

1 Minutes of the regular monthly meeting of the Planning Commission of the County
2 of Henrico held in the County Administration Building in the Government Center at
3 Parham and Hungary Spring Roads, beginning at 7:00 p.m. May 14, 2015. Display
4 Notice having been published in the Richmond Times-Dispatch on April 27, 2015
5 and May 4, 2015.
6

Members Present: Mr. Robert H. Witte, Jr., Chairman (Brookland)
Mr. C. W. Archer, C.P.C., Vice-Chairman (Fairfield)
Mr. Tommy Branin (Three Chopt)
Ms. Bonnie-Leigh Jones, C.P.C. (Tuckahoe)
Mr. Eric Leabough, C.P.C. (Varina)
Mr. R. Joseph Emerson, Jr., AICP, Director of Planning,
Secretary

Absent: Mrs. Patricia S. O'Bannon,
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning
Mr. James P. Strauss, PLA, Principal Planner
Ms. Leslie News, PLA, Principal Planner
Mr. Jason Hart, County Attorney
Ms. Rosemary D. Deemer, AICP, County Planner
Mr. Seth Humphreys, County Planner
Mr. Benjamin Sehl, County Planner
Ms. Christina Goggin, AICP, County Planner
Mr. Livingston Lewis, County Planner
Mr. John Cejka, County Traffic Engineer, Public Works
Mr. Thomas Wysong, Planning Intern
Ms. Sylvia Ray, Recording Secretary

7
8
9 Mr. Witte - Good evening. I'd like to call to order the May 14, 2015,
10 meeting of the Planning Commission. This is our Zoning and Provisional Use
11 Permit meeting. I would ask that you turn off your cell phones or mute them. While
12 doing that, please stand with us for the Pledge of Allegiance.
13

14 Thank you. Do we have any media in the audience with us this evening? I see
15 none.
16

17 All members are present; we have a quorum. With that, I'd like to turn the meeting
18 over to our secretary, Mr. Emerson.
19

20 Mr. Emerson - Thank you, Mr. Chairman.
21

22 Mr. Chairman, we now move to the requests for withdrawals and deferrals. Those
23 will be presented by Mr. Jim Strauss.

Mr. Strauss - Thank you, Mr. Secretary. Mr. Chairman, staff is aware of two deferrals requested this evening. The first one is in the Three Chopt District on page 4 of the agenda. It's REZ2015-00008, Eagle Construction of VA, LLC.

THREE CHOPT:

REZ2015-00008 Bay Companies, Inc. for Eagle Construction of VA, LLC: Request to rezone from A-1 Agricultural District and R-3 One Family Residence District to R-5AC General Residence District (Conditional) Parcels 743-755-9852 and 743-755-8828 containing 5.11 acres located on the east line of Crown Grant Road at its intersection with Cedar Hill Court. The applicant proposes 16 single family detached homes on zero lot lines. The R-5A District allows a maximum density of six (6) units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan recommends Suburban Residential 2, density should not exceed 3.4 units per acre.

Mr. Witte - Do we have anyone in opposition to REZ2015-00008, Bay Companies, Inc. for Eagle Construction of VA, LLC? I see none.

Mr. Branin - In that case, I move that REZ2015-00008, Bay Companies, Inc. for Eagle Construction of VA, LLC, be deferred at the applicant's request to the July 9, 2015 meeting.

Ms. Jones - Second.

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

At the request of the applicant, the Planning Commission deferred REZ2015-00008, Bay Companies, Inc. for Eagle Construction of VA, LLC, to its meeting on July 9, 2015.

The second request for deferral is also in Three Chopt and on page 4 of the agenda, it is REZ2015-00014, HHH Land, LLC.

REZ2015-00014 James W. Theobald for HHH Land, LLC: Request to rezone from A-1 Agricultural District to R-5AC General Residence District (Conditional) and RTHC Residential Townhouse District (Conditional) part of Parcel 749-771-6494 containing 63.409 acres (44.203 acres proposed for R-5AC and 19.206 acres proposed for RTHC) located on the east line of Nuckols Road approximately 800' southeast of its intersection with Opaca Lane. The applicant proposes no more than 130 single family detached homes on zero lot lines and no more than 130 attached townhomes. The R-5A District allows a maximum density of six (6) units per acre and the RTH District allows a maximum density of nine (9) units per acre. The uses will be controlled by zoning ordinance regulations and proffered

conditions. The 2026 Comprehensive Plan recommends Office and Environmental Protection Area.

Mr. Witte - Do we have anyone in opposition to REZ2015-00014 James W. Theobald for HHH Land, LLC? I see none.

Mr. Branin - In that case, I move that REZ2015-00014, James W. Theobald for HHH Land, LLC, be deferred at the applicant's request to the June 11, 2015 meeting.

Mr. Leabough - Second.

Mr. Witte - We have a motion by Mr. Branin, a second by Mr. Leabough. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

At the request of the applicant, the Planning Commission deferred REZ2015-00014, James W. Theobald for HHH Land, LLC, to its meeting on June 11, 2015.

Mr. Emerson - Mr. Chairman, if there are no deferrals from the Commission, we've completed that item on your agenda. We will now move forward with requests for expedited items, which there are none this evening. Now we move into the cases to be heard, which there are five.

The first case on your agenda this evening is POD2014-00075. The staff report will be presented by Ms. Christina Goggin, and she will be followed by the County Attorney with some advice regarding Planning Commission jurisdiction and action regarding plans of development.

(Deferred from the March 12, 2015 Meeting)

PLAN OF DEVELOPMENT

POD2014-00175
Family Dollar at 1276 New
Market Road - New
Market Road (State Route
5)

Balzer and Associates, Inc. for Felts & Kilpatrick Construction Company, Inc. and Twin Rivers Capital, LLC: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story, 8,770 square-foot retail store. The 2.50-acre site is located at the southeast corner of the intersection of New Market Road (State Route 5) and North James Estates Drive, on parcels 802-702-9916, 802-702-8535, 802-702-8929, and 803-702-1005. The zoning is B-1C, Business District (Conditional). County water and sewer. **(Varina)**

Mr. Witte - Is there any opposition to POD2014-00175, Family Dollar at 2076 New Market Road? We have opposition. Thank you. Ms. Goggin, if you will proceed, and then Mr. Emerson can read the rules.

Ms. Goggin - Yes sir. Good evening. The developer, Twin Rivers Capital, first requested deferral of the plan of development at the June 25, 2014, Planning Commission hearing to hold a community meeting to discuss their proposed retail development with concerned citizens. On March 2, 2015, Twin Rivers Capital held an informational meeting for parties interested in the proposed development. Various county and state agencies attended the meeting to answer citizen questions and provide information on what is proposed.

The layout provides a proffered 100-foot building setback from the ultimate right of way of New Market Road. A 40-foot-wide bermed landscaped strip planted to a 35-foot proffered transitional buffer will be provided between New Market Road and the parking lot in this area here. A 20-foot proffered buffer planted to a 25-foot transitional is located along North James Estates Drive, which is on this side here. A 10-foot transitional buffer and an 8-foot-tall white vinyl fence are provided along the northern property line adjacent to North James Estates subdivision, which are these property lines up here.

The applicant has designed the plan to retain the existing mature trees adjacent to the subdivision, and supplemental plantings will be added to meet the 10-foot transitional buffer requirements. You can see where the existing trees are shown behind the building.

The building provided is a colonial-style building with brick as the primary building material with an architectural shingled roof and is in compliance with the architectural proffers.

The Virginia Department of Transportation reviewed the plan and approved an entrance waiver based on the fact that the site is comprised of four parcels, each with their individual access rights. This can be seen a little bit better on the aerial. VDOT determined that it was better to grant one full entrance access to serve all four parcels. The entrance will be served by a tapered turn lane into the development. A new sidewalk is provided along the frontage of the site.

The proposed development meets all the proffered conditions of C-22C-10, the County code, and the technical requirements. Staff recommends approval subject to annotations on the plan, the standard conditions for developments of this type, and additional conditions 29 through 37.

County staff and the applicant's representative, Andy Condlin, are available to answer any questions the Commission may have.

Mr. Witte - Any questions by the Commission?

149
150 Mr. Leabough - I have a couple of quick questions for Ms. Goggin. Ms.
151 Goggin, one of the things that came up related to the Dollar General case was
152 specific to native plantings. Has the applicant agreed to incorporate native
153 plantings as a part of their landscape plan for this site?
154

155 Ms. Goggin - Yes sir. We had passed that information on to the
156 landscape architect. They have already submitted a preliminary plan incorporating
157 those. We have not completed our review at this time. But yes, they have agreed
158 to work with us to provide native landscaping.
159

160 Mr. Leabough - Thank you. One other question. The alternate entrance
161 and the waiver from VDOT, where would the alternate location for that entrance
162 be if it were not onto Route 5? Potentially.
163

164 Ms. Goggin - It could be off of North James Estates Drive, which
165 would push the traffic into the residential neighborhood.
166

167 Mr. Leabough - So the next possible or best location is where it is
168 currently.
169

170 Ms. Goggin - Yes. Trying to keep the commercial traffic out of the
171 residential traffic altogether.
172

173 Mr. Leabough - Okay. And you mentioned that this case does meet the
174 technical requirements of the code, and it does meet the proffers that were
175 previously approved with the 2011 rezoning case?
176

177 Ms. Goggin - Yes sir.
178

179 Mr. Leabough - Okay. I have no further questions for Ms. Goggin.
180

181 Mr. Witte - Any other questions?
182

183 Mr. Emerson - Mr. Chairman, we have Jason Hart, one of our
184 assistant county attorneys with us this evening. I've asked him to come this
185 evening to advise the Commission of their abilities in approving and disapproving
186 plans of development in by-right zoning cases. He's kindly agreed to come and
187 advise you of how the code governs your rights under these situations.
188

189 Mr. Witte - Welcome, Mr. Hart.
190

191 Mr. Hart - Thank you, Mr. Emerson, and thank you, Mr. Witte. I
192 just want to speak briefly on the Planning Commission's actual role when it comes
193 to reviewing POD applications.
194

195 The POD review is what's known as a ministerial review, which is in contrast to a
196 legislative review. Under a ministerial review, the Planning Commission's review
197 is limited to determining whether the POD meets the County code requirements,
198 which I believe Ms. Goggin already said it does. If the commission finds that the
199 code requirements are met, then the Commission has no choice but to grant the
200 POD.

201
202 I'll be happy to answer any other questions related to that.

203
204 Mr. Witte - Any questions?

205
206 Mr. Leabough - I have a question. This is different from a rezoning
207 case, correct?

208
209 Mr. Hart - Yes sir. In a rezoning context, it's what's called a
210 *legislative review*. You make a recommendation, which then goes on to the Board
211 of Supervisors. And since the Board of Supervisors is a legislative body, as long
212 as reasonable minds could differ or support the decision, then it will be upheld.
213 That's in contrast with here where it's a primarily a ministerial review. If the POD
214 meets the conditions of the County code, then the Commission must grant it or
215 approve it.

216
217 Mr. Leabough - Have you been advised by staff that it does meet the
218 technical requirements of the code?

219
220 Mr. Hart - Yes, I have been.

221
222 Mr. Leabough - Okay. There was also a question that was raised by the
223 community related to a stoplight at Midview and Route 5? Could we not approve
224 this case because there is no stoplight or they're not proposing a stoplight at
225 Midview and Route 5?

226
227 Mr. Hart - I can't speak to that specifically, but if the County code
228 requirements are met, then you do need to approve it.

229
230 Mr. Emerson - In this case, Mr. Leabough, VDOT is recommending
231 approval, as well as our own Department of Public Works without the signalization
232 of that particular intersection.

233
234 Mr. Leabough - So they're saying that the roadway can handle this use
235 as it's designed currently?

236
237 Mr. Emerson - Yes sir, they are. They've recommended approval.

238
239 Mr. Leabough - Okay. Thank you, sir.

241 Mr. Emerson - Mr. Hart, before you leave, would you also expand into
242 the ability of the Commission to consider other developments by the same property
243 owner in relation to this decision this evening?
244

245 Mr. Hart - Sure thing. To put it frankly, the Commission has no
246 ability to consider other developments by a property owner or by that same
247 developer when granting this. The PODs are viewed on their own merits and
248 limited singularly to that POD. Whatever the property owner or developer may have
249 done in the past or may be planning to do in the future has no bearing on the
250 Commission's ability or discretion to approve or deny this POD. Frankly, there is
251 no discretion in this case—or in any POD. If the POD meets the requirements of
252 the County code, then the Planning Commission is required by law to approve it.
253

254 Mr. Leabough - What would happen if we choose to deny this case?
255

256 Mr. Hart - If you choose to deny this case, there is a provision in
257 15.2-2209 whereby the applicant can petition to the Circuit Court for what's called
258 a *writ of mandamus*, which is essentially where the court orders the Commission
259 to approve it.
260

261 Mr. Leabough - Okay.
262

263 Mr. Branin - Mr. Hart, that happened the Three Chopt District, I
264 believe, two or three years ago where we voted against a subdivision based on a
265 policy that the County has, actually. Because of it not standing up legally, we had
266 to reverse our decision under state law.
267

268 Mr. Hart - And that does happen. There are Supreme Court
269 cases to that explicit effect.
270

271 Mr. Leabough - I have no further questions.
272

273 Mr. Witte - Any other questions? Thank you very much. Mr.
274 Emerson.
275

276 Mr. Emerson - Yes sir, Mr. Chairman. As you noted, there is
277 opposition to this item. Therefore, as we normally do, I will notify the audience of
278 the rules and regulations of the Planning Commission.
279

280 The Planning Commission does have guidelines that govern their public hearings
281 and they are as follows: The applicant is allowed ten minutes to present the
282 request, and time may be reserved for responses to testimony. Opposition is
283 allowed ten minutes to present its concerns. Commission questions do not count
284 into the time limits. The Commission may waive time limits for either party at its
285 discretion. The comments received must be directly related to the case under
286 consideration.

287
288 Mr. Witte - How would you like to proceed?
289

290 Mr. Leabough - I just want to make this statement. I know there are a
291 lot of people here that are passionate and interested in this case. I just don't think
292 that if everyone chose to get up and speak for five or ten minutes apiece that
293 everyone's going to get their opportunity given the time limits that we have. So to
294 the extent that you can make your comments, please don't repeat something that's
295 already been stated. I don't know if there is a representative that has organized
296 some talking points for the opposition. But to the effect that we can be more
297 efficient in the use of that time, the better off we'll be, I think. I just want to caution
298 you all that it's ten minutes that's allowed by the opposition, as well as the
299 applicant, and there are a lot of people that want to speak. So please be respectful
300 to others that would like to speak as well.

301
302 I think I'd like to hear from the opposition first, Mr. Chairman.
303

304 Mr. Witte - Would anyone who would like to speak in opposition
305 please come forward.
306

307 Mr. Jackson - Good evening. Commissioners, members of the
308 audience, any other departments from the County, my name is James W. Jackson
309 III. I live in the North James Estates community that adjoins the property that is
310 being considered by the POD. I have several points that I'd like to make, and these
311 are the points that we have discussed before; we've had many meetings. And in
312 May, we had a meeting, and we had almost 300 people present in opposition.
313

314 When we started this opposition in April of last year, I did not know how many
315 subdivisions were actually in the area known as Varina or the Route 5 Coalition. If
316 I'm not mistaken, almost everyone here either lives in North James Estates or
317 along Route 5 or from the James River to the south all the way over to Creighton
318 Road. If they go from the city of Richmond on Williamsburg Road, they go almost
319 to New Kent County. From Rocketts Landing to the Charles City line, it is called
320 Varina. Everyone that lives in that area, would you be so kind as to stand up? Just
321 stand up to let them know that we're not just standing here by ourselves opposing
322 this. These people that we didn't even know came out to support the North James
323 Estates, and we have more or less become a part of the coalition of Route 5.
324

325 To the representatives of Twin Rivers Capital LLC, Balzer, Felts & Kilpatrick, also
326 known as Edge Development, and most importantly my fellow constituents, Route
327 5 Coalition members, neighbors, and friends. Route 5, New Market Road, is a
328 historic road. It used to run all of the traffic from the old capital in Williamsburg to
329 the new capital in Richmond. It is a state-designated scenic route. The homes that
330 are built there, some of them go back fifty or sixty years.
331

332 The newer homes, like ours, we have the modern view, and we want to be a part
333 of this community. What we are afraid of is that if you allow this out-of-state
334 organization to build an 8,200-square-foot in-and-out commercial development in
335 the driveway of the homes that some of us that retired from the military—having
336 served our country, served our community—teachers, doctors, we're retired. But
337 then there are people in our community that have children. And these children, this
338 is where those parents plan on raising their kids. They did not plan on having in
339 their front yards a cotton-picking Dollar Store. Why a Dollar Store in a residential
340 community? There is no explanation for that. Nowhere else in the County—the
341 western part or any other part of the County—does such a thing exist. All of the
342 Dollar Stores that I have seen throughout the County, they are in shopping centers
343 or they are in areas where they were built many, many, many years ago, and the
344 communities grew up around the Dollar Store. Never have I heard of someone
345 building in a community as beautiful as ours and sticking a warehouse on the
346 front of it. There is no way that anyone would have thought that.

347
348 When I first visited in that community in December of 2010, the builder and the
349 developer led me to believe that that space would be used primarily for a service-
350 oriented business such as a dental office, a doctor's office—something that would
351 serve the community, something that could be useful and bring support to the
352 community. No one ever told me or any of my other neighbors, as I have come to
353 learn, about the possibility that the developer would sell that property to someone
354 to build that there. We were told absolutely otherwise.

355
356 We were led to believe that this was going to be a part of the community. We have
357 since learned that in 2010, the developer came to you folks and got the zoning
358 changed. Interestingly enough, he had not dug a hole for any house. But he came
359 along and he got it changed. And he built the houses that we moved into.

360
361 Mr. Leabough - Mr. Jackson, I'm sorry to interrupt you, but it's been five
362 minutes. I'm not sure if you all have other people that would like to speak. I just
363 wanted to point out one thing. In 2011, the zoning was already there. They just
364 reconfigured the way the parcel laid. It wasn't rezoned in 2011. The B-1 zoning
365 dates back to 1959.

366
367 Mr. Jackson - Yes, I'm fully aware of that.

368
369 Mr. Leabough - Which would have allowed this use back in 1959.

370
371 Mr. Jackson - Yes. But Craig Kilpatrick in April of 2010 went and got
372 it changed once again.

373
374 Mr. Leabough - They reconfigured it.

375
376 Mr. Jackson - They reconfigured it. But my point is that he knew that
377 he was planning on building a community of fifty homes. And he knew at that time

378 those two properties were part of a parcel of land that his father had given to him
379 or that his father owned.

380

381 Mr. Emerson - Mr. Jackson, not to interrupt, but I do just want to follow
382 up on Mr. Leabough's comment. That is a cumulative ten minutes, and you are
383 past five. I just want to make sure that everyone in the group understands that.

384

385 Mr. Jackson - Okay.

386

387 Mr. Leabough - Are you planning to speak for the rest of the group or
388 are other folks planning to speak in opposition as well? You all can allocate your
389 time however you choose. I just want you all to be aware of the time limit.

390

391 Mr. Emerson - It is cumulative. I did stop the clock while we were
392 talking.

393

394 Mr. Witte - Is there anybody else in the audience who would like
395 to speak, to use part of this ten minutes? Please raise your hand so we're aware.
396 One, two, three, four.

397

398 Mr. Leabough - So we have about four other people that would like to
399 speak in opposition.

400

401 Mr. Witte - So they have about a minute a piece.

402

403 Mr. Jackson - That being the case, my plea to you is this. In order for
404 them to build that store, they have to drive into our community. They have to use
405 the roads that the developer has failed to complete. He has failed to meet the
406 surety bond that was given, that the County has. He has not met anything. Based
407 on that, I'm asking that you do not allow this project to go forward. Whether he
408 changed his name from Felts & Kilpatrick to Edge Development, we all know the
409 story of the old lady and the snake—changing your skin, a snake is still a snake.
410 Do not let them build. Thank you.

411

412 Mr. Branin - Mr. Jackson, let me make one comment to you and to
413 everyone, but to you primarily because you said there is nowhere else that a Dollar
414 General or a Dollar Store or this type of store has gone in. I represent the Three
415 Chopt District, which is out in the Short Pump area. Right when I was going into
416 college a Dollar General was built on Church Road and Three Chopt, right up
417 against a neighborhood when back then there was nothing out there. I understand
418 your point, but it's not completely accurate. It went on in the Three Chopt District
419 way back then as well.

420

421 Mr. Jackson - Thank you.

422

423 Mr. Witte - Thank you, Mr. Jackson.

424
425 Mr. Leabough - Thank you, sir.

426
427 Ms. Davis - Good evening. I'm Joyce Davis, a resident of Henrico
428 County, the New Market Farms subdivision. I'm here to speak against this project.

429
430 This morning as I turned out of my subdivision, I looked down to the left and could
431 see the North James Estates in the distance. Watching the traffic, I sat thinking of
432 the changes this location would bring to members of my community. I considered
433 the current traffic pattern and the potential of increased traffic at nine or ten in the
434 morning resulting from the placement of the Family Dollar store. I envisioned that
435 this retail store would definitely generate increased traffic, would impact nearby
436 neighbors immensely, would increase traffic cut-through in the neighborhoods, and
437 would certainly impact the increased net time to cross New Market Road.

438
439 During my sixteen years in the area, there have been significant gains to transform
440 New Market Road to improve and promote business growth and sustainable
441 development. We've had gains to improve the pedestrian and bicycling
442 environment, significant housing development, and businesses to locate on this
443 corridor.

444
445 I recognize the benefits of a strong economic base and need for economic
446 development projects that provide a tax base and much needed resources for the
447 growth of the Varina District, the need for resources for our schools and the goal
448 to sustain the growth of this community. I also understand the spinoff effect of jobs,
449 resources for our students, and the convenience of travel to have a store located
450 nearby for seniors. But I also recognize the aesthetic impact and the need to
451 safeguard the impact on the direct community and the risk to the historic
452 preservation and fiber of New Market Road, a historic community not only in
453 Henrico County, but the Commonwealth of Virginia.

454
455 I personally feel this addition to the community counters all of the additions and
456 progress made in this area. Perhaps there is an alternative, another suitable
457 location. Perhaps consideration could be given to amend our policies or zoning
458 requirements.

459
460 I appreciate the opportunity to weigh in on this decision. Thank you for your
461 consideration of all of the comments as you deliberate on this important matter.
462 Thank you.

463
464 Mr. Witte - Thank you, Ms. Davis.

465
466 Ms. Jones - Can I ask a question?

467
468 Mr. Witte - Ms. Davis? We have a question, please.

470 Ms. Jones - I may not have understood you properly. One of your
 471 biggest concerns was cut-through traffic.
 472

473 Ms. Davis - Yes. Which is also one of the issues that the staffer
 474 mentioned today, that if they consider certain alternatives to the traffic pattern, that
 475 there might be.
 476

477 Mr. Leabough - She was suggesting that they were looking at an
 478 entrance. VDOT was asking them to put an entrance through the North James
 479 Estates community. But specifically due to concerns raised by staff and others, as
 480 myself and Reverend Nelson, they chose not to do it.
 481

482 Ms. Davis - Actually, that wasn't my concern before even writing
 483 my comments. When I look at that particular location, I'm thinking of the now-cut-
 484 through that increases because people are traveling to the store. In many of those
 485 neighborhoods, as you come from Darbytown Road, you can cut through the New
 486 Market subdivision or Midview to come up. I'm looking at that as the increased
 487 traffic, not necessarily only North James, because it's only the one entrance into
 488 North James.
 489

490 Ms. Jones - I just wanted to make sure you understood that this was
 491 the in-and-out, the only entrance to the development.
 492

493 Ms. Davis - No, I do understand that. I'm looking at the increased
 494 travel in the neighborhood, which we already have because of housing
 495 developments. And I'm looking at how it impacts the entire community.
 496

497 Mr. Leabough - Thank you.
 498

499 Ms. Davis - Thank you.
 500

501 Mr. Witte - Thank you, ma'am.
 502

503 Mr. Emerson - Mr. Chairman, you have about a minute and a half left
 504 of the ten.
 505

506 Mr. Leabough - Before you get started, Pete; I'm sorry, could we just
 507 extend them another ten minutes, please? Would the other commissioners be okay
 508 with that?
 509

510 Mr. Branin - I second that.
 511

512 Mr. Leabough - So you have eleven minutes.
 513

514 Mr. Emerson - That will give you eleven minutes.
 515

516 Mr. Witte - You have eleven minutes total for everybody.

517
518 Mr. Stubbs - All right. I'll be as brief as I can. Thank you. My name
519 is Pete Stubbs, and I live in the Midview Farms subdivision. I really have three
520 questions. First, the 2026 Plan that I believe the Planning Commission did—is that
521 correct? You all put that together, right?

522
523 Mr. Leabough - The County did.

524
525 Mr. Stubbs - All right, the County did that, right?

526
527 Mr. Leabough - Along with the citizens.

528
529 Mr. Stubbs - Okay. Along with the citizens. Okay. As a part of the
530 plan, if I read that correctly, it says that the zoning as it currently exists can be
531 reexamined based on the conditions that exist today versus zoning that occurred
532 in 1959. I'm pretty positive that in 1959 the people then had no vision of the
533 communities that are currently around where the proposed Family Dollar is looking
534 to build. In that 2026 Plan, it says that a feasibility study should be done to make
535 sure that the impact of such a business like Family Dollar—it needs to happen so
536 we can see whether—or so the County can see whether the effect of that business
537 is going to take away from the communities, the different possibilities of
538 development in a positive way. I guess the thing I'm asking is, is a feasibility study
539 possible before the actual approval of this POD?

540
541 Mr. Leabough - Could I answer that question real quick? So the 2026
542 Comprehensive Plan is a guide and a tool for future rezoning requests. That
543 doesn't mean that we can change or down-zone a property based on that. So the
544 zoning for B-1 is in place. The Comprehensive Plan is a tool for future rezoning
545 requests or future development. Correct me if I'm wrong, but we can't change the
546 zoning based on what it says in the Comprehensive Plan; it's just a guide for future
547 rezoning.

548
549 Mr. Emerson - It is a guide. It is for future rezoning primarily. State
550 code does allow for boards of supervisors to undertake overall county rezoning.
551 That's normally done at the time of an adoption of a zoning code, which was done
552 in Henrico County at the time. There is case law where boards of supervisors have
553 tried to down-zone properties of a higher intensity. In specific in the '90's, along I
554 believe it's Route 7 in Loudoun County near Dulles Airport. When the board
555 undertook that, they were sued by the property owners, and the General Assembly
556 stepped in and reversed their actions. So it's not something you normally do as to
557 step in and down-zone people's property. It's a "taking" under state code, and that
558 creates challenges. So we're constrained by state code, I guess is what I'm saying.

559
560 Mr. Stubbs - So regardless of what it says in the 2026 Plan as a
561 recommendation, anything that was done decades ago can still be in effect.

562
563 Mr. Emerson - Yes sir.
564
565 Mr. Branin - Most of the property—and there's still a very large
566 amount of property in Varina—starts off as A-1, agricultural. When the Board, the
567 commissioners, and staff all sit together and they start looking at the future and the
568 2026 Plan, in this instance, you're usually looking at A-1. And you're saying this
569 would be the best area for housing, this would be the best area of business. That's
570 A-1, because you know eventually at some point A-1 is going to be developed. The
571 issue that we run into County-wide is some piece of property was put in at some
572 way-past date—
573
574 Mr. Witte - 1959?
575
576 Mr. Branin - Like 1959. The frustrating part for us as
577 commissioners, and for the Board, is when we look at a piece surrounded by A-1
578 and there's one B-3 put in there, that's wide open. And usually in 1959, they didn't
579 put any conditions on them. None. So that means we have absolutely no authority,
580 the Board of Supervisors have no authority because legally that property is zoned
581 that now. Does that make sense?
582
583 Mr. Stubbs - No, it doesn't. It doesn't make any sense because what
584 you're saying to us, to anybody in the County—
585
586 Mr. Branin - The owner of the property can request to change the
587 zoning in any fashion he chooses. The County cannot request of him to change
588 his zoning because we would prefer it.
589
590 Male - [Off microphone.] He's grandfathered.
591
592 Mr. Branin - He's grandfathered out.
593
594 Mr. Stubbs - Understood. I guess the request, what I was asking—
595 and you've answered that. You asked me the question also did it make sense. I
596 can tell you that to most people in this room, no, it doesn't.
597
598 Mr. Branin - And to us up here it doesn't because we have no tool.
599
600 Mr. Stubbs - Well then we have to find a way to make a tool
601
602 Mr. Branin - I agree with that.
603
604 Mr. Stubbs - We have to find a way. And I don't know what the tool
605 is and who we have to go to beyond this gathering today.
606
607 Mr. Branin - It actually starts at state and fed.

608
609 Mr. Stubbs - And that's one of the concerns—where is the state?
610 We have to make that process happen because a Family Dollar in the middle of
611 these communities makes no sense. It doesn't. I gotcha, but it doesn't make any
612 sense. The number of people here today—and this is much smaller than what was
613 at the meeting with the developer and Family Dollar—they're all going to keep
614 telling you the same thing. We don't want it. It doesn't make sense. And there
615 should be a way to undo this. At some point, there has to be a process put in place
616 to make that happen.

617
618 Mr. Archer - Mr. Stubbs, before you sit down, sir. I don't think there
619 is a one of us sitting up here that is not feeling the passion that you and the
620 speakers that have preceded you have over this issue. We are hamstrung to the
621 extent that we can't make decisions that are arbitrary; we have to follow the guide
622 and we have to follow the law. I've been here nineteen years. I've never seen a
623 POD challenged that we've won. So we're in a situation where there's nothing that
624 I can think of that we can do that wouldn't break the law. And if we break the law
625 and it goes to court, we lose.

626
627 Mr. Jackson - When something doesn't make sense to you, it doesn't
628 make sense to the communities that are here—we're your constituency, and you're
629 saying well, we're in the position, but there's nothing we can do.

630
631 Mr. Witte - We have to protect the rights of the property owner
632 also.

633
634 Mr. Jackson - But the property owner doesn't care about us, and
635 we're in the community. He doesn't care about us. He doesn't care about North
636 James. And he doesn't care about the accidents that happen at that intersection.
637 He doesn't care about the fact that Family Dollar has as much crime as any
638 business I have ever heard of, but I don't want to go there tonight. Thank you.

639
640 Mr. Witte - Sir, in all fairness, I don't think you all care about him
641 either.

642
643 Mr. Leabough - How much time do we have, Mr. Secretary?

644
645 Mr. Emerson - We have nine minutes left.

646
647 Mr. Richardson - Good evening, my name is Charles Richardson. I live
648 at 1608 Midview Road, just around the corner from the proposed development.

649
650 A retail store at this location presents a number of potential negative impacts with
651 regard to traffic safety and congestion. Everyone who lives along this particular
652 stretch of the Route 5 corridor knows that the intersection of Route 5 and Midview
653 Road is already problematic in its present configuration. There is no traffic signal

at the location. There is only one westbound turning lane. And accidents are not unusual.

Supervisor Nelson, in response to a nearby traffic fatality in late 2013, initiated a series of traffic studies from VDOT—since Route 5 is a state-maintained road—on a five-and-a-half-mile area of this corridor in the hope that safety measures could be implemented to address residents' concerns. VDOT engineers found that, quote, this section of Route 5 has overall crash and injury rates almost double the statewide average for two-lane primary roads. The Midview Road entrance was singled out for being particularly dangerous, and the installation of an eastbound left turn lane was recommended to help mitigate the rear-end crash problem identified at this location. Since January 2014, when the last of these studies was submitted to the County, no funding by VDOT for this improvement has been made and none appears to be on the immediate horizon.

In response to an e-mail inquiry from me in February, Mr. Jennings, the assistant director of Public Works for Henrico, and formerly a traffic engineer, I believe, estimated that a Family Dollar store in this location would generate 502 vehicles per day. In addition, the Virginia Capital Trail has installed a bicycle crossing around 100 feet from the Midview Road entrance, which is expected to generate, in the words of the foundation director, Beth Weisbrod, quote, upwards of 400,000 visitors this first year, then quickly surpassing one million per year, unquote. Even accounting for exaggerated estimates, we are looking at adding tens of thousands of cyclists per month to what will essentially be a pedestrian crossing—no stoplight—and adding an additional 10,000 or so retail customers per month to this already dangerous intersection.

In addition, according to VDOT engineers, the spacing between the entrance to the proposed store and the entrance to Midview Road, which they recommend should be at 555 feet for traffic safety and congestion reasons, will only meet Henrico's requirement of 250 feet. While it is perfectly understandable, as Mr. Leabough mentioned before, that neither the County nor VDOT can deny access to these parcels, the ultimate result of this is a completely sub-optimal design which can only lead to increased congestion as other areas of this corridor inevitably grow. While County and VDOT officials have suggested that Route 5 can handle the additional traffic and that the Capital Trail—which will essentially serve as another poorly spaced traffic entrance—will not affect this POD, VDOT's own numbers, along with the common sense of all those who drive automobiles through this intersection, suggest otherwise.

I encourage the County and the developer to reconsider building at this location until the overall impact of the Capital Trail ridership can be accurately assessed and until VDOT funding for the Midview turn lane can be acquired. Thank you.

Mr. Witte -
speak in opposition?

Any questions? Thank you, sir. Is there anyone else to

700
701 Mr. Emerson - Mr. Chairman, you have approximately six minutes left.

702
703 Ms. Hatcher - Thank you. Good evening.

704
705 Mr. Witte - Good evening.

706
707 Ms. Hatcher - My name is Angela Hatcher, and I live just a couple
708 hundred feet from where the POD is being considered.

709
710 I want to take a moment to express how discouraged I am about this entire journey.
711 I have heard every legal reason as to why this POD is going to pass. Unfortunately,
712 there appears to be no one person or entity who can protect me as a homeowner
713 from so many concerns that have been highlighted along this journey. The work
714 that has been completed in our neighborhood is substandard, and the amount of
715 protection that we have as homeowners is minimal.

716
717 Our neighborhood has been battling with Nolan Felts and Craig Kilpatrick since the
718 first few homes were constructed in 2011. I would be shocked if Nolan Felts and
719 Craig Kilpatrick completed the required work. Why? Because most human
720 behaviors are conditioned and repeated. Their continuous interactions with North
721 James Estates residents have been based on lies and unfulfilled promises. With
722 this being the case, I lack total confidence that the job will be performed.

723
724 I appreciate receiving a copy of the letter that Mr. Emerson provided outlining the
725 improvements that have been done since the March meeting. However, thirteen
726 out of the seventeen items deal with Nolan Felts putting down a handful of dirt and
727 grass seed to address concerns with SIPs. The way it is outlined in the letter gives
728 it the appearance that a lot of the improvements have been performed, but they
729 have not. The letter also highlights a drop inlet installation that was performed with
730 the delusive appearance of quality. This was performed after the March meeting.
731 Again, conditioned and repeated human behaviors. Ultimately, I believe that we as
732 taxpayers are going to have to pay for their failures to be corrected.

733
734 There are a few things that I am confident of. I am confident that once the sale is
735 completed of this property, that Nolan Felts and Craig Kilpatrick will take the money
736 and apply it to another project. Why? Because Nolan Felts lacks discretion and
737 had no problem in the past sharing with neighbors that they could not complete
738 projects because they did not have the money and were waiting for checks to be
739 cleared. Again, conditioned and repeated human behaviors.

740
741 I am also confident that Edge Development Partners will develop in Henrico
742 County after they complete their developments in Richmond City and Hanover
743 County. We won't see them coming because they no longer operate under the
744 name Nolan Felts and Craig Kilpatrick; it will soon be a name of the past.

I do not want this to be misunderstood. Please understand that I am not in the planning field, legal or government planning position; I'm a teacher. This experience has been eye-opening for many of us on a personal level, and many of you on a professional level. I do appreciate the efforts that have been put forth to date, and there may not be anything else that can be done. However, when we as humans feel hopeless, we are simply not convinced that there is nothing else that can be done. It is this struggle that is part of personal lives, and we will continue to fight for what we have worked hard to attain. But if it is not part of your personal life, be thankful that this is not a battle that you have to fight when you get home from a long day at work.

The question I do have for the Commission: Is there a way to link Felts & Kilpatrick and Edge Development and the work or lack of work that will be done to possible future developments in Henrico County?

Mr. Branin - Could you restate that? I'm trying—

Ms. Hatcher - The quality of work that has been done in North James Estates and the battle that we're fighting, and Spring Meadows and the work that has been done. If they do not fulfill their promises—because in order for them to complete the repairs in our subdivision—

Mr. Leabough - Let me stop you. They will fulfill their promises. If not, we have a letter of credit that will allow us to do that. So that's not an issue.

Ms. Hatcher - What if they have changed their business name and come in under a different guise? Is there a connection that's put into place?

Mr. Emerson - We will still be aware of who the entities are that operate those companies.

Mr. Leabough - And regardless of what entity comes forward, the standard is the standard. We have high standards and high expectations for developments in the community. I don't care what name they come in with for a rezoning, the standard will be the standard, regardless of who the developer is. And if they're not performing, we will hold them to that, as we're doing. If they don't complete the work in your community, it will get done by the County.

Male - [Off microphone.] Do you have a date on that?

Mr. Emerson - June 30th.

Ms. Hatcher - Thank you.

Mr. Leabough - I know that's not comforting to you now at this point, but it will get done.

792
 793 Ms. Hatcher - It's not comforting because we have a history with
 794 them, a history that's different from anybody else's. They have consistently proved
 795 that over and over and over. So what we do believe will happen, the property will
 796 be sold, they will get the cash from this property, and it's done.
 797
 798 Mr. Leabough - But your neighborhood will be finished.
 799
 800 Ms. Hatcher - But whose money?
 801
 802 Mr. Leabough - With their money.
 803
 804 Ms. Hatcher - Their money?
 805
 806 Mr. Leabough - Yes. That's what the letter of credit is for.
 807
 808 Ms. Hatcher - But the cost of the letter of the credits is approximately
 809 \$100,000, based on the figures?
 810
 811 Mr. Leabough - I'm not an expert on the letter of credit.
 812
 813 Ms. Hatcher - I'm just thinking of a recent e-mail, and that the cost,
 814 for example, to repave our entire streets could possibly be hundreds of thousands.
 815 I'm just looking at the differentiation in the cost to perform it. So then if the County
 816 has to do it, that becomes taxpayer money.
 817
 818 Mr. Leabough - I don't think we're expecting the County to do any of
 819 that. I think we're actually expecting the developer to live up to that.
 820
 821 Mr. Emerson - Right now we anticipate the developer will complete
 822 the work as we discussed. If not, we will take his sureties and we will complete the
 823 work. I don't believe it will be in the hundreds of thousands of dollars. We hope it's
 824 within the parameters of the funds that we still hold.
 825
 826 Ms. Hatcher - Thank you.
 827
 828 [Distorted audio; unintelligible.] [0:44:51.0]*
 829
 830 Rev. Nelson - My name is Tyrone Nelson.
 831
 832 Mr. Witte - I think we know who you are.
 833
 834 Mr. Emerson - You have two minutes, sir.
 835
 836 Rev. Nelson - Two minutes? Mr. Chair, Mr. Emerson, Planning
 837 Commission members, I guess you can file this as a comment in opposition

838 knowing that legally you pretty much don't have any other choice with the vote. But
839 I do want to go on record saying—and I want to make sure that this is catalogued.
840 A couple of things. First of all, just for the purpose of you guys, we started meetings
841 shortly thereafter, I think. Mr. Jackson spoke of April last year. As soon as we
842 started hearing about this, Mr. Leabough and myself, and a couple of the residents
843 from North James met at one of the resident's houses for several hours. It was
844 shortly thereafter I talked to the director of Public Works. They sent somebody out
845 to look at the roads. The process started there. Since then, the community held a
846 huge, huge meeting with a couple hundred persons there in opposition to the
847 Family Dollar.

848
849 Now, the County of Henrico is in a difficult position. I like what Mr. Archer said
850 earlier about being sensitive. I feel for these people. I don't live in North James,
851 but I, too, like them, don't see the need for another dollar store. We have one right
852 up the street. Dollar General actually beat Family Dollar to the punch. So there is
853 a dollar store two miles away. So there is not a need. But, on the other hand, that
854 property is zoned B-1C. Just because of our preference for what type of store
855 there, the struggle that we have is we can't legally stop a property owner selling
856 their piece of property to a developer. So that's the struggle and attention.

857
858 What's come out of this, the good thing—well, maybe not the good thing for those
859 who are here today. But I think the bigger picture is—Mr. Richardson gave some
860 history. We've been studying Route 5 for several years. Not just Midview and
861 Route 5, but we've called for studies at Buffin and Route 5, the Route 5 stretch
862 period, Osborne and Route 5.

863
864 The one thing I would ask—hopefully the energy, this synergy that comes from
865 North James and the Varina District is to turn attention as well to the Virginia
866 Department of Transportation. Route 5 is their responsibility. Numerous times I
867 have reached out to Jeff Kuttlesch and others who are part of the VDOT family,
868 only to get back letters that all practically say the same thing, which is the Route 5
869 corridor doesn't need lights at intersections, etc.

870
871 There was a recommendation that came out of the study that was mentioned in
872 2013 that a turn lane into Midview was warranted, only to get a message last week
873 that the state did not fund that. If you want to do something tangible, Jeff Kuttlesch,
874 VDOT. Reach out to your delegates The 70th district is Delegate McQuinn,
875 Senator McEachin, and ask them to help us get the attention that we need on
876 Route 5 when it comes to traffic.

877
878 Also, there is a bigger conversation that is starting and will continue with you guys'
879 help about what the Route 5 corridor will look like, overlay districts, in consideration
880 of the things that will happen for the whole corridor.

882 I'll end with this. Nicole Anderson Ellis last week wrote a piece that ended up in
883 *Style Weekly*. I think she brought attention to what I really think is the bigger
884 challenge.

885
886 I know that it becomes hard to believe that local government can't fix everything or
887 do everything. But I think our attorney stood up tonight, and I'm sure he'll come
888 back again and restate it, and Mr. Leabough needs him to, that legally we cannot
889 deny this case; they're only in a ministerial position. But the bigger picture is why
890 locate a business in a community that does not want you there. I think that is the
891 bigger question that the developer at Twin Rivers has to answer clearly that the
892 Varina District is saying we don't want the Family Dollar. I think residents, I think
893 the best way to show that you don't want it is to not spend your money there.

894
895 If it is approved, which seemingly you really don't have any other choice, then the
896 best way to make Family Dollar go away is keep your dollars in your pocket. Thank
897 you.

898
899 Mr. Witte - Thank you, sir.

900
901 Mr. Branin - Mr. Chairman, can I expand on Reverend Nelson's
902 comment?

903
904 Mr. Witte - Please.

905
906 Mr. Branin - To the community in regards to Route 5 and VDOT and
907 traffic, we had an intersection that we were having major issues on that was a state
908 road. Much like Reverend Nelson just did, I gave the delegate's name and the
909 senator of that area, and actually gave the cell phone numbers of the delegate and
910 senator in that area and asked the people that I represent in my district to reach
911 out to them profusely to help with getting that traffic issue resolved—and we did.
912 So my advice to you all is to—it is an election year. Reach out to your delegate
913 and your senator and get them involved in your community. If you need the traffic
914 resolved, that is absolutely the best way on a state route.

915
916 Mr. Witte - Any others that haven't spoken?

917
918 Mr. Leabough - I think we are done with the time, sir.

919
920 Mr. Witte - Okay. Mr. Leabough.

921
922 Mr. Leabough - I'd like to hear from the applicant, please.

923
924 Mr. Witte - Would the applicant come forward, please.

925
926 Mr. Condlin - Mr. Chairman, members of the Commission, good
927 evening. My name is Andy Condlin. I'm here with Chris Shust of Balzer

representing Twin Rivers Capital. Joe Berman is also here on behalf of Twin Rivers Capital. Here regarding the property on New Market Road for the 8770-square-foot building that we've been talking about.

A couple of points, and I do want to emphasize a little bit more about the property already being zoned B-1 (Unconditional). It started off in the 1930s, but then in 1959, it was actually zoned to B-1 under the comprehensive zoning. That property and this entire area were zoned for business and residential came in. This property, if you look at the zoning map, as has already been discussed, was B-1C. We went back and looked at the minutes. We read the staff reports. There was a lot of concern by staff and the number of times that the applicant at that—not having represented them, I had to come up to speed. Took a look at that case, and specially asked for and focused on reducing the impact of the commercial property on the residents. Concerned about focusing on the appearance of this commercial property. Again, in 2010, this was unconditional. They were just trying to square off the property to make it a little—from the standpoint of what the area of the property—no greater area, but just the configuration of the property. Then ultimately trying to reduce the impacts on the residential.

There was a whole lot of discussion with respect to what was accomplished with respect to those items. If you take a look at the proffers, there's not only limitation of uses and the other typical things, but there are specific elevations called for, which we comply with, regarding a colonial style building that's all brick, specific requirements that Ms. Goggin has already gone over regarding specific buffers in order to protect the community in the area.

Obviously, right behind this property is North James Estates. That developer is not my client. That developer is not the applicant in this case. That developer will not be involved in any way in the construction of this building. Quite frankly, we completely understand the frustration. We know the County and the residents are working together with that developer to try to right what's going on out there, and that there are significant problems that still need to be corrected. But this property is not part of that subdivision. As a commercial property, it was not considered part of that subdivision, therefore not subject to—and we will not be using Felts & Kirkpatrick in any way with respect to the development of this property.

This request tonight is for a POD approval only. The question becomes for you does it meet the applicable laws and regulations as Mr. Hart has already set forth, including the County Zoning Ordinance, and the proffers. Quite frankly, we've gone above and behind. Based on comments of the County, based on concerns by the neighbors, we've actually gone beyond what the code and proffers require, such as, for example, increasing the fence height behind the property, creating a barrier along the entire rear property so that there is no pedestrian cut-through. We've already talked about the vehicular access not having any access. Construction-only access off of New Market Road, as well after construction during its operation. We've changed the dumpster location. We've reduced the size of the dumpster.

974 We've moved it closer to the building and provided double screening around the
975 dumpster. Again, above and beyond what's otherwise required. We originally had
976 for loading purposes a drive that went behind the property near the residential
977 area. We've moved that away from the residents so that we've eliminated, again,
978 that impact from loading from that standpoint.

979
980 Another significant item is stormwater. There is a stormwater easement that runs
981 through the residential subdivision. We are not using that easement. That
982 easement and the stormwater facilities were designed to accommodate the
983 stormwater off of this property. Because of stormwater problems in that
984 subdivision, we're actually rerouting the stormwater and handling it all on site,
985 bringing it into the public road so that it actually never goes into the residential
986 subdivision lots, through that easement.

987
988 Finally, we do have a sidewalk on New Market Road that we're building for
989 pedestrian connectivity. That's one of the big reasons that we look at from the
990 standpoint—again, not representing Family Dollar specifically; they are going to be
991 a tenant. Of course, we're building this for them. But one of the reasons that they
992 were interested in this is because they do want to—and they get a lot of business
993 within a mile or two. And they look at the marketplace and try to bring pedestrian
994 traffic into their sites.

995
996 I know there have been concerns voiced about the Comprehensive Plan being
997 somewhat different. There are specifically cases and state law that say you cannot
998 consider the Comprehensive Plan. That, as you have already stated, is a guide.
999 There are also points about increased traffic. Again, I point out that the County
1000 traffic engineers and VDOT have approved this. Mr. Butler stood up during the
1001 community meeting and actually referenced that there would be twenty-eight
1002 vehicles from this site during the peak hours that could be accommodated by New
1003 Market Road. We understand there are traffic problems, but this could be
1004 accommodated otherwise.

1005
1006 With that, I would just point out again that we believe we've met all jurisdictional
1007 prerequisites. Once an applicant and POD request has complied—and we have
1008 complied and gone above and beyond all requirements of the ordinance—that you
1009 have to, at that point, approve. We would ask that you follow staff's
1010 recommendation. I would suggest to you that we have met all jurisdictional
1011 prerequisites. I will be happy to answer any questions at this time. Thank you.

1012
1013 Mr. Witte - Any questions from the Commission?

1014
1015 Ms. Jones - Would you refresh my memory? What are the hours of
1016 this store?

1018 Mr. Condlin - I'll have to go on memory on that. I know that they were
 1019 planning on closing no later than 9 p.m. They open up around 9 p.m. [sic] as well.
 1020 I think the hours were from 9 to 9, if I remember during the community meeting.
 1021

1022 Ms. Jones - Is this a franchise of the national company? They're not
 1023 franchised?
 1024

1025 Mr. Condlin - No, this would be part of the national company and
 1026 under their umbrella. They're not franchising this particular store.
 1027

1028 Ms. Jones - And did I understand you to say—I must have
 1029 misunderstood—Felts & Kilpatrick is not involved in any way with this?
 1030

1031 Mr. Condlin - They are the property owner. My client is under
 1032 contract to purchase the property. My client will be doing the development, and
 1033 they've done a number of developments throughout the Richmond region. They
 1034 handle everything on their own. So they would be purchasing it from that
 1035 developer, that landowner. Then they will have nothing to do otherwise with this
 1036 development—they being Felts & Kilpatrick or Edge Development or anyone for
 1037 that matter.
 1038

1039 Ms. Jones - The property—in your opinion, after having had so
 1040 much interaction with the folks in the neighborhood—is it as buffered from the
 1041 neighborhood as is possible to do on site so that they are not disturbed by lights
 1042 and activity and—
 1043

1044 Female - [Off microphone.] Robbery [?].
 1045

1046 Mr. Condlin - If you take a look at the zoning case, there are two
 1047 considerations. One is the historic nature of Route 5. They took a look at both the
 1048 buffers and the elevations. It's pretty substantial. Quite frankly, a good looking
 1049 building from a standpoint. It's going to be timely for whoever you are, colonial, all
 1050 brick.
 1051

1052 From the standpoint of the buffers and the protection of the residents, that was a
 1053 major concern of the staff and of the Planning Commission and Board of
 1054 Supervisors during that original zoning case. So certainly we've met or exceeded
 1055 all of those, including some of the landscaping that we've already talked about that
 1056 was mentioned about the native species. We have a 40-foot buffer with a berm
 1057 and a 100-foot setback off of New Market Road. That starts to squeeze your site
 1058 a little bit. That was important for the overall community to have. But in addition to
 1059 that, we have 20-foot buffers with transitional buffers 25, as well as 10-foot buffers
 1060 with a fence. When people talk about crime and statistics, Family Dollar is no
 1061 different, no greater or no less than your typical retail store. We've look at the crime
 1062 statistics within the County of Henrico. Quite frankly, we're looking at no access,
 1063 vehicular or pedestrian, because of the fence line that we have running along the

1064 rear of the property. And that was specifically put in there to address the concerns
1065 of cut-through walking folks that are going back and forth. And putting in sidewalks
1066 to encourage that along New Market Road.

1067

1068 And of course lighting is already addressed in the proffers as well for the residential
1069 scale and of course in the code itself. There is no overflow of lighting.

1070

1071 Mr. Leabough - Mr. Condlin, I'm going on record here. I've called in a
1072 number of grass complaints for the site.

1073

1074 Mr. Condlin - Yes sir.

1075

1076 Mr. Leabough - I found out tonight that one of the parcels to the east of
1077 the Family Dollar site—

1078

1079 Mr. Condlin - Between us and Midview.

1080

1081 Mr. Leabough - —is not owned by Felts & Kilpatrick. Is that correct?

1082

1083 Mr. Condlin - That is correct, yes sir.

1084

1085 Mr. Leabough - Mr. Emerson, do you mind following up with the owner
1086 for that parcel and make sure that grass gets cut?

1087

1088 Mr. Emerson - Absolutely.

1089

1090 Mr. Leabough - Okay. Thank you, sir.

1091

1092 Mr. Condlin - I know there have been a number of complaints about
1093 this parcel that we followed up on.

1094

1095 Mr. Leabough - I called those in as well.

1096

1097 Mr. Condlin - I received those recorded—

1098

1099 Mr. Leabough - I'm sure others in the community have called as well.

1100

1101 Mr. Condlin - Yes sir. And we forwarded and jumped on those as fast
1102 as possible.

1103

1104 Mr. Leabough - That's part of being a good neighbor. It's ridiculous that
1105 that grass had gotten to the point that it's gotten. And it shouldn't take the
1106 community calling to make Felts & Kilpatrick aware that they need to mow their
1107 lawn.

1108

1109 Mr. Condlin - Yes sir.

1110
 1111 Mr. Leabough - Is the applicant here? Is the owner of Family Dollar or
 1112 the developer here tonight?
 1113
 1114 Mr. Condlin - Well, we don't have—we didn't have a Family Dollar
 1115 representative, but yes, we have a representative of Twin Rivers.
 1116
 1117 Mr. Leabough - Well Twin Rivers. Someone's here representing the
 1118 applicant.
 1119
 1120 Mr. Condlin - Yes.
 1121
 1122 Mr. Leabough - Okay. I'd just like to bring to their attention what being
 1123 a good neighbor is all about. I know that they don't own the property currently, but
 1124 some of the mistakes that Felts & Kilpatrick have made—I just hope they're not
 1125 another Felts & Kilpatrick.
 1126
 1127 Traffic was raised. Native plantings.
 1128
 1129 Mr. Condlin - Yes sir.
 1130
 1131 Mr. Leabough - So you believe that you've complied with all the
 1132 proffers—
 1133
 1134 Mr. Condlin - Yes sir.
 1135
 1136 Mr. Leabough - —and met the technical requirements of the code?
 1137
 1138 Mr. Condlin - And then some, yes. Sir.
 1139
 1140 Mr. Leabough - Okay. But you do recognize that there is high
 1141 opposition and people that vow not to shop at the store?
 1142
 1143 Mr. Condlin - Well, if you remember in the community meeting, that
 1144 was voiced loud and clear. We met afterwards a number of times with—quite
 1145 frankly, Family Dollar is the one that has to take a look at that and the concerns,
 1146 and they understood that. They believe that their market is—they're going to be
 1147 able to prove to folks that they're a good neighbor. They're also going to prove to
 1148 folks within the community that they're an important part of the community, and
 1149 they still want to go forward, yes sir. They think they're going to be successful.
 1150
 1151 Mr. Leabough - So they still think the market is there despite the fact
 1152 that we had a standing-room-only meeting on a number of occasions.
 1153

1154 Mr. Condlin - Yes sir. If you remember, the representatives were
 1155 there, and that's why we asked them to be at that meeting, so that they could hear
 1156 the voice of the community.
 1157
 1158 Mr. Leabough - Okay. I have no further questions.
 1159
 1160 Mr. Witte - Any other comments from the Commission?
 1161
 1162 Mr. Archer - I have a comment I'd like to make, Mr. Chairman.
 1163
 1164 Mr. Witte - Mr. Archer.
 1165
 1166 Mr. Archer - In my almost twenty years sitting here, one right after
 1167 the other, I can't say I've ever seen a case that has such a passion as this one.
 1168 And, it's a dilemma for all of us because every year in January, we all take an oath
 1169 of office. That oath is that we will uphold the law and uphold the Constitution of the
 1170 Commonwealth of Virginia. And of course that leaves the federal law. The County
 1171 attorney has sent a representative here tonight who has stood and explained the
 1172 legality of the process that has been undergone. And staff has explained it to the
 1173 point that I don't know that there's anything else that can be said. I just want that
 1174 information to be out so that everybody can understand that we have to do what
 1175 we have to do. I hope that in some way this can be resolved to the satisfaction of
 1176 the community, because I think the community at large is probably the people who
 1177 are the most affected by this. I'll leave it at that.
 1178
 1179 Mr. Witte - Mr. Leabough, we have a gentleman in the back.
 1180
 1181 Mr. Leabough - We've already extended—
 1182
 1183 Mr. Jackson - [Off microphone.] I have a question that I would like to
 1184 ask. If Twin Rivers is going to develop—
 1185
 1186 Mr. Leabough - Come on down.
 1187
 1188 Mr. Witte - Come on down, Mr. Jackson.
 1189
 1190 Mr. Jackson - If the developer, Twin Rivers—
 1191
 1192 Mr. Leabough - Could you state your name for the record?
 1193
 1194 Mr. Jackson - My name is James Jackson.
 1195
 1196 Mr. Leabough - Thank you.
 1197
 1198 Mr. Branin - Mr. Jackson, we have to do it because it's recorded.
 1199

1200 Mr. Jackson - I understand. The developer of the Family Dollar store
1201 is not going to be Felts & Kilpatrick. The developer is going to be Twin Rivers. They
1202 don't own the property yet. They didn't put in the POD to have this thing done. That
1203 to me says that whoever is going to do this development and you don't own the
1204 property, how can you stand here and say that you're going to do this, and we the
1205 citizens are standing and saying we don't want this. So if the person that owns it
1206 is not going to develop it and it's not going to be developed until after he sells it,
1207 that's got to give us something that we can say we don't want this. The people that
1208 are going to develop it don't own it.

1209
1210 Mr. Emerson - Mr. Jackson, the process many times is that an
1211 applicant does not own the property. They become the contract purchaser, and
1212 then that contract is contingent upon entitlements of the property such as in this
1213 case the plan of development. And once the plan of development is approved, then
1214 they close on the property. They have a power of attorney, and a contractual
1215 agreement is the way it's normally set up. Many, many applications pass through
1216 this body that way.

1217
1218 Mr. Jackson - It seems to me that then that might give you something
1219 you can say hey. I really don't understand—and I don't think anyone else in here
1220 understands—how there can be—I know for a fact in this country the one thing
1221 that is constant is change. There has to be a way that this can be changed. I don't
1222 own the property, but I say I'm going to build something on the property, and I put
1223 in a POD to build something on a property I don't own.

1224
1225 Mr. Emerson - Right.

1226
1227 Mr. Jackson - How is that possible?

1228
1229 Mr. Emerson - Maybe you could understand it better if I explain it this
1230 way. Let's not worry about the ownership of the property; let's look at the zoning
1231 of the property. There are certain rights that go with that property regardless of
1232 who owns it based on the zoning of the property per the Code of Virginia and then
1233 Henrico County subsequently. So the property holds certain development rights.
1234 In this case, this property actually has held B-1 development rights back to 1933,
1235 according to the research I have in my file. It's on the 1959 maps, but we found
1236 records back to 1933. It's had many subsequent owners, but it's always had those
1237 B-1 development rights. So a plan of development has been filed on that property
1238 to exercise those development rights under—I'm sorry; I said B-1, B-2 zoning in
1239 order to allow the development of the property. So therefore the rights are with the
1240 property not necessarily with the owner, if that makes sense.

1241
1242 Just as your property had residential zoning on it in a very similar pattern, North
1243 James Estates was residentially zoned unconditional many, many years ago at the
1244 same time this property gained its commercial status. And that property changed
1245 hands many times. It went from one owner to Hamlin Hornes to Felts & Kilpatrick.

1246 And then Ryan Homes bought the individual lots that they subsequently sold
1247 homes to you and others that chose to purchase them. So it's a land rights' type
1248 of thing much more so than possibly an individual ownership type of issue.
1249

1250 I know that doesn't probably make any difference in the minds of how the
1251 community feels about a Family Dollar. But that, essentially, is how it works.
1252

1253 Mr. Jackson - Okay. Thank you.
1254

1255 Mr. Witte - Thank you, sir. All right, Mr. Leabough, the floor is
1256 yours.
1257

1258 Mr. Leabough - Let me just start by saying this. This has probably been
1259 one of the toughest PODs I think that I've seen in my tenure on the Planning
1260 Commission. I want to go on record by stating that when the rezoning in 2011 took
1261 place, I was not appointed to the Commission, nor was Rev. Nelson on the Board
1262 of Supervisors. But I can say I have been involved in the Varina District prior to
1263 being appointment to the Planning Commission. I remember being the lone
1264 community member at many meetings where cases were coming before the
1265 Commission and the Board. So I feel like I'm one of you all. I know you may not
1266 agree with me tonight, but I am.
1267

1268 I opposed—I didn't oppose. I requested that additional traffic measures be made
1269 at that intersection because you all remember how dangerous it was before. There
1270 was a single entrance in and out. I also had concerns—which we deal with a lot—
1271 as it relates to the cell tower that's just behind your community. I challenge anyone
1272 to go pull the minutes; I was there. I was also at the hearings for the landfill when
1273 there were four or five of us. So I applaud you all for coming out and rallying around
1274 this cause. What we don't have a lot of times is public participation in community
1275 or County business.
1276

1277 If you Google "Family Dollar Stores," there are tons of results. You're not alone.
1278 There are other communities that are doing this. But we're not alone in terms of
1279 where dollars stores are located. I know you all disagree. But drive to Short Pump
1280 Towne Center; there's a Dollar Tree across the street in that development. Drive
1281 to Church Road. Drive to Hanover County up 301; there's a Dollar General store.
1282 Dollar Generals are proliferating in a way that seems extreme, but it happens
1283 everywhere, not just in Varina.
1284

1285 What we don't want—regardless of whether this is an allowed use or not—is
1286 sprawl. And we want high-quality development in our community. I think this gives
1287 us an opportunity to have the support that we need. I remember being the only one
1288 in the room in a community meeting asking developers to step up and raise the
1289 bar. There is another case that's down the street. I can tell you, when I kept asking
1290 for additional quality measures, the community looked at me like "I think
1291 everything's okay."

1292
1293 Signage—Family Dollar is a big issue. We do not want your typical cookie-cutter
1294 signage. And that goes for any business that locates along the Route 5 corridor.
1295 We want high-quality development.

1296
1297 Let me tell you what we have done, because there have been a number of personal
1298 attacks that are not fair to the people that are appointed and elected. We have
1299 gone above and beyond the call of duty. We have met with Senator McEachin.
1300 We've met with VDOT. We sent letters to elected officials at the state level. We
1301 met with VDOT again. I raised the issue about the Capital Trail crossing at the
1302 community meeting that Rev. Nelson held before anybody knew it because I drive
1303 that road, I live in that community. I live right off of Midview Road just like many of
1304 you. That road is dangerous; we acknowledge that. That intersection is dangerous
1305 so, for all those remaining in the room, I hope the folks at VDOT hear this. Getting
1306 out at the intersection in the morning is dangerous. Putting a Capital Trail crossing
1307 at that intersection is dangerous. I agree; I don't disagree.

1308
1309 What we have done also is—if you look at the elevation, this will be one of the
1310 nicest Family Dollars I've ever seen. We pushed for high quality with their building
1311 design. Pull up any other Family Dollar store, go to any other Family Dollar store,
1312 it will look much different. As the developer stated, the use is close, the building is
1313 close to those homes. But the reason for that is back in 2011, there was a group
1314 of constituents that came to a community meeting that asked that it be pushed
1315 back 100 feet from the roadway, pushing that store closer to the homes.

1316
1317 I'm struggling with this case, but I have the law that I have to abide by. I can't break
1318 the law. We may not agree with the speed limit in our neighborhoods. That doesn't
1319 mean we can exceed it. We have to follow the law. So if we want to fight this, don't
1320 shop there. Drive them out of business. But to say we can break the law because
1321 we don't agree with it is not right. It's just not the American way, it's not.

1322
1323 So with that, I must do what I have a responsibility to do because you appointed
1324 me to be fair and to operate with integrity. If I do that because of what you all asked
1325 me to do, I have to do that with others. And I'm not doing that. I'm doing what I
1326 have a moral responsibility to do. I thought about it. With that, and with every
1327 rezoning case, you all think there are winners and losers. There are always people
1328 that agree with the decision and disagree with the decision. That's just the fact of
1329 the matter.

1330
1331 I don't want Family Dollar there as well. I go on record. But I have a responsibility
1332 to do what the law tells me to do. So with that, I move that POD2014-00175, Family
1333 Dollar at 2076 New Market Road, be approved subject to annotations on the plans,
1334 standard conditions for developments of this type, and conditions 29 through 37
1335 as noted in the agenda.

1336
1337 Mr. Brarin - Second.

1338
1339 Mr. Emerson - Mr. Chairman, before you call the question, I would like
1340 to correct a statement I made when speaking to Mr. Jackson. I said B-1, then I
1341 corrected myself to B-2. The property is B-1C, so I was mistaken when I said B-2.
1342 Thank you.

1343
1344 Mr. Witte - Thank you. We have a motion by Mr. Leabough, a
1345 second by Mr. Branin. All in favor say aye. All opposed say no. The ayes have it;
1346 the motion passes.

1347
1348 The Planning Commission approved the plan of development for POD2014-00175,
1349 Family Dollar at 1276 New Market Road (State Route 5), subject to the annotations
1350 on the plans, the standard conditions attached to these minutes for developments
1351 of this type, and the following additional conditions:

- 1352
1353 29. The right-of-way for widening of New Market Road (State Route 5) as
1354 shown on approved plans shall be dedicated to the County prior to any
1355 occupancy permits being issued. The right-of-way dedication plat and any
1356 other required information shall be submitted to the County Real Property
1357 Agent at least sixty (60) days prior to requesting occupancy permits.
- 1358 30. The entrances and drainage facilities on New Market Road (State Route 5)
1359 shall be approved by the Virginia Department of Transportation and the
1360 County.
- 1361 31. A notice of completion form, certifying that the requirements of the Virginia
1362 Department of Transportation entrances permit have been completed, shall
1363 be submitted to the Department of Planning prior to any occupancy permits
1364 being issued.
- 1365 32. A concrete sidewalk meeting VDOT standards shall be provided along the
1366 east side of New Market Road (State Route 5).
- 1367 33. Outside storage shall not be permitted.
- 1368 34. The proffers approved as a part of zoning case C-22C-10 shall be
1369 incorporated in this approval.
- 1370 35. The loading areas shall be subject to the requirements of Chapter 24,
1371 Section 24-97(b) of the Henrico County Code.
- 1372 36. Approval of the construction plans by the Department of Public Works does
1373 not establish the curb and gutter elevations along the Virginia Department
1374 of Transportation maintained right-of-way. The elevations will be set by the
1375 contractor and approved by the Virginia Department of Transportation.
- 1376 37. The location of all existing and proposed utility and mechanical equipment
1377 (including HVAC units, electric meters, junctions and accessory boxes,
1378 transformers, and generators) shall be identified on the landscape plan. All
1379 building mounted equipment shall be painted to match the building, and all
1380 equipment shall be screened by such measures as determined appropriate
1381 by the Director of Planning or the Planning Commission at the time of plan
1382 approval.
- 1383

1384
1385 Mr. Witte - We're going to take five minutes. My apologies.
1386

1387 **[Commission takes a five-minute break.]**
1388

1389 Mr. Witte - We will reconvene. It's 8:39, Mr. Emerson.
1390

1391 Mr. Emerson - Yes sir, Mr. Chairman. We will continue on page 3 with
1392 your regular agenda for REZ2015-00011, Harry Snipes. The staff report will be
1393 presented by Mr. Livingston Lewis.
1394

1395 **REZ2015-00011 Harry Snipes:** Request to amend proffered
1396 conditions accepted with rezoning case C-14C-06 on Parcel 759-765-0133 located
1397 on the south line of Nuckols Road at its intersection with Francistown Road. The
1398 applicant proposes to amend proffers to increase the density from 36 to 37 lots,
1399 decrease the minimum interior width of garages from 24' to 21', and require 50%
1400 of all homes to have side or rear loaded garages. The existing zoning is R-3C One-
1401 Family Residence District (Conditional). The 2026 Comprehensive Plan
1402 recommends Suburban Residential 2, density should not exceed 3.4 units per
1403 acre.
1404

1405 Mr. Witte - Is there anyone in opposition to REZ2015-00011,
1406 Harry Snipes? I see none. Mr. Lewis.
1407

1408 Mr. Lewis - Thank you Mr. Chairman, members of the
1409 Commission.
1410

1411 This request is to amend proffered conditions approved with rezoning case C-14C-
1412 06 pertaining to development density and garages. The subject property at 4940
1413 Francistown Road is zoned R-3C One-Family Residence District (Conditional) and
1414 is designated Suburban Residential 2 in the 2026 Comprehensive Plan.
1415

1416 Single-family subdivisions surround the site in all directions: The Timbers, The
1417 Ponds at Dandridge Farm, Reids Pointe, and Hungary Creek. Dunncroft/Castle
1418 Point Park is also to the east across Francistown Road.
1419

1420 The 2006 rezoning of the property approved thirty-six dwelling lots. The applicant
1421 wishes to amend Proffers #1 and #4 to add one additional lot where a water
1422 retention pond had been planned but is no longer needed. On the revised
1423 conceptual plan here, it's actually the space defined by Lot 28 where the cursor is.
1424 This would result in a minimal increase in gross density, from 2.49 to 2.56 units
1425 per acre, which is still well within the range recommended by the site's SR2
1426 designation.
1427

1428 The applicant also proposes changing Proffer #9 to reduce minimum garage width
1429 from 24 feet to 21 feet, allow detached garages, and add a requirement stating 50

1430 percent of all garages must be side or rear loaded. The recently revised May 11th
1431 proffers distributed this evening further require that any detached garage be
1432 constructed with the same exterior materials as the home it serves.

1433
1434 Development of a single-family neighborhood on the site is consistent with the
1435 2026 Plan. The proposed amendments do not suggest a different type of use, and
1436 most of the previously approved assurances would remain intact. Therefore, the
1437 intent of the original proffers and overall quality and compatibility of the
1438 development would not be lessened. For these reasons, staff believes the
1439 proposed changes are reasonable and supports this request.

1440
1441 This concludes my presentation. I am happy to answer any questions.

1442
1443 Mr. Witte - Any questions by the Commission?

1444
1445 Mr. Leabough - I think there was an item in the staff report related to
1446 the exterior materials for the garages. I guess that has been addressed?

1447
1448 Mr. Lewis - It has been.

1449
1450 Mr. Leabough - Thank you. No further questions.

1451
1452 Mr. Witte - Thank you, Mr. Lewis. Mr. Snipes.

1453
1454 Mr. Snipes - I'm Harry Snipes, and I'm here to amend these proffers.
1455 Number 4, as he stated, we're going to remove the detention pond and pick up
1456 that extra lot. The garages, I've asked to reduce the size of the garages to, in my
1457 opinion, keep them more in line with what's been built in the area. We went to 21
1458 instead of 24 and 20. The standard in the industry is 20-by-20. In working with
1459 some builders, this is a pretty high-proffered condition, so the prices of the houses
1460 are going to be pretty substantial. I've sat down with some builders trying to get
1461 their house product to fit on here without doing a lot of modification to the home,
1462 and this is what we came up with, the 21-by-20 width that we could work with. This
1463 is not to say that that's the—this will be the minimum. Some people will ask for a
1464 three-car garage, and those houses will be accommodated. We wanted to be able
1465 to have the flexibility to put any type of product that the buyer would want on a lot,
1466 so that's what we felt like was the minimum.

1467
1468 Mr. Witte - Does anyone have a question?

1469
1470 Mr. Witte - I have a comment. As we discussed earlier, if you take
1471 an average size vehicle that's about seven feet wide and you put two of them in a
1472 twenty-foot garage, that leaves you six feet. My car door opens three feet. I don't
1473 get in and out if two—the two inside doors are going to hit about a foot out from
1474 each other.

1476 Mr. Snipes - I understand your argument, but I would like to think
 1477 that in America the buying public that's going to spend \$500,000 or better for one
 1478 of these houses can make that decision how big they want that garage. We've set
 1479 a minimum standard for this garage. They can build all they want. And I did a
 1480 detached garage to kind of give the person room to build a bigger house. I just felt
 1481 like this is the minimum that we can live with. And I understand your concern, but
 1482 to me, trying to get to the maximum square footage on a garage and not the
 1483 minimum. I would think that maybe somebody that had a BMW—I mean a Beetle,
 1484 that they can get two of them in a garage.
 1485

1486 Mr. Witte - That's my issue. If you can't get two vehicles in and get
 1487 in and out of them, you shouldn't build a two-car garage.
 1488

1489 Mr. Snipes - Well why don't we just define that as a garage that's
 1490 21-by-20 and not define it as a two-car garage?
 1491

1492 Mr. Witte - So you put a single eight-foot door—8-by-8 door on it?
 1493

1494 Mr. Snipes - Well, no it—I guess my point is I'm trying to get the
 1495 buyer to decide what they want and not the staff here to make that decision for
 1496 somebody. Spending \$550,000 for a house and they can't build what they want.
 1497 That's what I'm trying to get at.
 1498

1499 Mr. Witte - The staff isn't making the decision.
 1500

1501 Mr. Snipes - I understand. But you're not buying the thirty-seven
 1502 houses in this subdivision either. There are other people that have other criteria
 1503 for themselves.
 1504

1505 Mr. Witte - I agree 100 percent.
 1506

1507 Mr. Leabough - You—never mind; I'm leaving that alone.
 1508

1509 Mr. Snipes - I'm just trying to argue that we asked for a minimum
 1510 square footage on this garage. We just did one on Springfield Road that was the
 1511 same size, so I'm not asking for any more than we just did a year ago.
 1512

1513 Mr. Witte - Sir, I'd like to think we improve on future developments
 1514 instead of remaining stale or going backwards. The only way I can recommend this
 1515 to the Board with a recommendation for approval is if you're going to make the
 1516 garages fit two cars.
 1517

1518 Mr. Leabough - What I think Mr. Witte is saying is that he's looking at
 1519 the buyer and trying to protect the buyer's interest. If they buy a two-car garage
 1520 then they expect that two cars can actually fit in them comfortably. I think that he's

1521 going in the right direction. And you are asking for a rezoning request. And none
1522 of us are buying any lots in that community.

1523

1524 Mr. Snipes - The property is already zoned. Okay? So I'm asking to
1525 amend—

1526

1527 Mr. Leabough - I mean amend the proffers; I'm sorry.

1528

1529 Mr. Snipes - I'm trying to amend this proffer to make it more
1530 compatible with the zoning case. When you go into these garages, and then you
1531 set these standards, and then all of a sudden you have to build—it's not that it's
1532 an inferior product there. You set one standard, and then all of a sudden the buyer
1533 doesn't really want that. Then what am I going to do with him? Well, you can't build
1534 that here. I'm trying to leave flexibility for everybody to have a chance to build what
1535 they want. What do you think the size should be?

1536

1537 Mr. Witte - I think it should be ideally 24-by-24, but 24-by-21 or 22,
1538 preferably 22, is much more relevant. Twenty-four foot width is pretty much a
1539 minimum. If you check my record for properties in the Brookland District, they are
1540 almost all twenty-four.

1541

1542 Mr. Snipes - Well we just did that one on Springfield Road, and I
1543 don't think it was this big.

1544

1545 Mr. Witte - Almost all. If you're going to put in that price house,
1546 people deserve to get a two-car garage that they can put two vehicles in and get
1547 in and out of in that price house. Or don't call it a two-car garage and put one eight-
1548 foot door on there. That's the only way I can make my recommendation is twenty-
1549 four foot widths, twenty-foot depth minimum. Clear space.

1550

1551 Mr. Snipes - Well, I'll have to take a deferment, because I need to
1552 talk to the builders about what they can put on these lots.

1553

1554 Mr. Witte - I'm fine with that.

1555

1556 Mr. Snipes - Okay. Thank you.

1557

1558 Mr. Branin - Mr. Snipes, are you requesting a deferral?

1559

1560 Mr. Snipes - I am.

1561

1562 Mr. Branin - Okay.

1563

1564 Mr. Witte - Anybody have any questions?

1565

1566 Mr. Archer - To what date, Mr. Snipes?

1567
 1568 Mr. Snipes - I'd like to go to the next month's meeting. I don't have
 1569 a calendar, so I don't know what it is.
 1570
 1571 Mr. Emerson - It's June the 11th.
 1572
 1573 Mr. Witte - With that, I move that REZ2015-00011, Harry Snipes,
 1574 be deferred to the June 11, 2015 meeting at the request of the applicant.
 1575
 1576 Mr. Archer - Second.
 1577
 1578 Mr. Witte - All in favor say aye. All opposed say no. The ayes have
 1579 it; the motion passes.
 1580
 1581 At the request of the applicant, the Planning Commission deferred REZ2015-
 1582 00011, Harry Snipes, to its meeting on June 11, 2015.
 1583
 1584 Mr. Emerson - And the second was?
 1585
 1586 Mr. Witte - Oh, I'm sorry.
 1587
 1588 Mr. Emerson - That's okay. You have Mr. Archer or Mr. Branin?
 1589
 1590 Mr. Witte - Mr. Archer was the second. Okay.
 1591
 1592 Mr. Archer - Yes.
 1593
 1594 Mr. Emerson - Mr. Chairman, we now move on to the next item on
 1595 your agenda, which also appears on page 3. It is REZ2015-00012, George B. Duke
 1596 for Greenwood Road, LLC. The staff report will be presented by Mr. Ben Sehl.
 1597
 1598 **REZ2015-00012 George B. Duke for Greenwood Road, LLC:**
 1599 Request to rezone from A-1 Agricultural District to R-1AC One-Family Residence
 1600 District (Conditional) Parcels 768-778-6296 and 769-778-3901 containing 55.459
 1601 acres located on the west line of Greenwood Road between the south bank of the
 1602 Chickahominy River and the north line of Appling Road. The applicant proposes a
 1603 residential development of no more than 50 single family homes. The R-1A District
 1604 allows a minimum lot area of 21,500 square feet and a gross density of 2.03 units
 1605 per acre. The use will be controlled by zoning ordinance regulations and proffered
 1606 conditions. The 2026 Comprehensive Plan recommends Rural Residential and
 1607 Environmental Protection Area.
 1608
 1609 Mr. Witte - Is there anyone in opposition to REZ2015-00012,
 1610 George B. Duke for Greenwood Road, LLC? We have opposition. Mr. Sehl.
 1611
 1612 Mr. Sehl - Thank you, Mr. Chairman.

The applicant is requesting R-1AC zoning for a single-family subdivision off Greenwood Road. The subject property is located just east of Swanson Mill Run, a subdivision currently under development and also zoned R-1AC. Proffers submitted with this request are largely consistent with C-62C-04, which rezoned Swanson Mill Run. Revised proffers were received Tuesday and handed out to you tonight. And there's also a kind of recent change to the conceptual plan, which I'll describe a little bit more as we go along.

This was the concept plan. A copy of this was provided to you and has been revised since the staff report was issued. This concept plan was proffered in addition to the proffered maximum density of fifty homes. This plan shows how the site would be accessed via Greenwood Road in this location. Access was previously proposed via Appling Road in this location, and the relocation of this entrance was a major topic of conversation at the community meeting held on April 16th. In addition to the proffered conceptual plan, the applicant has provided a number of commitments to quality for the proposed development and includes features such as:

- brick or stone foundations;
- a minimum finished floor area of 3,000 square feet;
- a minimum of 50 percent of the homes to have brick or stone front elevations;
- attached two car garages with each home, all of which will be side or rear loaded;
- front stoops and steps to be constructed of brick;
- hard surface driveways; and
- the area within the 100-year floodplain would be rezoned to C-1.

Additionally, the applicant has proffered three exhibits showing the location and general appearance of the proposed entrance feature located in these areas—along the main entrance and then one also in this area here—additional detail for those entrances.

The 2026 Comprehensive Plan designates the majority of the site for Rural Residential, with a recommended density of no more than one unit per acre. The proposed density of .9 units per acre would be consistent with this designation. This request would also be consistent with the pattern of development in the area and the level of quality being provided in Swanson Mill Run.

One thing that I would note with the conceptual plan is the applicant has provided a revision just this evening, which was also provided to you, that relocates this private access drive—located generally in this area—out towards Greenwood Road. Still on the back side of the required 25-foot enhanced setback along there, and that access drive will be on the back side of that enhanced setback. But that

is a slight change from what was provided earlier this week. So you have two versions in your packet to you tonight.

This was a point of concern in the staff report. While the proposed development could be appropriate at the location, staff did identify a number of items that could be addressed. The revised proffers address the majority of these items, but staff does continue to note some concerning the private access drive, and would encourage the applicant to explore options to serve those lots by public road. They do have public road frontage, so subdivision and zoning ordinance requirements would be met. I did want to note that change.

Absent that change, staff does feel that the request is consistent with the Comprehensive Plan designation, the level of quality provided with other recent rezonings in the area, and the pattern of development in this area of the County. If the applicant could address that specific issue regarding the private access drive, staff could fully support this request. I'd be happy to try to answer any questions you have at this time.

Mr. Witte - Any questions by the Commission for Mr. Sehl?

Ms. Jones - The common area, is there anything that will be required regarding maintenance for that common area?

Mr. Sehl - The applicant has provided a proffer regarding the maintenance of the access drive. There will be a homeowners association committed to that. The maintenance of the common area and the access drive will be provided for by the homeowners association. The applicant can maybe speak a little bit more about how they plan to structure the homeowners association. There are several areas that have some common area—at the entrance because they have the entrance feature, and then these other common areas.

Ms. Jones - All right. Well, with fifty houses, it's enough, I guess, to absorb a little common cost, but it's always a little scary. This private roadway agreement was really my biggest concern about this. Okay. Maybe he can speak to that.

Mr. Sehl - And it's something, as you'll note in the case previous to this that had similar access drives with a smaller subdivision, they seemed to have been able to absorb that cost. Staff's biggest concern is making sure that the construction methods for those private roadways—which the applicant revised the proffers to commit to those standards in the version handed to you tonight to ensure that the maintenance costs aren't overly burdensome on the future homeowners.

Mr. Witte - Any other questions? Would the opposition step forward please? State your name please.

1704
1705 Mr. Jacobs - Jake Jacobs. I live on Appling Road. It's going to be
1706 right across the street from the proposed subdivision. I'd like to see, once again,
1707 the two entrances a little bit slower. It had the color chart up there.
1708
1709 Mr. Witte - Mr. Sehl will help you with that.
1710
1711 Mr. Sehl - There's only one entrance into the subdivision at this
1712 location.
1713
1714 Mr. Jacobs - Where is Appling Road on here?
1715
1716 Mr. Sehl - Its right along this area here, sir. They previously had
1717 shown an entrance that extended out there. That road has now been stopped.
1718
1719 Mr. Jacobs - So where is the entrance now, on Greenwood? Right
1720 here. All right. And that's the only entrance. What's the private road you were
1721 talking about?
1722
1723 Mr. Sehl - It would serve these lots here down Greenwood Road
1724 closer to the river.
1725
1726 Mr. Jacobs - That's going to be on the interior of the property.
1727
1728 Mr. Sehl - On the interior of the site. They would still have to come
1729 through the subdivision to access it. They wouldn't have individual driveways onto
1730 Greenwood Road.
1731
1732 Mr. Jacobs - Okay, all right. Of course our heart's concern is we're
1733 going to lose our pristineness, but you can't stop progress. Swanson Mill went in
1734 on the other side of our home. When you first come in down that little long road
1735 and you make that turn, they obliterated the tree line there. The people's backyards
1736 that had full serenity and privacy before are now just exposed to all the traffic in
1737 Swanson Mill. I was hoping these gentlemen would leave a buffer between our
1738 subdivision on Appling, which is the most affected road by the new subdivision, so
1739 we don't have to suffer what they suffered in Swanson Mill. And they may have
1740 addressed this, but I'd like to hear that if it's for sure. I know the more houses you
1741 put in, the more profitability you have and the more tax revenue and so forth and
1742 so on. But that's one of our main concerns.
1743
1744 Ms. Jones - Where is your home, sir?
1745
1746 Mr. Jacobs - Our home is on Appling Road.
1747
1748 Ms. Jones - Can you put the cursor up there?
1749

1750 Mr. Jacobs - I'm sorry?
1751
1752 Ms. Jones - Can you show me where, please?
1753
1754 Mr. Jacobs - Okay. I'm right at the end of Appling.
1755
1756 Mr. Sehl - There's Colfax and there's Appling.
1757
1758 Mr. Jacobs - I'm right there at the corner.
1759
1760 Mr. Sehl - This one here?
1761
1762 Mr. Jacobs - Yes.
1763
1764 Mr. Sehl - Okay. This one here, Ms. Jones.
1765
1766 Ms. Jones - Okay.
1767
1768 Mr. Jacobs - I'm right there.
1769
1770 Mr. Witte - The original entrance was going right across from his
1771 house.
1772
1773 Ms. Jones - I'm sorry?
1774
1775 Mr. Witte - The original entrance to—
1776
1777 Mr. Jacobs - Well actually a little bit up from my house.
1778
1779 Ms. Jones - Right.
1780
1781 Mr. Jacobs - But anyway, if we had not addressed this with Mr. Witte
1782 before that they're going to be bringing water down Appling Road not sewer, just
1783 water, and us being grandfathered in there—I'm on well and septic—when I go to
1784 sell my home down the road, I don't want to have to be required to hook into their
1785 well [sic] and septic. From what I understand, that's not an obligation that we have
1786 to do.
1787
1788 Mr. Witte - Mr. Sehl, can you answer his other question?
1789
1790 Mr. Sehl - Regarding the buffering?
1791
1792 Mr. Witte - Buffering, please.
1793
1794 Mr. Sehl - Appling Road is also a minor collector on the County's
1795 Major Thoroughfare Plan, at least this section down toward Colfax because it

1796 actually goes over towards Mill Road there. So they have the same enhanced
1797 setback requirement there that they do along Greenwood Road, so there will be
1798 an additional 25-foot setback. The applicant can maybe speak to what their intent
1799 would be within there. I would imagine they would leave it undisturbed except to
1800 the extent that a future homeowner might choose to trim the trees. There is that
1801 enhanced setback requirement along Appling, the same as it is along Greenwood.
1802

1803 Mr. Jacobs - Is that waterline going to have a fire hydrant inside of
1804 our subdivision since it's coming down our street?
1805

1806 Mr. Sehl - I might leave that to the applicant to discuss because
1807 they've had the detailed discussions with the Public Utilities Department, and they
1808 can maybe answer that question.
1809

1810 Mr. Witte - All right. Mr. Jacob's, we'll see if we can get some other
1811 questions answered for you.
1812

1813 Mr. Jacobs - Okay. Appreciate it.
1814

1815 Mr. Witte - Would the applicant come down, please.
1816

1817 Mr. Duke - Good evening, Mr. Chairman, members of the
1818 Commission, ladies and gentlemen, thank you for hearing our case tonight. My
1819 name is Brian Duke. I'm with Duke Development. I am the applicant. We are a
1820 family-owned business. We live in the area. We live right around the corner from
1821 the proposed neighborhood. We would very much like to see this be a quality
1822 development that complements the area. And we believe the proffers we have set
1823 forth achieve that goal. I'd like to speak to Mr. Jacobs's comments or concerns.
1824

1825 Number one, we did hear the community's concerns on the traffic coming onto
1826 Appling Road. We have addressed that by eliminating that access there and
1827 making the only access on Greenwood Road. In reference to the 25-foot buffer
1828 that we would be required to do as part of the subdivision ordinance, we would do
1829 that anyway. We think the best way to handle that is rather than cutting all the trees
1830 that are existing, which there is old-growth trees in that area, and planting smaller
1831 trees, we think that our plan would actually create more buffering by supplementing
1832 the trees that are there with additional landscaping. If you look on the drawing
1833 that's on your screen, that was done by a landscape architect. The dark green
1834 areas there along Appling Road show that we are adding additional evergreens
1835 and shrubs in there, especially in the area where our cul-de-sac ends before it gets
1836 to Appling Road there. There's additional buffering and plantings provided in that
1837 area to help address Mr. Jacobs's concern.
1838

1839 Mr. Witte - Are you satisfied?
1840

1841 Mr. Jacobs - Okay.

1842
1843 Mr. Witte - Thank you. Any other questions for Mr. Duke?
1844
1845 Mr. Leabough - I have a question regarding the access road. I'm trying
1846 to wrap my head around that.
1847
1848 Mr. Duke - I'm sorry; can you be more specific? You mean why we
1849 have a—
1850
1851 Mr. Leabough - Why would you just not extend the roadway down to
1852 those other lots?
1853
1854 Mr. Duke - There is substantial creek in that area, and we would
1855 like to preserve that creek and leave it there instead of building a public road over
1856 top of it. And so the way to do that is to access it with a—we're still building it to
1857 the public road standards with curb and gutter, asphalt, and stone depth, but
1858 wouldn't be required to have the fifty feet of width. So we can still get the road in
1859 there and leave the creek, if that makes sense.
1860
1861 Mr. Leabough - How does the maintenance get handled?
1862
1863 Mr. Duke - Yes, I'm sorry. I'm glad you brought that up. We talked
1864 about this with several of the builders. It's been the general consensus that to have
1865 a good, strong HOA, you have to have good HOA documents, which we do in all
1866 of our communities. We believe that for four lots, which that's the number of lots
1867 being served here, 11 through 14—lot 10 is actually served by the cul-de-sac
1868 there—that the association will be required to maintain, as a whole. The dues will
1869 be one number and they will maintain—they will be required to maintain that private
1870 road as a whole instead of allocating just to those four lots, if that makes sense.
1871
1872 Mr. Leabough - What happens if the HOA ceases to exist, which
1873 happens. I mean it's not uncommon. So who takes care of that road?
1874
1875 Mr. Duke - That's a valid question.
1876
1877 Mr. Witte - We have a neighborhood, Shepherds Way, that has
1878 two private roads with four houses on each side. It's very attractive; it's very well
1879 screened, very well maintained. Get lots of good comments about it. It's a buffer
1880 for the homeowners from Mountain Road.
1881
1882 Mr. Leabough - How many homes are in the HOA?
1883
1884 Mr. Witte - Seventy?
1885
1886 Mr. Emerson - Probably.
1887

1888 Mr. Leabough - So it's still pretty small.
1889
1890 Mr. Witte - Yes. But it's very well liked in the Glen Allen area—the
1891 old Glen Allen area. The Brookland Glen Allen area.
1892
1893 Mr. Leabough - I know which Glen Allen area you're referring to.
1894
1895 Mr. Witte - Yes sir. I have a couple questions for you. First, let's
1896 talk about fire hydrants. Are you aware of any fire hydrants going in?
1897
1898 Mr. Duke - I can't speak to the exact number, but I do know yes,
1899 there are fire hydrants, at least two.
1900
1901 Mr. Witte - Okay. The landscaping, supplemental landscaping
1902 along Appling and Greenwood Roads, are your intentions to have that similar to
1903 what's in Shepherds Way, except that you're not going to clear-cut the trees?
1904
1905 Mr. Duke - Yes, that's correct.
1906
1907 Mr. Witte - So it will be a good buffer?
1908
1909 Mr. Duke - Yes sir.
1910
1911 Mr. Witte - All right. Now the big dog. Let's talk garages. You have
1912 interior minimum dimensions of 20 feet wide and 18 feet deep. My vehicle doesn't
1913 fit. Two of my vehicles won't work. Are you opposed to 24 feet wide and 20 feet
1914 deep?
1915
1916 Mr. Duke - Yes, I think we can do that. We can accommodate that.
1917
1918 Mr. Witte - You can accommodate that?
1919
1920 Mr. Duke - Maybe that's a poor choice of words. I think with the
1921 quality of the homes that are being built here, that contrary to what we were saying
1922 earlier, I think if it gives the homeowner some extra room in their garage, I don't
1923 see that as a deterrent to—
1924
1925 Mr. Witte - Okay. Well we're going to add that—you're going to
1926 add that to the proffers?
1927
1928 Mr. Duke - Yes.
1929
1930 Mr. Witte - So part of nineteen will be 24 wide by 20 feet deep
1931 clear.
1932
1933 Mr. Duke - Yes sir.

1934
1935 Mr. Witte - Okay.
1936
1937 Mr. Emerson - So that change would occur prior to the Board meeting,
1938 correct?
1939
1940 Mr. Witte - Yes. And if somebody wants to have two VWs in there
1941 and lots of extra room, that's good for them.
1942
1943 Mr. Duke - Yes sir.
1944
1945 Mr. Witte - All right, I have no questions. Any other questions by
1946 the Commission?
1947
1948 Mr. Archer - You know Ford might bring back the Expedition.
1949
1950 Mr. Witte - Okay. With that, I move that REZ2015-00012, George
1951 B. Duke for Greenwood Road. LLC, move to the Board of Supervisors as
1952 presented and agreed to with a recommendation of approval.
1953
1954 Mr. Archer - I second your motion.
1955
1956 Mr. Witte - We have a motion by Mr. Witte, a second by Mr.
1957 Archer. All in favor say aye. All opposed say no. The ayes have it; the motion
1958 passes.
1959
1960 **REASON -** Acting on a motion by Mr. Witte, seconded by Mr.
1961 Archer, the Planning Commission voted 5-0 (one absent) to recommend the Board
1962 of Supervisors grant the request because it conforms to the recommendations of
1963 the Comprehensive Plan, would permit development of the land for residential use
1964 in an appropriate manner, and the proffered conditions will assure a level of
1965 development otherwise not possible.
1966
1967 Mr. Emerson - Mr. Chairman, we now move on to the next case, which
1968 also appears on page 3 at the bottom—PUP2015-00005, Gloria Freye, Esquire for
1969 FM RVA, LLC. The staff report will be presented by Mr. Sehl. I believe Ms.
1970 Blankinship is in Blacksburg seeing her daughter graduate this weekend.
1971
1972 **PUP2015-00005 Gloria Freye, Esq. for FM RVA LLC:** Request for a
1973 Provisional Use Permit under Sections 24-58.2(d), 24-120, and 24-122.1 of the
1974 County Code in order to allow outdoor dining for an existing restaurant (Family
1975 Meal) in Willow Lawn Shopping Center, on part of Parcel 773-736-2198, located
1976 approximately 825' south of the intersection of W. Broad Street (U.S. Route 250)
1977 and Willow Lawn Drive. The existing zoning is B-2 Business District. The 2026
1978 Comprehensive Plan recommends Commercial Concentration. The site is located
1979 in the Enterprise Zone.

1980

1981 Mr. Witte - Is there any opposition to PUP2015-00005, Gloria
1982 Freye, Esquire, for FM RVA LLC? I see none. Mr. Sehl.

1983

1984 Mr. Sehl - Thank you again, Mr. Chairman.

1985

1986 This is a Provisional Use Permit request to allow outdoor dining for Family Meal, a
1987 new restaurant in The Shops at Willow Lawn. The proposed location is zoned B-2
1988 Business District, as are all other portions of the shopping center except for a
1989 southern access drive out towards Monument Avenue. The site is part of the
1990 Enterprise Zone, and the 2026 Comprehensive Plan recommends Commercial
1991 Concentration.

1992

1993 As illustrated in Exhibit A, the proposed outdoor dining area would be located along
1994 the southern exterior wall of the tenant space on an existing sidewalk and concrete
1995 pad. It would be no more than 1,000 square feet and accommodate approximately
1996 eighteen four-top tables for a total of seventy-two seats.

1997

1998 The outdoor dining area would be enclosed by the fencing illustrated here in Exhibit
1999 C. This is a new exhibit and a change from the original fencing referenced in the
2000 staff report. The applicant would like to enclose the outdoor dining area with a
2001 black, aluminum picket fence approximately forty-eight inches in height. This type
2002 of fencing would be consistent with other outdoor dining enclosures in the area at
2003 Willow Lawn. On the handout just distributed, Condition #10 has been revised to
2004 reflect the change in the fencing type and also to correct a typographical error.

2005

2006 Properly regulated, staff believes the proposed outdoor dining would be consistent
2007 with the Commercial Concentration designation for Willow Lawn, will be compatible
2008 with surrounding uses, and will further support economic revitalization goals in the
2009 area.

2010

2011 This concludes my presentation. I am happy to try to answer any questions you
2012 may have.

2013

2014 Mr. Witte - Are there any questions by the Commission?

2015

2016 Ms. Jones - No.

2017

2018 Mr. Witte - Would the applicant come forward, please.

2019

2020 Ms. Dunlap - Good evening, Mr. Chairman and members of the
2021 Commission. I'm Patricia Dunlap, an attorney with McGuire Woods, here with my
2022 colleague, Gloria Freye, and also Hilda Staples, the owner of the Family Meal. I'm
2023 here on behalf of Family Meal and Federal Realty Investment Trust.

2024

2025 For the record, Family Meal has reviewed and accepts the amended conditions
2026 recommended by staff. Letters were sent to all adjacent landowners. In response,
2027 I received an enthusiastic phone call from Pettus LeCompte, who supports this
2028 PUP. I also received an e-mail from Patrick Crenshaw, who owns four properties
2029 adjacent to Willow Lawn. He's also very much in support. As far as I know, there's
2030 no opposition to this case.

2031
2032 Hilda and her partner, who was a Top Chef runner-up, are very excited to be in
2033 Willow Lawn and a part of the Richmond dining community.

2034
2035 Mr. Sehl's done a great job presenting the details, but if you have any questions,
2036 I'm happy to answer them.

2037
2038 Mr. Witte - I have a question. Why type of cuisine?

2039
2040 Ms. Dunlap - It's an upscale American classic cuisine. So you'll find
2041 everything—

2042
2043 Mr. Witte - Buffalo?

2044
2045 Ms. Dunlap - I don't think there's any buffalo, but there's fried
2046 chicken there that you're going to want to have on Friday night.

2047
2048 Mr. Witte - All right. So it's not anything unusual.

2049
2050 Ms. Dunlap - Well, they'll take deviled eggs and present them in
2051 ways you haven't had them before, for instance.

2052
2053 Mr. Witte - Are they edible?

2054
2055 Ms. Dunlap - Oh yes.

2056
2057 Mr. Witte - Okay.

2058
2059 Ms. Dunlap - Deviled eggs with bacon.

2060
2061 Mr. Witte - All right. Any other questions?

2062
2063 Mr. Archer - Excuse me. Mr. LeCompte, Pettus LeCompte, is he
2064 with Straus, Itzkowitz, and LeCompte?

2065
2066 Ms. Dunlap - I'm not sure; he didn't say. We talked very briefly. He
2067 just wanted me to know that he was very supportive. He's excited, actually.

2068
2069 Mr. Witte - Do you know Fred Itzkowitz?

2070

2071 Mr. Archer - Yes, I do. I know Pettus LeCompte too.
 2072
 2073 Mr. Witte - I have no further questions. How about you, Mr.
 2074 Leabough?
 2075
 2076 Mr. Leabough - I was just letting you know that we have plenty of room
 2077 for restaurants in Varina. When you all choose to expand, welcome.
 2078
 2079 Ms. Dunlap - We'll work on that.
 2080
 2081 Mr. Witte - The Brookland District, we deserve it. All right. With
 2082 that, I move that PUP2015-00005, Gloria Freye, Esquire, for FM RVA LLC, move
 2083 to the Board of Supervisors as presented with a recommendation for approval.
 2084
 2085 Mr. Archer - Second.
 2086
 2087 Mr. Witte - We have a motion by Mr. Witte, a second by Mr.
 2088 Archer. All in favor say aye. All opposed say no. The ayes have it; the motion
 2089 passes.
 2090
 2091 **REASON -** Acting on a motion by Mr. Witte, seconded by Mr.
 2092 Archer, the Planning Commission voted 5-0 (one absent) to recommend the Board
 2093 of Supervisors grant the request because the conditions should minimize the
 2094 potential impacts on surrounding land uses and it is reasonable in light of the
 2095 surrounding uses and existing zoning on the property.
 2096
 2097 Mr. Emerson - Mr. Chairman, we now move on to page 4 of your
 2098 agenda for REZ2015-00013, Bruce Hulcher for Oak Knoll, LLC. The staff report
 2099 will be presented by Ms. Rosemary Deemer.
 2100
 2101 **REZ2015-00013** **Bruce Hulcher for Oak Knoll, LLC:** Request to
 2102 conditionally rezone from R-2A One-Family Residence District to R-3C One-Family
 2103 Residence District (Conditional) Parcels 777-760-6526 and 777-759-6295
 2104 containing 13.126 acres located on the north line of Hungary Road at its
 2105 intersection with Lydell Drive. The applicant proposes a residential development
 2106 of no more than 32 single family homes. The R-3 District allows a minimum lot area
 2107 of 11,000 square feet and a gross density of 3.96 units per acre. The use will be
 2108 controlled by zoning ordinance regulations and proffered conditions. The 2026
 2109 Comprehensive Plan recommends Suburban Residential 2, density should not
 2110 exceed 3.4 units per acre.
 2111
 2112 Mr. Witte - Is there any opposition to REZ2015-00013, Bruce
 2113 Hulcher for Oak Knoll, LLC? I see none.
 2114
 2115 Ms. Deemer - Mr. Chairman, members of the Commission, this
 2116 request is to rezone 13.126 acres from R-2A One-Family Residence District to R-

3C One-Family Residence District (Conditional) to allow the development of no more than thirty-two single-family homes.

Zoning in the area is a mix of one-family residence districts. The subject site was zoned R-2A with the comprehensive rezoning in 1960. Woodman Terrace and North Run Terrace to the north and west are zoned R-3, while Cedar Grove to the east is a mix of R-3C and R-3AC. North Run Hills to the south is zoned R-2.

The Comprehensive Plan designates the site for Suburban Residential 2 with a density not exceeding 3.4 units per acre. The applicant is proposing a 32-unit development of single-family homes, which is a density of 2.43 units per acre, making it consistent with the Comprehensive Plan. Revised proffers, dated May 12, 2015, which have been provided to you this evening, are similar to those accepted with the Cedar Grove subdivision and address:

- assurances of a specific allotment of homes meeting three different finished square footage minimums;
- garages would be provided for at least sixteen of the homes;
- exterior materials to include vinyl, brick, stone or concrete board; and
- other topics related to garage clear space, chimneys, cantilevering, driveways, foundation plantings, and construction hours.

The applicant's revised proffers address items in the staff report to include a sidewalk along one side of Concept Road A and consistent fencing material for those lots adjacent to Hungary Road.

Staff is supportive of the request as it conforms to the 2026 Comprehensive Plan designation and is consistent with the single-family residential development pattern in the area. That concludes my presentation, and I'd be happy to answer any of your questions.

Mr. Witte - Any questions by the Commission? Mr. Archer, how would you like to proceed?

Mr. Archer - I think I would like to hear from the applicant so that you all can ask some questions.

Mr. Witte - Would you like me to ask about garages?

Mr. Archer - No.

Mr. McGurn - Mr. Chairman, members of the Commission, I'm Arthur McGurn. I'm the applicant of this rezoning. Not to be repetitive of Ms. Deemer, but I'd like to raise a couple of points that she also brought out.

We're seeking to rezone to R-3C. We have proffered conditions that speak to architectural style, size of homes, garages, material, that type of thing. They are

2163 very similar to the proffers that were proffered with the Cedar Grove zoning case,
2164 which would be to our right or to the east of our entrance.
2165

2166 We have worked with the residents of North Run Terrace, two of which are here,
2167 to address our plan as far as traffic concerns, traffic from our neighborhood into
2168 theirs. I think we've addressed their concern with the plan that we presented. As
2169 Ms. Deemer said, the R-3 zoning allows for a density of 3.4 acres per unit. Our
2170 density would be less than that at 2.43. So as proffered and proposed, we feel like
2171 we've met the spirit and intent of the Comprehensive Plan, and I would ask that
2172 you consider this favorably and vote yes on the rezoning.
2173

2174 My engineer, Bruce Hulcher, is here if you have any technical questions, which I'm
2175 not qualified to answer. He could do that. And we thank you for your time.
2176

2177 Mr. Archer - Mr. McGurn, you and I discussed the addition of the
2178 sidewalk. Would you explain to the rest of the Commission members what we
2179 agreed to do on that?
2180

2181 Mr. McGurn - Yes. What we agreed to, our main road that comes in
2182 off of Hungary Road, which goes all the way to the top, which is the triangular piece
2183 and ends in a cul-de-sac, we've agreed to build to County standard a sidewalk on
2184 one side or the other of that main road from Hungary Road to the end of that road.
2185

2186 Mr. Archer - Thank you, sir. Everybody understand it?
2187

2188 Ms. Jones - Mmm-hmm.
2189

2190 Mr. Archer - Okay.
2191

2192 Mr. Witte - Any other questions?
2193

2194 Mr. Archer - No. I think the only other thing that I do need to mention
2195 because I need to mention Mr. Strauss and his expertise in doing this. The initial
2196 concern about this was Palmer Drive ends in a stub road, and the residents didn't
2197 want that stub road to continue through the neighborhood. Based on the size and
2198 the way this property is shaped, it would have been just about impossible to do
2199 anyway. Mr. Strauss did come up with an alternate plan. I don't know if it was the
2200 one that was used or not, but at least it ended the discussion on that portion of it.
2201 So I want to thank him for that. All right. I don't have any more questions unless
2202 someone else does.
2203

2204 Mr. Witte - Mr. McGurn, you said there was somebody here who
2205 wanted to speak?
2206

2207 Mr. McGurn - No. I was just referencing the two residents from North
2208 Run Terrace, the neighbors next door that we had worked with on that traffic plan.

2209 I don't believe they're opposed to this. They're here to I think make sure that the
 2210 plan as proposed with the cul-de-sacs is what gets approved in the rezoning.
 2211
 2212 Mr. Archer - They're been very patient. You all are welcome to
 2213 come up and speak, if you want to. Okay, that's all I have.
 2214
 2215 Mr. Witte - All right. Mr. Archer.
 2216
 2217 Mr. Archer - All right, Mr. Chairman. With that, I will move for
 2218 approval of REZ2015-00013, Bruce Hulcher for Oak Knoll, LLC, and send it to the
 2219 Board with that recommendation.
 2220
 2221 Ms. Jones - Second.
 2222
 2223 Mr. Witte - We have a motion by Mr. Archer, a second by Ms.
 2224 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion
 2225 passes.
 2226
 2227 **REASON -** Acting on a motion by Mr. Archer, seconded by Mrs.
 2228 Jones, the Planning Commission voted 5-0 (one absent) to recommend the Board
 2229 of Supervisors grant the request because it conforms to the recommendation of
 2230 the 2026 Comprehensive Plan and it represents a logical continuation of the one-
 2231 family residential development which exists in the area.
 2232
 2233 Mr. Emerson - Mr. Chairman, the next item on your agenda also
 2234 appears on page 4, and that is the consideration of the approval of your minutes
 2235 from your April 9, 2015 Planning Commission meeting. You also have an errata
 2236 sheet that was at your seat this evening and I believe may have been distributed
 2237 to you earlier as well.
 2238
 2239 Mr. Witte - Are there any additions to the errata sheet?
 2240
 2241 Mr. Leabough - If there are no additions, I move that the minutes be
 2242 approved as presented with the notations on the errata sheet.
 2243
 2244 Mr. Branin - Second.
 2245
 2246 Mr. Witte - We have a motion by Mr. Leabough, a second by Mr.
 2247 Branin. All in favor say aye. All opposed say no. The ayes have it; the motion
 2248 passes.
 2249
 2250 Mr. Emerson - Mr. Chairman, I have nothing further for the
 2251 Commission this evening.
 2252
 2253 Mr. Archer - There being nothing further, I move for immediate
 2254 adjournment.

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Mr. Branin -

Second.

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Mr. Witte -

Thank you, sir.

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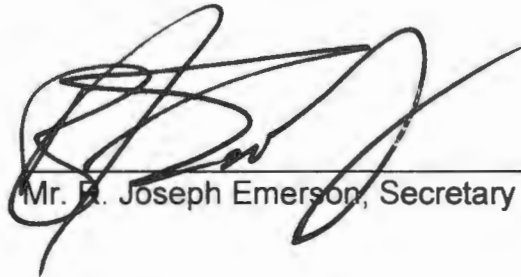
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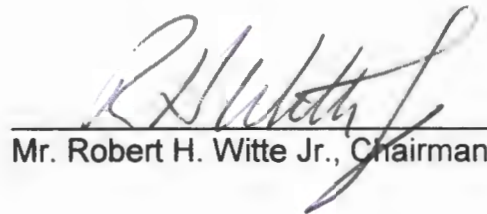
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Mr. R. Joseph Emerson, Secretary



Mr. Robert H. Witte Jr., Chairman