571 cases.


3572

3573 Mr. Taylor - But the devine light shall shine upon us, I guess.

3574

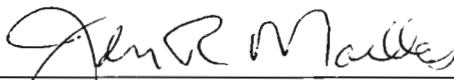
3575 Ms. Dwyer - We take 10 and the question is do we take one more?  
3576  
3577 Mr. Archer - I was getting ready to ask, are we dropping one?  
3578  
3579 Ms. Via - Not at this time. Originally staff was concerned with another  
3580 case, Case C-44C-00. We still have some concern with that. This is Alvin S. Mistr. We have  
3581 an incomplete application on that case and we don't have all the proper owner signatures on  
3582 that case.  
3583  
3584 Mrs. Quesinberry - But Mr. Mistr said tonight he feels certain he is going to have  
3585 those signatures.  
3586  
3587 Ms. Via - We have told him that in order to advertise we need those  
3588 signatures by Wednesday and he has said he will have those signatures by Wednesday, but  
3589 there is a chance he will not be able to meet the deadline.  
3590  
3591 Mr. Vanarsdall - So, we are OK. Right?  
3592  
3593 Mr. Archer - If that one drops out.  
3594  
3595 Ms. Via - But if you were to waive the policy, you would have 10 zoning  
3596 cases and one provisional use permit, so you would have one additional.  
3597  
3598 Mr. Vanarsdall - All right. Is that it? What else?  
3599  
3600 Mr. Marlles - Do we need a motion on that?  
3601  
3602 Ms. Via - To act on it, you would need a motion to waive your policy.  
3603  
3604 Mr. Marlles - Mr. Taylor, are you making that in the form of a motion?  
3605  
3606 Mr. Taylor - Mr. Director, I move that the Commission extend our efforts on  
3607 this case and go for 11, the divine light shining on us.  
3608  
3609 Mr. Marlles - OK. Is there a second to that motion?  
3610  
3611 Mr. Archer - Second.  
3612  
3613 Mr. Vanarsdall - Motion made by Mr. Taylor and seconded by Mr. Archer. All in  
3614 favor say aye. All opposed say no.  
3615  
3616 Mr. Marlles - I think that was a four to one vote. (Mrs. Quesinberry voted no.)  
3617

3618 Mr. Vanarsdall - OK. Let's take the minutes for the 13<sup>th</sup> of April. Anybody want  
3619 to take the minutes or do you want to wait and read them, or what?  
3620  
3621 Ms. Dwyer - I move that we approve them as amended.  
3622  
3623 Mr. Archer - Second.  
3624  
3625 Mr. Vanarsdall - We have a motion made by Ms. Dwyer, seconded Mr. Archer.  
3626 All in favor say aye. All opposed say no. The motion passes.  
3627  
3628 The minutes of the April 13<sup>th</sup> Planning Commission were approved as amended.  
3629  
3630 Mr. Vanarsdall - Is that it, Mr. Secretary?  
3631  
3632 Mr. Marlles - Everything, Mr. Chairman.  
3633  
3634 There being no further business to discuss, the Planning Commission adjourned at 11:16 p.m.  
3635 bn



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Ernest B. Vanarsdall, C.P.C., Chairman



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John R. Marlles, AICP, Secretary