

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico, held in the County Administration Building in the Government
3 Center at Parham and Hungary Springs Roads, beginning at 7:00 p.m. Thursday,
4 November 9 2006. Display Notice having been published in the Richmond
5 Times-Dispatch on October 19, 2006 and October 26, 2006.
6
7

Members Present: Mr. C. W. Archer, C.P.C, Chairperson (Fairfield)
Mr. Tommy Branin, Vice Chairperson (Three Chopt)
Mr. Ernest B. Vanarsdall, C.P.C., (Brookland)
Mrs. Bonnie-Leigh Jones (Tuckahoe)
Mr. E. Ray Jernigan, C.P.C., (Varina)
Mrs. Patricia S. O'Bannon (Tuckahoe)
Board of Supervisors Representative
Mr. Randall R. Silber, Director of Planning, Secretary

Also Present: Mr. Joe Emerson, AICP, Assistant Director of Planning
Ms. Jean Moore – Principal Planner
Mr. Lee Tyson – County Planner
Ms. Rosemary Deemer – County Planner
Mr. Seth Humphreys – County Planner
Ms. Nathalie Croft – County Planner
Mr. Thomas Coleman – County Planner
Mr. Livingston Lewis – County Planner
Mr. Beh Sehl – County Planner

8 **Ms. O'Bannon abstains from voting on all cases unless it is necessary to**
9 **break a tie.**

10
11 Mr. Archer: Let's come to order, if we might. Good evening, everyone.
12 This would be the November 9th meeting for rezoning. With that, I will turn the
13 proceedings over to our Secretary and Director of Planning, Mr. Randall Silber.
14 Mr. Silber, sir.
15

16 Mr. Silber: Thank you, Mr. Chairman. Good evening, everyone. We do
17 have a quorum this evening. We do have five members of the Planning
18 Commission here. We are missing Mrs. O'Bannon. She is out of town and we
19 think she will not be here for the meeting. If we are surprised and she shows up,
20 that would be wonderful. We do have a long agenda tonight. There are many
21 cases; however, we do have a lot of deferrals. We will handle the deferrals and
22 withdrawals first before we get into the regular agenda. Ms. Moore, can you
23 review with us the deferrals, please.
24

25 Ms. Moore: The first is on Page 1 of your agenda in the Fairfield District.
26

27 **C-55C-06 Caroline L. Nadal for First Centrum of Virginia, Inc.:**
28 Request to conditionally rezone from O-1 Office District and C-1 Conservation
29 District to R-6C General Residence District (Conditional), Parcel 783-772-1148,
30 containing 8.7 acres located on the west line of Brook Road (U.S. Route 1) at its
31 intersection with Presbytery Court. The applicant proposes age-restricted multi-
32 family dwellings. The R-6 District allows a minimum lot size of 2,200 square feet
33 per family for multi-family dwellings and a maximum gross density of 19.80 units
34 per acre. The use will be controlled by zoning ordinance regulations and
35 proffered conditions. The Land Use Plan recommends Office and Environmental
36 Protection Area.

37
38 Mr. Archer: Is there anyone present who is opposed to this deferment,
39 C-55C-06, Caroline L. Nadal for First Centrum of Virginia, Incorporated? No
40 opposition. I'd like to move that C-55C-06 be deferred to the December 7, 2006
41 meeting per the applicant's request.

42
43 Mr. Vanarsdall: Second.

44
45 Mr. Archer: Motion by Mr. Archer and seconded by Mr. Vanarsdall. All in
46 favor of the motion say aye. Those opposed say no. The ayes have it; that
47 motion is granted.

48
49 Ms. Moore: On Page 2 of the agenda in the Three Chopt District is Case
50 C-76C-05.

51
52 **C-76C-05 Robert Atack for George M. Urban:** Request to
53 conditionally rezone from A-1, Agricultural District to R-5C, General Residence
54 District (Conditional), Parcels 747-770-3395 and 746-770-9777, containing 11.18
55 acres, located on the west line of Nuckols Road approximately 350 feet north of
56 New Wade Lane and between the south line of Hickory Park Drive and the north
57 line of New Wade Lane. The applicant proposes a residential development of no
58 more than 150 condominium units for sale. The R-5 District allows a density of
59 14.52 units per acre. The use will be controlled by zoning ordinance regulations
60 and proffered conditions. The Land Use Plan recommends Rural Residential,
61 Suburban Residential 2, (2.4 to 3.4 units net density per acre), and
62 Environmental Protection Area.

63
64 Mr. Archer: Okay. Is there anyone present who is opposed to this
65 deferment, C-76C-06, Robert Atack for George M. Urban? No opposition. Mr.
66 Branin.

67
68 Mr. Branin: Mr. Chairman, I'd like to move that C-76C-05 be deferred to
69 the June 14, 2007 meeting per the applicant's request.

70
71 Mrs. Jones: Second.

72

73 Mr. Archer: Motion by Mr. Branin and seconded by Mrs. Jones. All in
74 favor say of the motion say aye. Those opposed say no. The ayes have it and
75 the deferment's granted.

76
77 Ms. Moore: Also on page 2 is C-49C-06.

78
79 **C-49C-06 Caroline L. Nadal for Rockwood, Inc:** Request to
80 conditionally rezone from A-1 Agricultural District to R-2AC One-Family
81 Residence District (Conditional), Parcels 738-771-6301, -4105, and -2400,
82 containing approximately 7.081 acres, located on the east line of Pouncey Tract
83 Road approximately 1,412 feet north of its intersection with Shady Grove Road.
84 The applicant proposes a single-family residential subdivision with a maximum
85 density not to exceed 2.0 units per acre. The R-2A District allows a minimum lot
86 size of 13,500 square feet and a maximum gross density of 3.23 units per acre.
87 The use will be controlled by zoning ordinance regulations and proffered
88 conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4
89 units net density per acre.

90
91 Mr. Archer: Okay. Is there anyone present who is opposed to this
92 deferment, Rockwood, Inc., C-49C-06? No opposition. Mr. Branin again.

93
94 Mr. Branin: Okay. Thank you, Mr. Chairman. Mr. Chairman, I'd like to
95 move that C-49C-06 be deferred to the December 7, 2006 meeting per the
96 applicant's request.

97
98 Mr. Jernigan: Second.

99
100 Mr. Archer: Motion by Mr. Branin and seconded by Mr. Jernigan. All in
101 favor of the motion say aye. Those opposed say no. The ayes have it; that
102 motion is granted.

103
104 Ms. Moore: The next is a request for a Provisional Use Permit P-4-06,
105 Bechtel Corporation. The deferral is requested to the January 11, 2007 PC
106 Meeting.

107
108 **P-4-06 Gloria Freye for Bechtel Corp.:** Request for a Provisional
109 Use Permit under Sections 24-95(a)(3) and 24-122.1 of Chapter 24 of the County
110 Code in order to construct a 149' high telecommunication tower on Parcel 744-
111 771-3182, located on the east line of Shady Grove Road north of Hames Lane.
112 The existing zoning is A-1 Agricultural District. The Land Use Plan recommends
113 Suburban Residential 2, 2.4 to 3.4 units net density per acre.

114
115 Mr. Archer: Okay. Is there anyone present who is opposed to this
116 deferment, P-4-06, Gloria Freye for Bechtel Corporation? Mr. Branin.

117

118 Mr. Branin: Thank you, sir. Now, Mr. Chairman, I'd like to move that P-
119 4-06 be deferred to the January 11, 2007 meeting per the applicant's request.

120

121 Mr. Vanarsdall: Second.

122

123 Mr. Archer: Motion by Mr. Branin and seconded by Mr. Vanarsdall.
124 Those in favor of the motion say aye. Those opposed say no. The ayes have it;
125 that motion carries.

126

127 Ms. Moore: Next is C-57C-06. The deferral is requested to the
128 December 7, 2006 Meeting.

129

130 **C-57C-06 James Theobald for W2005 Realty, LLC.:** Request to
131 conditionally rezone from R-6C General Residence District (Conditional), O-3C
132 Office District (Conditional) and B-2C Business District (Conditional) to RTHC
133 Residential Townhouse District (Conditional) and B-2C Business District
134 (Conditional), Parcel 736-762-2022, containing approximately 41.066 acres (B-
135 2C - 26.889 +/- ac.; RTHC - 14.177 +/- ac.), located at the southwest intersection
136 of West Broad Street (U.S. Route 250) and Lauderdale Drive. The applicant
137 proposes retail, office, and a townhouse development with a maximum density of
138 6.8 units per acre. The maximum density in the RTH District is 9 units per acre.
139 The uses will be controlled by zoning ordinance regulations and proffered
140 conditions. The Land Use Plan recommends Mixed Use and Urban Residential,
141 3.4 to 6.8 units net density per acre. The site is in the West Broad Street Overlay
142 District.

143

144 Mr. Archer: Okay. This is C-57C, right?

145

146 Ms. Moore: Yes sir.

147

148 Mr. Archer: Is anyone present opposed to the deferment of C-57C-06? I
149 see no opposition. Mr. Branin.

150

151 Mr. Branin: Mr. Chairman, isn't that nice that I took care of all of page 2?

152

153 Mr. Archer: It really is.

154

155 Mr. Branin: Mr. Chairman, I'd like to move that C-57C-06 be deferred to
156 the December 7, 2006 meeting per the applicant's request.

157

158 Mrs. Jones: Second.

159

160 Mr. Archer: All right. Motion by Mr. Branin and seconded by Mrs. Jones.
161 All in favor of the motion say aye. Those opposed say no. The ayes have it; that
162 motion carries.

163

164 Ms. Moore: Moving on to page 3 in the Tuckahoe District. This is case
165 C-27C-06.

166
167 **C-27C-06 James Theobald for The Rebkee Company:** Request to
168 conditionally rezone from A-1 Agricultural District and B-3 Business District to
169 RTHC Residential Townhouse District (Conditional), B-2C Business District
170 (Conditional) and C-1C Conservation District (Conditional), Parcel 739-754-7156,
171 containing 21.493 acres (RTHC – 10.445 ac.; B-2C – 10.413 ac.; C-1C – 0.635
172 ac.), located at the southwest intersection of Church and Pump Roads. The
173 applicant proposes retail uses and residential townhouses with a density of no
174 more than sixty-nine (69) units. The use will be controlled by zoning ordinance
175 regulations and proffered conditions. The RTH District allows a maximum of nine
176 (9) units per acre. The Land Use Plan recommends Urban Residential, 3.4 to 6.8
177 units net density per acre, Commercial Concentration, and Open Space /
178 Recreation.

179
180 Mr. Archer: Anyone present who is opposed to the deferment of C-27C-
181 06, The Rebkee Company? No opposition. Mrs. Jones.

182
183 Mrs. Jones: I move that Case C-27C-06, The Rebkee Company, be
184 deferred until the January 11, 2007 meeting per the applicant's request.

185
186 Mr. Vanarsdall: Second.

187
188 Mr. Archer: Motion by Mrs. Jones and seconded by Mr. Vanarsdall. All in
189 favor of the motion say aye. Those opposed say no. The ayes have it; that
190 motion carries.

191
192 Ms. Moore: On page 4 of your agenda in the Varina District, is Case C-
193 36C-06.

194
195 **C-36C-06 Gloria Freye for Waypoint Development, LLC.:** Request to
196 conditionally rezone from R-4 One-Family Residence District, B-1 Business
197 District and M-1 Light Industrial District to R-5AC General Residence District
198 (Conditional), part of Parcel 805-710-1834, containing 13.15 acres, located on
199 the southwest line of Darbytown Road at its intersection with Oregon Avenue.
200 The applicant proposes a zero-lot line single-family subdivision with a maximum
201 of 40 lots. The R-5A District allows a minimum lot size of 5,625 square feet and a
202 maximum gross density of six (6) units per acre. The use will be controlled by
203 zoning ordinance regulations and proffered conditions. The Land Use Plan
204 recommends Multi-Family Residential, 6.8 to 19.8 units net density per acre,
205 Commercial Concentration, and Environmental Protection Area.

206
207 Mr. Archer: Is there opposition to the deferment of C-36C-6, Gloria Freye
208 for Waypoint Development, LLC? I see no opposition. Mr. Jernigan.

209

210 Mr. Jernigan: Mr. Chairman, I move for deferral of case C-36C-06 to
211 January 11, 2007, by request of the applicant.

212
213 Mr. Vanarsdall: Second.

214
215 Mr. Archer: Motion by Mr. Jernigan and seconded by Mr. Vanarsdall. All
216 in favor say aye. Those opposed say no. The ayes have it; the motion is carried.

217
218 Ms. Moore: The last request from the applicant for deferral is on page 4
219 of your agenda, C-51C-06.

220
221 **C-51C-06 Caroline L. Nadal for Collins/Goodman Development,**
222 **LLC:** Request to conditionally rezone from A-1 Agricultural District to B-2C
223 Business District (Conditional), Parcel 814-717-0480 and Part of Parcel 813-717-
224 7951, containing approximately 10.19 acres, located at the south intersection of
225 S. Laburnum and Gay Avenues. The applicant proposes retail uses. The uses
226 will be controlled by proffered conditions and zoning ordinance regulations. The
227 Land Use Plan recommends Office. The site is in the Airport Safety Overlay
228 District.

229
230 Mr. Archer: Okay. Is there opposition to the deferment of C-51C-06,
231 Collins/Goodman Development, LLC? I see no opposition. Mr. Jernigan again.

232
233 Mr. Jernigan: Mr. Chairman, I move for deferral of case C-51C-06 to
234 December 7, 2006, by request of the applicant.

235
236 Mr. Branin: Second.

237
238 Mr. Archer: Motion by Mr. Jernigan and seconded by Mr. Branin. All in
239 favor of the motion say aye. Those opposed say no. The ayes have it; that
240 motion carries.

241
242 Mr. Silber: Any deferrals by the Planning Commission? Seeing none,
243 we'll move on to the request for expedited cases. These are items that are
244 somewhat minor in nature. The staff has reviewed these requests and is
245 recommending approval. The Planning Commissioner from that District is
246 acceptable with the request and there are no known issues that are outstanding
247 and we are not aware of any oppositions, so these were placed on expedited
248 agenda so that it could be heard without hearing. If there is any opposition, they
249 would be pulled off of this agenda and heard in the location of the full agenda. I
250 believe we have one item on expedited agenda tonight.

251
252 Ms. Moore: Yes sir. It's on page 3 of your agenda in the Three Chopt
253 District. It is case C-58C-06.

254

255 **C-58C-06 Sandra Verna for Wilton Development Corp.:** Request to
256 amend Proffer 24 accepted with Rezoning Case C-3C-05 related to the required
257 setback adjacent to Christ Church Episcopal, on Parcels 737-770-7815 and -
258 9618, 738-770-2222, and -4727, located on the west line of Pouncey Tract Road,
259 approximately 1,500 feet south of its intersection with Grey Oaks Park Drive. The
260 existing zoning is R-2AC One-Family Residence District (Conditional). The Land
261 Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per
262 acre.

263

264 Mr. Archer: All right. Do we hear from the applicant?

265

266 Mr. Branin: No sir.

267

268 Mr. Archer: Treated you well there, Mr. Branin.

269

270 Mr. Branin: I'm leaving right after this.

271

272 Mr. Archer: I think we're ready for a motion.

273

274 Mr. Branin: Mr. Chairman, I'd like to move that C-58C-06 proceed to the
275 Board of Supervisors on the expedited agenda.

276

277 Mr. Vanarsdall: Second.

278

279 Mr. Archer: Motion by Mr. Branin and seconded by Mr. Vanarsdall. All in
280 favor of the motion say aye. Those opposed say no. The ayes have it, the
281 motion carries.

282

283 **REASON:** The Planning Commission voted 5-0 to recommend the
284 Board of Supervisors grant the request because the change does not greatly
285 reduce the original intended purpose of the proffers and the proffers will continue
286 to provide a quality development.

287

288 Ms. Moore: That concludes my report, Mr. Secretary.

289

290 Mr. Silber: Thank you.

291

292 Mr. Archer: Thank you, Ms. Moore.

293

294 Mr. Silber: First item on the agenda tonight is in the Fairfield District.
295 This was deferred from the October 12th meeting. This is C-54C-06, Andrew
296 Condlin for Shuler Acquisitions, LLC.

297

298 **Deferred from the October 12, 2006 Meeting**

299 **C-54C-06 Andrew Condlin for Shuler Acquisitions, LLC:** Request to
300 conditionally rezone from R-4 One Family Residence District and B-1 Business

301 District to B-2C Business District (Conditional), Parcels 784-754-6140, 784-754-
302 6324, 784-754-6505, 784-754-8004, 784-754-8014, and 784-754-7628
303 containing approximately 3.08 acres, located at the northeast corner of Brook
304 Road (US Route 1) and Wilkinson Road. The applicant proposes a retail center.
305 The uses will be controlled by zoning ordinance regulations and proffered
306 conditions. The Land Use Plan recommends Commercial Arterial and Suburban
307 Residential 2 (2.4 to 3.4 units net density per acre). A portion of the site lies
308 within the Brook Road Special Strategy Area and in the Enterprise Zone.

309

310 Mr. Archer: Thank you. Is there anyone present who is opposed to this
311 case, C-54C-06, Shuler Acquisitions? Do we have opposition? We'll get to you.

312 Thank you. All right, Mr. Coleman.

313

314 Mr. Coleman: Mr. Chairman, members of the Commission. Since this
315 request was presented last month, I will limit my comments to highlighting
316 selected changes to the proffers and focusing on the primary unresolved issues
317 from the staff report. The applicant submitted revised proffers this week that
318 would not require waiving the time limit. Their revised proffers fully commit to
319 providing sidewalks along Brook and Wilkinson Roads; limit the volume of
320 outdoor speakers; prohibit automotive filling stations, service stations, and hotels
321 or motels; and reduce the maximum number of attached signs from three to two.

322

323 While the proffers provide positive features, there are unresolved issues that
324 were outlined in the staff report. First, due to the close proximity to established
325 neighborhood, uses must be carefully considered, and in proffer #1, subsections
326 G and H, the applicants puts restrictions on restaurants with drive-through
327 windows and take-out restaurants. Staff has consistently recommended
328 prohibiting these uses and continues to recommend against their operation at
329 this location. Staff also recommends prohibiting convenience stores with fuel
330 pumps.

331

332 Also, the Brook Road Enhancement Study recommends using masonry walls
333 where possible as a buffer between commercial and residential uses, and staff
334 supports that recommendation at this location.

335

336 In summary, while this request includes positive aspects, staff does not believe
337 this proposal sufficiently addresses the goals set forth in the Brook Road
338 Enhancement Study. Staff continues to recommend fully prohibiting restaurants
339 with drive-through windows and take-out restaurants. Therefore, as proposed,
340 staff does recommend approval of this application. That concludes my
341 presentation. I'd be happy to answer any questions.

342

343 Mr. Archer: Mr. Coleman, would you just briefly go over the types of
344 restaurants that they recommending against?

345

346 Mr. Coleman: I can read you the text.

347

348 Mr. Archer: Okay, if you would, please.

349

350 Mr. Coleman: "H" would prohibit a take-out restaurant with no interior
351 seating, and "G" would prohibit a restaurant with a drive-through, provided,
352 however any restaurant with a drive-through that is principally used as a coffee
353 shop or ice cream parlor shall not be prohibited hereunder.

354

355 Mr. Archer: Just wanted to run that through a second time so my
356 colleagues will know exactly what that means. All right, thank you. Any questions
357 for Mr. Coleman? I don't have any, but we do need to hear from the applicant
358 and we do have opposition. Good evening, Mr. Condlin.

359

360 Mr. Condlin: Mr. Chairman, members of the Commission. Andy Condlin
361 from Williams Mullen. Thank you. I'm here with Steve Shuler, Jeff Doxsey and
362 Jeff Zachmeens to also assist in any questions that you might have. I also am
363 going to limit my presentation to items that you have questions for and to discuss
364 some of these changes. As Mr. Coleman had pointed out —

365

366 Mr. Archer: Mr. Condlin, did you want to reserve some time?

367

368 Mr. Condlin: I'll reserve five minutes. I'm not going to take more than a
369 few minutes. Really, the two issues deal with the fast food, we have tried to
370 make a compromise with respect to allowing only a coffee shop or the ice cream
371 parlor. I don't consider those, quite frankly, typical fast food. They'll have less of
372 an impact on the surrounding areas than the worry that they have with fast food.
373 So, those are the only drive-thrus that would otherwise be allowed as a
374 restaurant use. Again, we think that's a pretty reasonable compromise. With
375 respect to the convenience stores, it was our intent, with the prohibition against
376 automotive filling stations, that no fuel pumps be allowed on the property. I think
377 that would take care of it, and Mr. Coleman and I were talking earlier. I will be
378 happy to proffer that no fuel pumps will be allowed on the property at all. I did
379 not want to proffer out a convenience store in and of itself because it's not
380 defined in the Code. I don't know how to define it. Maybe if I see, I'll know what
381 it is, but it's basically selling goods that you can go in and buy. I don't know what
382 a convenience store is verses a regular store otherwise. That was the discussion
383 that we had, and I really didn't get much feedback trying to differentiate between
384 a convenience store and any other dry goods store or any other store of that
385 nature. Those are the two comments on the use provisions.

386

387 The other issue that the staff brought up and the only other issue is the masonry
388 wall on the back of the property. The Code requires 25 feet with a reduction of
389 the buffer if you do put in the necessary screening with either a fence or a wall.
390 We would like to stay with the Code with the 25 feet, if necessary, and not have
391 the masonry wall. We do have 70% brick on the exterior of the property. A
392 masonry wall along this area is going to be very expensive. We have proffered a

393 masonry wall along this corner where most of the traffic and the residents are
394 going to be. These residences are not yet constructed and are owned by the
395 same owner that owns this property and he's comfortable with that situation. So,
396 with that, we would ask for an allowance for that. That is the only item, to my
397 knowledge, that doesn't comply with the Brook Road recommendations, the
398 Brook Road Enhancement Study recommendations. We otherwise have
399 complied with every other provision that they've asked for.

400

401 Final two points. I think you'll hear the concern from the neighbors being traffic
402 and access. Certainly, this case had been looked over by the Department of
403 Public Works and Traffic. They're comfortable with the location of our access
404 point and the impact on the traffic. I would defer to them in that point.

405

406 Then finally, the question is rezoning residential to business. If you look at the
407 zoning map as it goes on, this is the area. We don't believe that we're setting a
408 bad precedent. As a matter of fact, we think we're setting a positive precedent
409 with respect to bringing up the standards. Going from a B-1 to a B-2 with
410 conditions is providing for a lot more control by the County and control over the
411 standards. By the time you get done trying to develop anything on this B-1
412 portion, it becomes practically unusable by the time you come up with parking,
413 setbacks, landscaping, storm water drainage. This really makes the property
414 usable to a standard that really brings the entire area up as far as setting the bar
415 for development in the future. We don't think it will have any greater impact,
416 given Wilkinson Road, this really is the natural—sitting behind Wal-Mart—barrier
417 to the rest of the residences that would sit along here. With that, I'll reserve the
418 rest of my time to respond to any questions or comments from the neighbors as
419 you see fit.

420

421 Mr. Archer: Mr. Condlin, on Proffer #10 dealing with outdoor speakers, I
422 can't suggest this to you, but I guess I am. The word, "outside," it probably
423 wouldn't change that proffer very much in terms of its intent, but I think it might
424 make it a better proffer.

425

426 Mr. Condlin: If we took out the word "outside"?

427

428 Mr. Archer: Took out the word "outside," and just said, "no public
429 address system." Would that make sense?

430

431 Mr. Condlin: I guess that makes sense. I don't have a problem with that.
432 The intent is, obviously, that no — they're not going to be loud in that respect.

433

434 Mr. Archer: You could have one inside and point it out the window.

435

436 Mr. Condlin: I guess. This is actually copied and pasted from some other
437 cases. There's no original thought here.

438

439 Mr. Archer: I understand.
440
441 Mr. Condlin: I'll be happy to submit.
442
443 Mr. Archer: I can't take credit for that; Mr. Coleman caught that one. But
444 we share it, anyway.
445
446 Mr. Condlin: We've got a new form now to use from my office. We don't
447 have a problem with that. The intent is, obviously, not to have any speakers or
448 anything that would cause any problems to the neighbors.
449
450 Mr. Archer: The masonry walls, is that something you cannot do?
451
452 Mr. Condlin: Yes, that is definitely a no. With the recommendation for the
453 70% brick on the exterior of the buildings, we think that adds a lot of value. The
454 masonry wall, I think is, I won't say overkill, but with the buffer that goes in here,
455 it's better than, certainly, the alley that was there. We will have the 25-foot
456 transitional buffer that's required here. We think with the limited amount of use
457 here that that is certainly not necessary at this point.
458
459 Mr. Archer: Okay. I mention that because, as you can tell, staff has a big
460 concern about not having that.
461
462 Mr. Condlin: Right.
463
464 Mr. Archer: Some of it having to do with the fact that it's in the
465 enhancement area even though that particular part of it might be off.
466
467 Mr. Condlin: Right. They do reference the Enhancement Study and, as I
468 said, that's the only — of all the recommendations, that's the only one we don't
469 meet. I'm not sure if there's any others. We do provide for the masonry wall
470 around the corner of Wilkinson and we've provided for street trees along Brook
471 Road and sidewalks. We have tried to bring up a lot of the amenities. Street
472 level lighting along Brook Road. Again, we think we're enhancing the overall
473 value in putting up a brick wall. The owner doesn't feel it's necessary. The
474 developer that's going to come in and build the homes doesn't feel it's necessary.
475 We would like to retain it as it is with what the Code allows and requires.
476
477 Mr. Archer: Okay. Well, that's all the questions I have, unless somebody
478 else. Okay. Stand by, Mr. Condlin. Let's see, opposition can come forward
479 please. We'll make you aware of the 10-minute rule so if there's one person who
480 might be the favored spokesperson for the group, or two maybe.
481
482 Mr. Silber: While you're coming forward, let me just remind those
483 tonight that the Planning Commission's policy is that the applicant has 10
484 minutes to present his or her case. They can save some of that time for rebuttal

485 time. Mr. Condlin saved five minutes rebuttal. The opposition on a request
486 likewise has 10 minutes to speak in opposition to request. Ten minutes is
487 collectively, so in this case, you have 10 minutes as a group to present your
488 case. The Planning Commission can extend that if they so desire. Also, if there
489 are Commission members who ask questions of those presenting their case, that
490 would not take away from your 10 minutes.

491

492 Ms. Glass: I don't know if I'm the favorite spokesperson, but I'm going to
493 be the spokesperson. I won't use all the time so the others can have their
494 information brought forward.

495

496 Mr. Archer: Would you state your name?

497

498 Ms. Glass: I'm sorry. Sandra Glass. I live on Seminary Avenue. We
499 are against the rezoning of this property to B-2 and we're opposed to the
500 residential area being rezoned to business. Mr. Condlin said that the main
501 concern of the neighborhood was fast food, but the main concern, after we had
502 our meeting the other night, is the rezoning because we don't know what's going
503 to built on there if it's rezoned or if it isn't rezoned. Nobody has said anything
504 about the fact that this is not in the County's Land Use Plan. It goes against that.
505 The masonry wall that he refers to is something that he said they can't do and
506 that's not something I would take issue with, but I do know that the Board of
507 Supervisors voted and approved this Study. We've had some problems along
508 here based on some of the zoning that's behind the residences now because it's
509 zoned and it's not compatible with residential neighborhoods. We know what
510 those problems are and we've lived through them. Because of the proximity of
511 this business to the 5, 600 homes that are in that area, I think it's going to have a
512 huge impact on us. It's not a right fit for this corner. I understand that it's about
513 money, but other than that, I don't think that the value that it's going to be for the
514 owner—I understand it's important. But we have some other businesses along
515 Brook Road and I've heard it referred to that these B-1 lots can't be effectively
516 used. But we've had three new businesses built there in the last probably couple
517 of years since the Study was approved. We have some other good businesses
518 along there. I know that the same situation exists somewhat in Lakeside and
519 they are not rezoning residential property behind the business lots to build, and
520 they do abut the businesses.

521

522 Basically, this thing about Wilkinson Road being the natural divide, that's the first
523 time I've heard that and I've been living here for 38 years. If Wilkinson Road has
524 become "the natural divide," why was there a 200-foot buffer around Wal-Mart?
525 There's been talk of new housing development to the north of Wilkinson Road,
526 which would be in what they're saying is into the business area that's divided by
527 Wilkinson Road.

528

529 We are opposed to it and hope that you will see fit to recommend denial.

530

531 Mr. Archer: All right. Any questions for Ms. Glass before she takes her
532 seat? All right. Is there anyone else who'd like to speak to this?

533
534 Mr. Vidler: I'm president of the Brook Road Business Association. The
535 Association sent me to mainly say that we do approve of this proposal. Kind of
536 have a little question about the brick wall not being done because Dr. Zuccaro
537 with the animal clinic was made to do the brick wall and his pockets aren't deep
538 either. We feel that's probably a big part of the Enhancement Study. It puts a
539 better barrier between us and the residential. I don't know about the rezoning or
540 that part there. I haven't really looked deep into the rezoning of the residential. I
541 do feel from Wilkinson Road up, it's kind of in touch with Wal-Mart and all that
542 and feel that that's pretty much in the same category and needs to be developed
543 that way. Again, the wall I think might be an issue. The Brook Road Business
544 Association does support the proposal.

545
546 Mr. Silber: Mr. Vidler? Sir, where is the animal clinic?

547
548 Mr. Vidler: It's right down there on the other side of the road from this
549 proposal, down there near Ridge. He had the one animal clinic and he built a
550 new one next to it and he had to put the brick wall up behind it. He's close to the
551 residential there, too. Since that was proposed, we feel that should be done.

552
553 Mr. Archer: So, your group is in support, then, is that what it is? All right.

554
555 Mr. Silber: Except for the brick wall.

556
557 Mr. Archer: All right, is there anyone else who would like to speak?

558
559 Ms. Marshall: Good afternoon.

560
561 Mr. Archer: Good afternoon.

562
563 Ms. Marshall: I'm Dawn Marshall and I live on Seminary Avenue. I agree
564 with Sandra Glass. Our major concern is rezoning of residential. I also live on a
565 corner lot. What I'm afraid of is you set precedents now and you rezone
566 residential now, and they say Wilkinson is a natural divider — like Sandra, that's
567 the first time I've heard that, too. I'm sure that 20 years ago, Parham Road was
568 a natural divider and it keeps progressing south. I live two blocks down and if we
569 rezone this residential part now, what's going to stop another big business from
570 coming in and wanting a corner lot and then my house gets condemned and
571 eminent domain comes in and it gets taken over for a big business. I understand
572 business produces more revenue for the County. I understand that. I'm five
573 years from retirement and I love this area and I don't want to take the chance of
574 the residential part being rezoned and then it keeps moving south and then my
575 house will be gone. You talk about traffic, I know when I go to work in the
576 afternoons, it takes me five minutes to get out to cross Brook Road to go south

577 on Brook Road from Ridge. It's because of the traffic light there at Wilkinson that
578 gets backed up. If you're going to create more business there — and we've got
579 the Brown Distributing being built over there in the Villa. That's going to create
580 even more traffic at that intersection. Hindsight's always 20/20, but these are
581 other things to be considered. There are going to be big trucks coming through.
582 We had the problem with the trucks and other vehicles coming through on
583 Seminary. Today, I saw five vehicles cut through on Ridge and go down
584 Seminary to beat the light at Wilkinson because the traffic was already backed up
585 between the next street and Ridge. People didn't want to wait for the light and
586 people are cutting through the neighborhood. I'm all for development of the front
587 part of the area as business. Why can't we develop that? Do we have to put
588 three businesses in there? Can't one or two profit and go according to the
589 zoning and the planning that's there now and not take the residential? Plus
590 further back is residential. I can't see rezoning it to business and then you're
591 also going to have residential back there, too. To me, it just doesn't make sense.
592

593 Mr. Archer: Ms. Marshall, has your group discussed or mentioned to Mr.
594 Condlin any particular things you'd like to see there that would —
595

596 Ms. Marshall: At that corner?
597

598 Mr. Archer: Yes.
599

600 Ms. Marshall: No, I haven't. At the last meeting, we were there for three
601 hours. We talked there. Yeah. I can't see a bank because 1.2 miles south of
602 that intersection is a bank that's sitting there vacant now. It used to be a Bank of
603 Virginia, I think, or something. There's also strip malls down there with anchor
604 businesses in there — Ukrop's, American Family, CVS — and they've built new
605 little strip malls there and there's 17 vacancies there. They're not getting filled. I
606 can't see where something on that corner lot is going to draw a lot of business
607 when you can't even get these other little strip malls filled that have anchor stores
608 there to attract businesses. We've also got Virginia Center Commons further
609 north that's got businesses there. As far as what to go on that corner lot?
610 Starbucks, something like that. But I can't see a bank going there, because you
611 know how the banking business is. You get a bank there today and it's bought
612 out by a bigger bank later on and then you have a building sitting there and it's
613 empty. Then we'll have an empty building there that will attract criminals and
614 vagrants and stuff to come and occupy that building. I can't see having three
615 businesses there when you might have one or two that could profit from that one
616 area.
617

618 Mr. Archer: Okay. Thank you, ma'am. Anybody else have any
619 questions? Is there anyone else who wishes to speak? I think we've got a few
620 minutes left.
621

622 Mr. Silber: 2-1/2 minutes.

623

624 Mr. Archer: 2-1/2 minutes. That's all. All right. Mr. Condlin? Mr.
625 Condlin, we're done and ready for your rebuttal, sir.

626

627 Mr. Condlin: Thank you. I'll just limit my comments to comments that
628 were made. With respect to the bank down the street, the market comes and
629 goes, obviously, and there's no denying that. That bank is actually owned by an
630 existing bank that's going to be going in there. There is a market. We've had a
631 great deal of interest to locate a bank at this location, as well as some of the
632 other uses that we're allowed to have and that we've provided for. We do think
633 this is an appropriate use along Brook Road. When I said that Wilkinson was the
634 dividing line, I also meant, of course, along Brook Road. The bottom line is,
635 currently the way it's zoned now is if you have business with residential right
636 behind it with simply an alley separating it — we're proposing something, I think,
637 quite a bit different than is typical. I do appreciate the concern about the
638 masonry wall. I will say this, that there are a lot of other amenities that we've
639 tried to provide other than the masonry wall, including the street trees, the street
640 level lighting, the sidewalks — I can go through all of them. We think that's a
641 good offset when you add that to the buffer. We had originally provided for a
642 fence with a smaller buffer. We're obviously willing to continue to do the fence,
643 but we felt like the 25-foot buffer was enough and that a masonry wall wasn't
644 going to serve to do a whole lot otherwise than what could be provided by the
645 buffer. We feel like this is appropriate, given the area. It really is, as one
646 speaker said, an extension of sitting behind Wal-Mart and that with the residential
647 and the business, that this will make a good blend and a good transition from
648 Brook Road to the rest of Wilkinson Road. With that, I'll be happy to answer any
649 questions.

650

651 Mr. Archer: Okay. Any questions for Mr. Condlin? All right. I don't think I
652 have any either. This one's been rather tough and I know there have been
653 several neighborhood meetings. In fact, I attended the last one with Mr. Condlin
654 and some members of staff last week. We have neighborhood associations who
655 are both in favor of and opposed to this. I don't think it would do us any good to
656 defer it again because — when was the first meeting on this, Mr. Condlin, several
657 months ago? Okay. We deferred it once or twice before tonight. I think there
658 are elements of this case that are quite appealing. The neighborhood at large
659 does not — especially those who live near it — particularly share in that. I think
660 that this case, with a little bit more specificity of use and adhering to the staff's
661 recommendations, particularly with regard to the masonry wall, could probably be
662 found or possibly be found to be passable by the Board of Supervisors. Without
663 staff's recommendation and not being able to come in closer than we have
664 tonight to solving the issue the neighborhood has, I don't feel comfortable in
665 passing this along to the Board with a recommendation for approval. Realizing
666 that a lot can be done between now and the time that they meet on it, my motion
667 tonight will be to send it along with a recommendation for denial. It still gives you
668 an opportunity to work on it. So, my motion is for denial.

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Mr. Branin: Second.

Mr. Archer: Motion by Archer and seconded by Mr. Branin to send it to the Board with a recommendation for denial. All in favor of the motion say aye. Those opposed say no. The ayes have it; the motion passes.

REASON: The Planning Commission voted 5-0 to recommend the Board of Supervisors deny the request because it failed to include the proffered conditions deemed necessary to lessen the impact of business zoning on the adjacent residential developments in the area.

Mr. Silber: Next request is C-56C-06. By the way, that case does come up on the Board of Supervisor's agenda for December the 12th at 7 p.m.

C-56C-06 Andrew Condlin for DYS Holding Company, LLC: Request to conditionally rezone from O-2 Office District to B-1C Business District (Conditional), Parcel 787-745-0794, containing 0.37 acre, located at the northwest intersection of Chamberlayne Road (U.S. Route 301) and Wilmer Avenue. The applicant proposes a private school and office. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Office.

Mr. Archer: Good evening, Mr. Lewis.

Mr. Lewis: Good evening. You all should have copies of the revised proffers and exhibits. This is a request to rezone a .37-acre parcel from O-2 to B-1C in order to operate a state-licensed private special education day school, after-school programs, and related offices. The 2010 Land Use Plan recommends office for the site. The applicant operates Dominion Academy on the adjacent property to the west, this building right here. This layout is not oriented to the north. They operate Dominion Academy on the adjacent property to the west and north of the site — this is the subject property right here and the existing building on it — and wish to expand this use into the office building on the subject property.

The staff report recommended deferral of the case pending resolution of several issues related to a site plan, floor plans, state licensure, fencing, and cross access easement. However, the applicant has since addressed these issues by providing additional information and submitting the revised proffers dated November 7, 2006. In an effort to ensure compatibility with surrounding properties and mitigate potential impacts, the major aspects of the applicant's proffers include: Any exterior improvements to the building shall use quality building materials and be of similar style to the adjacent Dominion Academy building; potential B-1 uses of the property have been limited to a list of uses compatible with the surrounding area; the school shall operate under state

715 license; any playground or recreation area shall be secured as required during
716 Plan of Development review; a white vinyl split-rail fence shall be installed and
717 maintained along the Chamberlayne Road property line. Because the proposed
718 school use contains an office component, its activity is mostly indoors, and it is in
719 operation primarily during typical office hours, it may be considered reasonably
720 similar to an office use. Given the proffers submitted by the applicant, the
721 proposed use could be an acceptable alternative to the 2010 Land Use Plan
722 recommendation. Staff supports the request.

723

724 This concludes my presentation. I'll be happy to take any questions.

725

726 Mr. Archer: Thank you, Mr. Lewis. Are there any questions for Mr. Lewis
727 from my colleagues? Not one single question? Okay. Mr. Lewis, I don't have
728 any. I think you and I discussed this and I don't think I need to hear from the
729 applicant. Having to do with the fence. As you all heard, this is to be a split-rail
730 fence. We discussed it because we didn't want anybody to get the idea that the
731 fence had to be one that was institutional in nature. This is a school. Several
732 members of the staff and I went and looked at the existing site and we were all
733 favorably impressed with the way the existing school is run. This is sort of a tight
734 location because of its close proximity to the street and that was the real reason
735 why we wanted to have a fence in there so that in case a toy or a ball or
736 something was thrown in the direction of the street, nobody could just blindly
737 walk toward it or run toward it without being obstructed by the fence. So, other
738 than that, I think they have met the things that we have asked them to do and
739 done so in very good fashion.

740

741 Mr. Silber: Mr. Archer, I do have a question I has going to ask the
742 applicant. If you're not going to have him come forward, maybe I'll ask staff.

743

744 Mr. Archer: I'll have him come forward.

745

746 Mr. Silber: Well, maybe staff can help me with this. On proffer 11,
747 there's a word that I'm not sure how they intend this to be interpreted. It says,
748 "Within 60 days of final un-appealable zoning." What are they referring to as "un-
749 appealable"?

750

751 Mr. Lewis: My understanding from the applicant's representative is that
752 they understand there is a 30-day appeal period after the Board approves or
753 denies. I personally was not familiar with that.

754

755 Mr. Silber: So, are they saying that it would be 90 days after zoning
756 approval?

757

758 Mr. Lewis: I believe the interpretation is 60 days from Board action.

759

760 Mr. Archer: You want to have the applicant come up here?

761
762 Mr. Silber: If he could clarify that, that would be helpful.
763
764 Mr. Archer: Good evening, again, Mr. Condlin.
765
766 Mr. Condlin: Mr. Chairmen, members of the Board. That's an easy
767 question. Wish I had questions like that for the last one. The intent there is that,
768 obviously, if there is not an appeal after the 30-day appeal period, it would be 90
769 days that that would be up. If there is an appeal, which it's very rare, certainly in
770 this instance, it would be after that appeal. Of course, Henrico would always
771 make the right decision and that appeal would be thrown out. So, it would be 60
772 days after that appeal is taken care of at that point. In other words, as soon as
773 the resolution is obtained, whether without an appeal or with an appeal.
774
775 Mr. Jernigan: I've certainly never encountered that before.
776
777 Mr. Silber: Are you anticipating an appeal?
778
779 Mr. Condlin: No. That's actually common language we use in a contract.
780 Usually we have the benefit of the Plan of Development. Here, we're not going
781 to have a plan of development, so we had to find some trigger, which is the
782 approval of the zoning case. Some other jurisdictions have certainly used that
783 language. I'll be happy to take it out. I guess if it's appealed, technically the
784 case is still not, technically can be considered and they certainly couldn't build
785 pursuant to it. I'll be happy to take that word out.
786
787 Mr. Silber: I think with your explanation of it, I'm fine with it. I'll just have
788 to get used to that term, I guess.
789
790 Mr. Condlin: You just don't trust lawyers, is what it is, I think.
791
792 Mr. Jernigan: I've never seen a zoning case appealed.
793
794 Mr. Condlin: There's one currently pending in court. But it's been denied.
795 You're talking about —
796
797 Mr. Jernigan: Appealed.
798
799 Mr. Condlin: We're handling one in Middlesex County that was approved
800 and surrounding property owners have the right.
801
802 Mr. Archer: Are you satisfied with that, Mr. Secretary?
803
804 Mr. Silber: Yes sir.
805

806 Mr. Archer: Okay. Mr. Condlin, when you get the opportunity, use the
807 word again so we'll get more accustomed to it.

808
809 Mr. Silber: Can you squeeze it in to every case that you do?

810
811 Mr. Archer: Okay. Any other discussion on this one? The proffers were
812 on time, I believe. Okay. Well, with that, I will move to recommend approval of C-
813 56C-06 DYS Holding Company, LLC, to send it to the Board with
814 recommendation of approval.

815
816 Mr. Vanarsdall: Second.

817
818 Mr. Archer: Motion by Archer and seconded by Mr. Branin, or was it Mr.
819 Vanarsdall. All right, Mr. Vanarsdall. All in favor of the motion say aye. Those
820 opposed say no. The ayes have it. All right, moving right along.

821
822 **REASON:** The Planning Commission voted 5-0 to recommend the
823 Board of Supervisors grant the request because it is reasonable expansion of an
824 existing private school and the proffered conditions will provide appropriate
825 quality assurances not otherwise available.

826
827 Mr. Silber: Yes. Next on the agenda is on page 3. This is deferred from
828 the October 12, 2006 meeting. This is C-50C-06.

829
830 **Deferred from the October 12, 2006 Meeting.**

831 **C-50C-06 James Theobald for Manor Associates, Ltd.:** Request to
832 conditionally rezone from A-1 Agricultural District and B-3 Business District to R-
833 5AC General Residence District (Conditional), Parcel 740-755-3511 and part of
834 Parcel 739-755-8117, containing 12.428 acres, located at the southeast
835 intersection of Church and Pump Roads. The applicant proposes a maximum of
836 forty (40) semi-detached single-family dwellings. The maximum density in the R-
837 5A District is six (6) units per acre. The use will be controlled by proffered
838 conditions and zoning ordinance regulations. The Land Use Plan recommends
839 Urban Residential (3.4 to 6.8 units net density per acre), and Commercial
840 Concentration.

841
842 Mr. Archer: All right. Thank you, sir. Is there anyone present who is
843 opposed to this case, C-50C-06, Manor Associates, Limited in the Tuckahoe
844 District? I see no opposition. Good evening, ma'am.

845
846 Ms. Croft: Good evening, Mr. Chairman. Thank you. The subject site is
847 located at the southeast intersection of Church and Pump Roads, and the future
848 John Rolfe Parkway would intersect with Pump Road directly across from the
849 site.

850

851 The parcel is currently undeveloped and abuts the Lake Loreine and Laura Lea
852 Estates subdivisions. The applicant is requesting R-5AC General Residence
853 District (Conditional) zoning to develop the property as a gated community of 40
854 semi-detached single-family dwellings. The applicant has submitted proffers that
855 include a site plan and elevation drawings for the dwellings and detached garages.
856

857 The plan indicates dwelling units would be semi-detached and would each have a 2-
858 car detached garage. A masonry wall would be provided along Church and Pump
859 Roads. A 25' landscaped area would be provided along the property's perimeter,
860 and sidewalks would be provided along both sides of internal streets. No more than
861 60 percent of the site would be covered by buildings, driveways, and parking areas.
862

863 The plan and proffers also indicate a wooden stockade fence or wrought-iron style
864 fence 6 feet in height would be located along the existing single-family
865 neighborhoods. Staff notes the fence would be more consistent with the high-
866 quality, low-maintenance characteristics of the overall proposal if more durable and
867 higher-quality materials were used rather than wood.
868

869 Elevation drawings have been proffered as well as a minimum of 2,700 square feet
870 of finished floor area for each dwelling. At least 60 percent of all exteriors would be
871 brick or stone. A sound coefficient rating of 55 would be provided between attached
872 dwellings.
873

874 Revised proffers, which were just distributed, are generally housekeeping issues
875 and would require any BMP to be underground and requires restrictive covenants
876 and a Homeowners' Association.
877

878 The property is located within the Church Road and Pump Road Intersection
879 Special Strategy area, which recommends the area be developed with Urban
880 Residential uses, utilizing common areas, enhanced entryways, sidewalks, and
881 varying rooflines and heights.
882

883 The proposed residential use and approximate density of 3.2 units per acre are
884 consistent with these recommendations. The proposal would not adversely
885 affect the adjoining area if developed as proposed, and the proffered conditions
886 would provide appropriate quality assurances not otherwise available. Therefore,
887 staff supports this request. Staff does note the proposal could be strengthened
888 and enhanced by committing to sufficient usable garage space and higher-quality
889 fencing materials.
890

891 This concludes my presentation. While the proffer revisions were generally
892 housekeeping issues, time limits do need to be waived. I would be happy to try to
893 answer any questions. I believe the applicant is also here to answer questions.
894

895 Mr. Archer: Thank you, Ms. Croft. Are there questions from the
896 Commission? Did you say the time limits did have to be waived on this?

897

898 Ms. Croft: Yes sir.

899

900 Mr. Archer: Thank you. No questions? Will the applicant come forward
901 please? Good evening, Mr. Theobald.

902

903 Mr. Theobald: Good evening, Mr. Chairman, ladies and gentlemen. My
904 name is Jim Theobald. I'm here this evening on behalf of the applicant. Mr.
905 Settlege is here with us. I'm very pleased to introduce you to John Rolfe Square
906 this evening. This particular site you may remember at the corner of Pump and
907 Church Road was a site that was rather unceremoniously timbered a year or two
908 ago. I think we've got a plan here that represents a very terrific and high quality
909 use for this site.

910

911 This is your land use plan and shows the realignments of Pump and Church
912 Road. I believe this may be the first case within this small area plan to come
913 forward. We hope to bring you one for the other side of the road in two months;
914 you deferred that case this evening. On this location, your plan, as Nathalie
915 explained, was looking for a village concept for the whole area with common
916 architectural themes and uniform lighting and signage, very high-end
917 neighborhood type uses. Townhomes, condominiums, etc. Your density range
918 in the plan is actually 3.4 to 6.8 units per acre. As she indicated, this is 3.2, so
919 we're actually below the lower end of the suggested range, which frankly never
920 happens to me. Lots of guidelines came with this plan that we've really tried to
921 adhere to.

922

923 The plan that you see, this is a zero lot line, R-5A development, so these units
924 basically share a common property line. It's a gated community. If you're
925 familiar with a development that's called Oak Park, which is on Huguenot Road
926 just south of the James River, you'll see a similar concept where the two garages
927 basically come together and share this common line. This side of the garage
928 goes with this unit and this side of the garage with this unit. Then in between
929 these garages is a masonry wall on this side of the road. So, you create this
930 façade using your wall and the back of your garages for a constant façade, and
931 we'll show you a picture of that in a moment. So, working around the property,
932 this entrance will align with John Rolfe Parkway. There will be a signal here. You
933 see the paver features. Again, a gated community coming into a roundabout.
934 Private streets within and this wall garage treatment all the way around to here.
935 Along the back, we have a similar treatment. In between the garages over here,
936 we have sort of a wooden box type of a fence treatment, six feet tall. A little
937 softer look. But over on this side is a 25-foot buffer in between the existing
938 property line and the homes in Lake Loreine and the backs of these garages,
939 within which we've committed to do significant plantings.

940

941 This is a detail showing the entrance off of Pump Road and just have a little
942 closer look when you look down on the garages and the wall and the plantings,

943 and how it might look from a view line profile from Pump Road. It's really a
944 unique design.

945
946 You've seen this is staff's presentation. This is the garage. We have designed
947 architectural detail for the garages that provided side, fronts, and rear elevations
948 throughout.

949
950 This product is designed to give sort of an old world European feel. Its
951 streetscapes not unlike St. Albans in the West End. There are but 40 homes that
952 have been proffered on this site. These homes are anticipated to start in the
953 \$775,000 range in today's dollars. They are maintenance-free. It's a
954 maintenance-free community. The proffers have been summarized for you but,
955 again, we've got standards for tree plantings, for deciduous trees and flowering
956 trees at the time of planting. Caliper sizes are of very significant size. Higgins
957 and Gerstenmaier has prepared the landscape plan for us. Again, the fence,
958 there's also a 25-foot buffer on that Laura Lea side of the property. We have
959 reserved the ability to do either a wooden fence with a scalloped top or the
960 wrought iron-appearing aluminum fence with plantings. We're not sure which is
961 more appropriate, really, until we get onto the site and see what the vegetation is
962 like. There's already two solid-board fences that neighbors own on that side and
963 so we want to make sure that each is protected view-wise from the others. So,
964 that will absolutely take care of itself.

965
966 What you have been shown this evening, all has been proffered; you don't have
967 to guess. There's no more than 60% coverage. We will have a homeowners
968 association with proffered conditions. Sixty percent brick or stone or a
969 combination. Each unit has a two-car garage with limited height of streetlights to
970 12 feet to keep it very residential in scale. Again, this is a totally contained
971 community. Any BMP would be underground and we have provided for
972 pedestrian access. Sound suppression measures, limiting the hours of
973 construction. This project we're very proud and pleased to bring to you. We've
974 worked with Mrs. Jones and with Nathalie, and have met with neighbors and
975 have had continuing dialogue with neighbors. We would very much appreciate
976 your favorable recommendation of this. I'd be happy to answer any questions.

977
978 Mr. Archer: Thank you, sir. Are there questions from the Commission?

979
980 Mrs. Jones: I simply wanted to just say again that with all of the features
981 of this community, we did have just the hanging loose end of the fence. I think
982 your comments said on the record have at least gotten that to the point where we
983 know we're going to have a fence that will be as high quality as this community
984 is. What exactly it looks like, Mr. Gerstenmaier, will have to get a little better and
985 I'll have to stop going to Williamsburg and we can get ourselves on the same
986 page there.

987

988 Mr. Theobald: We do intend to provide you with a detail of that it proffered
989 before the Board.
990

991 Mrs. Jones: Right. I know. I do thank you for that. Are there any other
992 questions?
993

994 Mr. Archer: I think we're done, Mrs. Jones.
995

996 Mrs. Jones: Well, I want to thank you for your presentation. I thought it
997 was important to show the Commission the kind of community this was. This is
998 our first foray into the area which comes under the Pump and Church Road
999 Special Strategy Area. I think it's important that a tone be set. I think it's
1000 important that the quality be secure. I'm pleased with the community that you've
1001 envisioned here. There has been some history to this parcel. Fortunately or
1002 unfortunately, I wasn't involved in that, but I know that this has been well
1003 received by neighbors and I'm happy to see that, as evidenced by the fact that
1004 there is no opposition here tonight. I thank you for working with all of us to make
1005 this happen. I do hope that we will be able to see this set the tone for this
1006 intersection. It has a lot of merit and I hope it's very successful for you and your
1007 clients. With this, I certainly would like to recommend that case C-50C-06,
1008 Manor Associates, Ltd., be recommended for approval to the Board of
1009 Supervisors. I need to waive the time limits; should I do that first? I'm sorry.
1010

1011 Mr. Archer: Do whichever way you want to do it.
1012

1013 Mrs. Jones: I would like to move approval of this case.
1014

1015 Mr. Archer: All right.
1016

1017 Mr. Jernigan: Second.
1018

1019 Mr. Archer: Motion by Mrs. Jones and seconded by Mr. Jernigan to
1020 approve C-50C-06 and recommend it to the Board. All in favor say aye. Those
1021 opposed say no. The ayes have it. Then if we can have a motion on the time
1022 limits.
1023

1024 Mrs. Jones: While I do not like to waive time limits, in this case it could
1025 not be avoided. I would like to waive the time limits for this case, C-50C-06.
1026

1027 Mr. Jernigan: Second.
1028

1029 Mr. Archer: Motion by Mrs. Jones and seconded by Mr. Jernigan. All in
1030 favor of the motion say aye. Those opposed say no. The ayes have it. Thank
1031 you, Mr. Theobald.
1032

1033 **REASON:** The Planning Commission voted 5-0 to recommend the
1034 Board of Supervisors **grant** the request because it reflects the Land Use Plan
1035 and future use and zoning of the area, and the proffered conditions would
1036 provide for a higher quality of development than would otherwise be possible.
1037

1038 Mr. Silber: The next request is on page 4. This was a case that was
1039 deferred from your October 12th meeting. It's C-45C-06.
1040

1041 **Deferred from the October 12, 2006 Meeting.**

1042 **C-45C-06 Caroline L. Nadal for Raj Jain:** Request to amend proffered
1043 conditions accepted with Rezoning Case C-10C-89, on part of Parcel 818-717-
1044 5830, containing 3.071 acres, located between the north line of Audubon Drive
1045 and the southern terminus of International Trade Court. The applicant proposes
1046 to amend Proffer 6 to include hotels in the list of permitted uses and include
1047 additional proffers related to hotel uses. The applicant proposes an extended-
1048 stay hotel. The existing zoning is M-1C Light Industrial District (Conditional). The
1049 Land Use Plan recommends Planned Industry. The site is in the Airport Safety
1050 Overlay District and Enterprise Zone.
1051

1052 Mr. Archer: All right. Is there anyone present who is opposed to this
1053 case, C-45C-06? I see no opposition. Ms. Croft?
1054

1055 Ms. Croft: Thank you, Mr. Chairman. The applicant is proposing to
1056 amend proffer 6 accepted with zoning case C-10C-89, in order to permit hotel
1057 uses on a portion of the original site subject to that rezoning case. New proffers
1058 have also been added and are being distributed to you tonight.
1059

1060 The original case rezoned about 18 acres from A-1 Agricultural to M-1C Light
1061 Industrial to permit industrial uses. The undeveloped site is located in the
1062 International Business Park. Industrial uses have been developed to the west
1063 and the north, and additional industrially zoned property is to the east. The site is
1064 governed by proffers accepted with rezoning case C-10C-89, which permitted the
1065 development of light industrial uses. Allowed uses were only those first permitted
1066 in the M-1 District and several other B-3 uses; however, hotel uses were not
1067 among those permitted.
1068

1069 The applicant is proposing to develop the property with an extended stay hotel.
1070 The revised conceptual plan and submitted proffers include a minimum setback
1071 of 85 feet from the northern property line for any hotel use in excess of 50 feet in
1072 height; buffers along the property's perimeter; no access from International Trade
1073 Court; masonry surrounds with opaque gates for trash receptacles; and a Phase
1074 I Archeological study would be conducted as recommended by the Recreation
1075 and Parks Department.
1076

1077 Proffered elevations include exterior materials of brick or EFIS, a hipped roof with
1078 dimensional shingles, and a maximum building height of 65 feet. An entry sign

1079 detail has also been proffered. The sign would not be more than 8 feet in height
1080 and would have a brick base. Minor changes in proffered wording are needed. In
1081 Proffer 11, the words, "in height," should be added to clarify the indicated
1082 measurement, and Proffer 12 should also be clarified to remove the reference to
1083 "retail buildings and retail property."
1084

1085 The 2010 Land Use Plan recommends planned industry for the site, which is also
1086 designated a prime economic development site for industrial uses. This
1087 designation refers to sites that should be preserved for industrial uses and
1088 prevented from use by other types of developments. The proposed hotel use is
1089 not consistent with the Land Use Plan recommendation or the Prime Economic
1090 Development designation and could preclude further industrial development or
1091 expansion of existing industrial uses surrounding the site. However, such a use
1092 may be acceptable if it provides support and enhancement to the surrounding
1093 industrial development and if it is provided in a high-quality and coordinated
1094 manner.
1095

1096 The property is also located within the Enterprise Zone. One of the specific goals
1097 of the Zone is to enhance the appearance of the corridor to potential customers,
1098 businesses, and residents. To enhance the appearance of this proposal as
1099 recommended, the applicant could consider increasing articulation along the
1100 façade and rooflines by incorporating bump-outs, dormers, variations in heights
1101 and materials. Lower maintenance and higher quality materials such as brick
1102 could be considered for the primary façade material.
1103

1104 The applicant has submitted revised proffers just prior to this meeting with four
1105 dormers and a partial brick façade, which are not shown on the elevations, as I'm
1106 aware. However, given the time these proffers were received, staff has not really
1107 had much time to review them. We do note that previous comments on Proffers
1108 11 and 12, as described, have not been addressed.
1109

1110 Staff recognizes the importance of quality development on this site, based on its
1111 location and designations, and feels the proposal could be improved to better
1112 reflect the quality desired for the property if a deviation from the Land Use Plan is
1113 warranted. The time limits do need to be waived.
1114

1115 That concludes my presentation. I'd be happy to try to answer questions. The
1116 applicant is also here tonight.
1117

1118 Mr. Archer: All right, Ms. Croft, thank you. Are there questions from the
1119 Commission for Ms. Croft?
1120

1121 Mr. Jernigan: Nathalie, prior to the meeting, Ms. Nadal did give you the
1122 elevations and it shows on there where the additional brick would be on the
1123 bump-outs.
1124

1125 Ms. Croft: Yes sir. Elevations were e-mailed to me either yesterday
1126 evening or this morning, which show hatching. Let me see if I can pull that up for
1127 you. I'm not sure we have that one. Can we put it up on the screen, the one
1128 they just gave us? Here we go. The original one was received this morning. I
1129 believe additional ones have been received tonight.
1130

1131 Mr. Jernigan: So, we have additional brick on the bump-outs and through
1132 the center court, through the apex of the front of the building.
1133

1134 Mr. Silber: Mr. Jernigan, the elevations that were just on the screen are
1135 not the ones the Commission's considering. What's been given to us tonight is
1136 what —
1137

1138 Mr. Jernigan: Mr. Secretary, this was finally cleared up this evening. We
1139 had been discussing this for a few days, but the applicant is willing to put the
1140 brick as shown in the diagonal areas and along the front of the building. The roof
1141 was changed to dimensional shingles and not less than four dormers would be
1142 on the front façade, on the front portion of the roof.
1143

1144 Mr. Silber: So, the elevation that they've given us tonight —
1145

1146 Mr. Jernigan: They will have to have elevations changed and have those
1147 ready for the Board of Supervisors before that case goes to that.
1148

1149 Mr. Silber: Has the County attorney seen these proffers?
1150

1151 Ms. Croft: No sir, he has not.
1152

1153 Mr. Silber: The reference is still in here to the retail use?
1154

1155 Ms. Croft: Yes sir. Proffers 11 and 12 in the packets that should have
1156 just been delivered to you.
1157

1158 Mr. Silber: Is that just an oversight or is that —
1159

1160 Ms. Croft: It was mentioned in the staff report and to the applicant;
1161 however, it has not yet been addressed.
1162

1163 Mr. Silber: Okay. I guess my concern, Mr. Jernigan, it sounds like
1164 you're working on this case and it's come a long way and you're satisfied with
1165 some of the major aspects, it's just when proffers are coming in this late — I
1166 haven't had a chance to see these. These are new proffers from yesterday, I
1167 guess.
1168

1169 Ms. Croft: These proffers were received tonight.
1170

1171 Mr. Jernigan: This evening.
1172
1173 Mr. Silber: It still has reference to retail buildings in here.
1174
1175 Ms. Croft: Number 12, I believe, has that one.
1176
1177 Mr. Jernigan: Number 12 on the handout?
1178
1179 Ms. Croft: Yes sir. Under "Trash Receptacle" yes. It notes they will be
1180 compatible with architectural design of retail buildings.
1181
1182 Mr. Jernigan: Okay.
1183
1184 Mr. Silber: Okay. Thank you.
1185
1186 Mr. Jernigan: I don't know about this. How can we change that, Mr.
1187 Silber?
1188
1189 Mr. Silber: Well, I think they can change it —
1190
1191 *[People talking off-mike.]*
1192
1193 Mr. Silber: We have the file here so it can be addressed here in the file.
1194
1195 Mr. Jernigan: Mr. Silber, I'm satisfied with what we have right now, if we
1196 can clear this up. As I told them, they do have to have architectural drawings
1197 before they send it to the Board. This is what we discussed about a week and a
1198 half ago. We just got it to the point that it is what it is. I don't have any more
1199 questions for Ms. Croft.
1200
1201 Mr. Archer: We don't need to hear from the applicant?
1202
1203 Mr. Jernigan: Yes sir, please.
1204
1205 Mr. Archer: Okay. Will you come forward, please?
1206
1207 Ms. Nadal: Good evening, Mr. Chairman, Commissioners. My name is
1208 Caroline Nadal. I'm with Hirschler Fleischer and I'm here on behalf of Raj and
1209 Akil Jain. They are with Landmark Hotel Groups and they're here with us tonight.
1210 I do want to point out that there were some last-minute decisions made with
1211 respect to relatively recent requests and the developer needed to make some
1212 decisions with respect to economics. That said, I would like to just give you a
1213 quick overview of this and to point out to you why this is an appropriate use and a
1214 desired use for the area.
1215

1216 As Ms. Croft mentioned, this is in an industrial park, the International Business
1217 Park. It's actually sat vacant since it was zoned in '89. I do want to point out a
1218 couple of things about the surrounding property. These parcels are located
1219 within the industrial park. While it is the Land Use Plan to encourage industrial
1220 development in this area, there's not a whole lot of it going on. I think you all
1221 probably know that the J. W. Fergusson plant shut down in September. This is a
1222 Wella-owned property that is not operational. Alfa-Laval is here and they are
1223 operational, and this is the Frito Lay distribution plant. EMR is a small parts shop
1224 that is located here and they are operational. My point being that out of five
1225 properties here with structures on them, there are only three that are operational.
1226 There's not been a whole lot of demand out there for industrial use.

1227
1228 This is located in an Economic Development Area in an Enterprise Zone, so a
1229 high quality hotel is certainly an appropriate use for the reason that there is not a
1230 great demand for industrial use, but also there's so much commercial
1231 development going on in this area. As you all know, we have a bunch of hotels
1232 up towards the airport, and then the shops at White Oak are coming in as well.

1233
1234 We have given, albeit some of them at that last minute, proffers to ensure that
1235 we're going to have a very high quality development. I'll show you a picture in
1236 just a couple minutes of some of the hotels in the area. I think that with the type
1237 of hotel and the architecture that we're giving here, this hotel, which is proposed
1238 to be a Candlewood Suites, it's an extended stay hotel, is going to be of much
1239 higher quality, significant higher quality than the hotels that are already located
1240 points of a mile down the road.

1241
1242 Some of these things Ms. Croft has gone through; I won't go through them again.
1243 We are, as requested, doing the dimensional shingles on the roof, which I think
1244 will enhance the appearance of the roof, as well as making sure that it is hipped
1245 all the way around. We will place four dormers with windows to enhance the
1246 appearance of the roof. We've also recently agreed to plant our buffers to a
1247 transitional buffer ten. We're going to also put brick around the exterior of the
1248 sign to enhance the appearance of that. We've agreed to do a Phase 1
1249 archeological study. Also, we've agreed to make sure we screen all air
1250 conditioning, and especially make sure that the exterior grills for the interior air
1251 conditioning units servicing the room blend in and complement the design and
1252 the color of the hotel.

1253
1254 One of the things I do want to note in this is we have limited access to the
1255 International Trade Court, to Audubon Drive. The reason is that was based on a
1256 specific request of the adjacent property owner, Mr. Overton with EMR. We
1257 worked with EMR, the property owner, and I've spoken with the property over
1258 here for the J. W. Fergusson plant. We have added a number of proffers to give
1259 them assurances that we are not going to diminish their operations. We have
1260 received the support of both of those adjacent landowners. So, we're not facing
1261 any opposition from any adjacent landowner.

1262

1263 I've got clearer pictures for you that we submitted tonight just to show you where
1264 the brick is going to be. The dormers will be placed up here with windows. So,
1265 they'll be two and two with a significant amount of brick. This is the sign with
1266 brick around the base. Just a couple of pictures of the interior to show you that
1267 it's going to be really a high quality hotel. An extended-stay that will have a
1268 kitchen area. They're proposing about 114 units.

1269

1270 Let me just point out one other thing that I mentioned before and that is that the
1271 surrounding hotels really aren't going to — the quality that we're going to give on
1272 this piece of property is going to far surpass the quality that you already have in
1273 the area. This motel is probably the lowest in the price points of the closest
1274 hotels. There's some brick incorporation, but there's also a good bit of vinyl.
1275 This is the Wingate and it's all EIFS with some stone around the base. Then
1276 finally, this is the Homewood Suites, an extended stay, and you can see by
1277 looking at this that there's considerable EIFS. No brick in the Wingate and the
1278 Homewood Suites. So, I think that we're really enhancing the appearance of this
1279 building and going above and beyond what's in the existing area.

1280

1281 With that, I ask that you send this to the Board of Supervisors with a
1282 recommendation of approval. I also ask that you waive the time limits on the
1283 proffers. Thank you.

1284

1285 Mr. Archer: Thank you, Ms. Nadal. Are there questions?

1286

1287 Mr. Vanarsdall: Under the windows, is that the air conditioning?

1288

1289 Ms. Nadal: Those are the vents. Let me flip back up to those pictures.
1290 Yeah, those are air conditioner vents there. If you look at the other hotels, they
1291 all have venting that they need to have for their interior air conditioners.

1292

1293 Mr. Jernigan: I believe in our meeting the other day, wasn't there some
1294 change or redesign in that to where they didn't stick out as far. What was said in
1295 the meeting?

1296

1297 Ms. Nadal: Well, in the meeting the other day, we talked about insuring
1298 that they are maintained internally. I think what you're seeing there are the grill
1299 vents. They are maintained internally. We have proffered that they will be.
1300 That's my recollection from the meeting. I think there was a concern at the
1301 meeting that that proffer hadn't been included, so we included it.

1302

1303 Mr. Jernigan: Okay. I'll say one thing. The other hotels that were there,
1304 that property was zoned in 1989. So, with our constant trying to upgrade the way
1305 we are, that's the reason that we require a little more today. I did check on that
1306 because when you mentioned that to me, I thought I'd do some background work
1307 and looking. It was 1989 that case came through. So, it's been 17 years.

1308
1309 Ms. Nadal: Some of those hotels are relatively new in the last four or
1310 five years, but they were zoned —
1311
1312 Mr. Jernigan: But the zoning case, it was approved in 1989. They were
1313 built at a later point, but the case actually came through in '89. Other than
1314 getting proffer #11 and 12 straight.
1315
1316 Ms. Nadal: Yeah, we'll straighten those out. Not a problem.
1317
1318 Mr. Jernigan: Just have them straight before they go to the Board. I'm all
1319 right, Mr. Chairman.
1320
1321 Mr. Archer: All right. Ready for a motion.
1322
1323 Mr. Jernigan: I'd like to waive the time limits on case C-45C-06, Raj Jain.
1324
1325 Mr. Vanarsdall: Second.
1326
1327 Mr. Archer: Motion by Mr. Jernigan and seconded by Mr. Vanarsdall to
1328 waive the time limits. All in favor say aye. Those opposed say no. The ayes have
1329 it.
1330
1331 Mr. Jernigan: With that, Mr. Chairman, I will move for approval of C-45C-
1332 06, Raj Jain, to send to the Board of Supervisors for their approval.
1333
1334 Mr. Vanarsdall: Second.
1335
1336 Mr. Archer: Motion by Mr. Jernigan and seconded by Mr. Vanarsdall. All
1337 in favor of the motion say aye. Those opposed say no. The ayes have it, the
1338 motion carries.
1339
1340 **REASON:** The Planning Commission voted 5-0 to recommend the
1341 Board of Supervisors **grant** the request because it was determined to be
1342 reasonable and it is not expected to adversely impact surrounding land uses in
1343 the area.
1344
1345 Mr. Silber: This request on page 4 of your agenda is actually a
1346 companion case. The two cases that I would like to call together, C-60C-06 and
1347 C-63C-06. Both of these are in the Varina District.
1348
1349 **C-60C-06 Andrew Condlin for Summit Investments, LLC:** Request
1350 to conditionally rezone from A-1 Agricultural District and R-3 One Family
1351 Residence District to B-3C Business District (Conditional), part of Parcel 816-
1352 712-7520, containing 3.61 acres, located at the northeast intersection of S.
1353 Laburnum Avenue and Eubank Road. The applicant proposes hotel and retail

1354 uses. The uses will be controlled by zoning ordinance regulations and proffered
1355 conditions. The Land Use Plan recommends Office. The site is in the Airport
1356 Safety Overlay District. A portion of the site is in the Microwave Path Buffer.

1357

1358 **C-63C-06 Andrew Condlin for Summit Investments, LLC:** Request
1359 to conditionally rezone from A-1 Agricultural District and R-3 One Family
1360 Residence District to B-3C Business District (Conditional), Parcels 816-711-8151,
1361 817-711-0454 and -0712, 817-710-0397, and part of Parcel 816-712-7520
1362 containing 7.85 acres, located at the southeast intersection of S. Laburnum
1363 Avenue and Eubank Road. The applicant proposes a hotel and retail uses. The
1364 uses will be controlled by zoning ordinance regulations and proffered conditions.
1365 The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net
1366 density per acre, and Office. The site is in the Airport Safety Overlay District. A
1367 portion of the site is in the Microwave Path Buffer.

1368

1369 Mr. Archer: All right. Thank you, Mr. Secretary. Is there anyone present
1370 who is opposed to either of these cases, C-60C-06 Andrew Condlin for Summit
1371 Investments, and C-63C-06? We do have opposition, one, two. We'll get to you.
1372 Thank you so much. All right.

1373

1374 Mr. Tyson: Thank you Mr. Chairman, members of the Commission, Ms.
1375 O'Bannon, Mr. Secretary. The applicant is proposing to rezone 11.46 acres from
1376 A-1, Agricultural and R-3, One Family Residence to permit development of
1377 unspecified retail uses on the east line of Laburnum Avenue, at its intersection
1378 with Eubank Road. The applicant originally intended to rezone the entire site B-
1379 3C, Business (Conditional), but has amended the application to rezone a portion
1380 of the property, nearest existing residential uses in the Robinwood Subdivision,
1381 B-2C, Business (Conditional)

1382

1383 The 2010 Land Use Plan recommends Office and SR-2, suburban residential
1384 land uses for the parcel. The proposed retail uses are not consistent with
1385 recommendations of the Plan.

1386

1387 The subject properties are currently vacant and wooded. They are bisected by
1388 Eubank Road, which is a signalized intersection at Laburnum Avenue. Robin
1389 Road forms the eastern boundary of the site north of Eubank Road. It's
1390 unimproved south of Eubank and would have to be vacated by the Board of
1391 Supervisors. Nanny Road, which is parallel to Eubank Road is also unimproved
1392 and would have to be vacated. The applicant is encouraged to begin this
1393 process now, so that both processes are running on parallel tracks.

1394

1395 In an effort to mitigate potential impacts to the adjacent uses, the applicant has
1396 proffered the following: The applicant originally intended to construct an
1397 extended-stay hotel on the property; however, the application has been amended
1398 to prohibit such a use. The applicant has also proffered that a number of
1399 potentially incompatible uses would also be prohibited. Light fixtures would be a
1400 maximum of 25 feet in height on the B-3 portion of the site, and 20 feet in height

1401 on the B-2 portion of the site. Hours of operation for any uses would be as set
1402 forth in the B-2 district (6:00 a.m. to 12:00 a.m.) The applicant could apply for a
1403 PUP to permit extended hours. A unified sign package would be developed for
1404 the project. Any ground-mounted signs would be 10 feet in height and externally
1405 illuminated.

1406
1407 The applicant submitted this conceptual site plan, but it has not been proffered.
1408 A landscaped buffer 50' in width, along with a 6-foot white vinyl fence, has been
1409 proffered along the property line shared with the homes along the eastern
1410 boundary of the site, south of Eubank Road here. A 25-foot buffer is required by
1411 Code along the eastern boundary north of Eubank Road, and, if this case moves
1412 forward, staff recommends the applicant plant this to a transitional buffer 35
1413 standard to offer increased protection to the Robinwood community. I believe
1414 actually the proffered conditions, which were submitted just as the meeting was
1415 beginning, have actually taken that into account and now do proffer that
1416 standard, that transitional buffer 35 standard.

1417
1418 The applicant has proffered that any drive-thru uses would only be located on the
1419 Laburnum Avenue side of the site and not in the B-2 portions of the site, shown
1420 here. This conceptual plan again has not been proffered, but they are showing
1421 this portion of the site for a BMP or Best Management Practice.

1422
1423 A community meeting was held by the applicant in August of 2006; however,
1424 neither staff nor the Planning Commissioner was able to attend.

1425
1426 As was pointed out in the staff report, neither the proposed use nor the requested
1427 zoning are supported by the Land Use Plan, and no perspective tenants have
1428 been positively identified at this time. The proposed uses represent an
1429 encroachment of commercial uses into the Robinwood subdivision and staff does
1430 not support the speculative request at this time. Should the PC choose to
1431 consider the application, staff would recommend deferral of the case pending a
1432 community meeting that can be attended by both staff and the Planning
1433 Commissioner, and would also recommend that the applicant continue the
1434 vacation process for Nanny and Robin Roads. The proffers submitted by the
1435 applicant would require a waiver of the time limits, if you choose to consider
1436 them.

1437
1438 That concludes my presentation. I'd be happy to answer any questions. The
1439 applicant's representative is here tonight and they'd be able to answer other
1440 questions for you.

1441
1442 Mr. Archer: Thank you, Mr. Tyson. We do have opposition. Are there
1443 questions for Mr. Tyson from the Commission?

1444
1445 Mr. Jernigan: I would like to hear from the applicant.

1446

1447 Mr. Archer: Good evening, again, Mr. Condlin.
1448

1449 Mr. Condlin: Mr. Chairman, members of the Commission. I've got Mike
1450 Carol with me on behalf of Summit Investments. Bringing this case forward, when
1451 we first came in, looking at all the properties, I was, quite frankly, surprised to find
1452 that the Land Use Plan does call for office, particularly when you look at the
1453 surrounding zoning of being B-3, M-1 and 2C, with a lot of industrial and heavy
1454 commercial uses that go along with what you'd expect for B-3 and M-1 uses
1455 around it. It is surrounded by these heavy commercial zoning and uses. Quite
1456 frankly, we think it's consistent with the type of traffic that comes along Laburnum
1457 Road and Eubank and the traffic that it carries.
1458

1459 We did have a neighborhood meeting and we have been keeping in touch with
1460 the neighbors. We actually notified every single neighbor within this quadrant. As
1461 you can, the neighborhood is surrounded by M-1 on both sides throughout the
1462 area. In that meeting, we feel like as we talked about the potential uses, we
1463 talked about the property — this is a paper road, Robins Road here being a
1464 paper road, and Nanny Road also being a paper road to this point. The question
1465 became for the neighbors, "What do you envision and what would you like to see
1466 backing up to your homes?" Unequivocally, in our opinion, the answer came
1467 back, "Not residential." [Unintelligible] no townhouses or other attached
1468 products, and not even single-family. I can't say I was necessarily surprised by
1469 that, but the answer came back, "We would rather have a business type use with
1470 a larger buffer than having the residents and the traffic and the issues that come
1471 with that." The hotel was a concern at that time. Many of the neighbors, when
1472 the staff came out and thought that was an inappropriate use as well, that
1473 combined with the neighbors, even though we had a deal for someone to come
1474 onsite with a hotel, we proffered that out based on the requests.
1475

1476 With that, we came forward with our plan that we show on the Concept Plan. It
1477 has since been revised a little bit. Again, this is Robin Road, a paper road
1478 extended with Nancy Road showing over here, providing for a 50-foot buffer
1479 along here. With the number of typical conditions, I'll be happy to go through
1480 those, if you feel it necessary. But again, it's very typical conditions what you'd
1481 think for commercial uses next to the residential uses.
1482

1483 Unfortunately, when the staff report came out, the recommendation was that
1484 consistent with the Land Use Plan calling for office. Since the time of the staff
1485 report coming out, we've been working with staff to try to lessen the impact on a
1486 business use, if it's deemed appropriate by the Planning Commission and,
1487 ultimately, the Board of Supervisor. I typically try to avoid providing for last-
1488 minute proffers, but a few proffers, it's really four changes, two of which came
1489 from the staff and two came from a neighborhood call we received just the other
1490 day asking for some of the changes. That was, as Mr. Tyson pointed out,
1491 providing for a 35-foot planting, equivalent of a 35-foot planting in this 25-foot
1492 area. That's the first provision that we have provided for. One of the neighbors

1493 was concerned about outdoor speakers. That may or may not be similar to the
1494 case we just had. I did use the exact same language that I'd used before
1495 regarding outside speaker systems, but again, using a 65-decible level for that to
1496 help alleviate any concerns that they had with respect to the uses. Of course, as
1497 Mr. Tyson pointed out, no B-2 can have a drive-thru.
1498

1499 There was a concern about having employment services, agencies, by the
1500 neighbors, so we went ahead and proffered that out. That's not a use we're
1501 looking for, that was just a concern based on some of the information they had.
1502 Number 13 regarding HVAC screening, that we intended, it just got overlooked
1503 by everyone until the last minute.
1504

1505 With that, I think that this case is appropriate given the surrounding uses, given
1506 the surrounding zoning, the surrounding road network. We have proffered out a
1507 substantial number of uses, but providing for B-2, B-2 hours throughout the entire
1508 site, providing for a number of limitations and conditions including the types of
1509 material and elevations that would otherwise go on the property.
1510

1511 With that, I would ask for your recommendation. I'll be happy to answer any
1512 questions. I have Mr. Carol here, too, if you have any questions for him.
1513

1514 Mr. Archer: Thank you, Mr. Condlin. Are there questions for Mr. Condlin
1515 from the Commission?
1516

1517 Mr. Jernigan: Mr. Condlin, how many people showed up at the
1518 neighborhood meeting?
1519

1520 Mr. Condlin: I think we counted a little over 30 folks there. Some folks
1521 couldn't make it, but we've been in communication with a lot more folks that that
1522 and we've been sending out notices as we went along.
1523

1524 Mr. Jernigan: Unfortunately, I couldn't make it that night. That was my
1525 anniversary. I do like to protect and serve, but I need to protect myself, also, so.
1526 Rather than reschedule the meeting, Mr. Condlin did carry through. So, there
1527 was roughly 30 people and most of them felt that they would rather have a retail
1528 area rather than residential.
1529

1530 Mr. Condlin: There was a few folks that didn't want anything to occur on
1531 the property, so I don't want to say it was a blanket reaction by all the neighbors.
1532

1533 Mr. Jernigan: Right.
1534

1535 Mr. Condlin: I know there were a couple ladies that attended that live right
1536 here in this area. They were adamant about saying that they didn't want to have
1537 any residential use behind them. As you can see with this layout, unfortunately,
1538 the way that this paper road sits, even if it gets vacated, there are some power

1539 lines that run along there that we're not going to be able to move. We've been
1540 checking with Dominion Power. They're going to remain there. So, we really
1541 can't put any buildings underneath there anyway. That really divides the property
1542 so we've got a smaller use located right there, a small restaurant use, again,
1543 without a drive-thru.

1544

1545 Mr. Jernigan: Also, we can't put a strip shop on this because it has the
1546 constraints of a sewer easement.

1547

1548 Mr. Condlin: Right. There's a lot going on in the paper road other than
1549 just being a paper road, between the power lines and some other public
1550 easements that run down there. So, the depth. Again, we get into the depth of
1551 what's allowed here and there really isn't room to — since you can't put anything
1552 beyond this line to fit the parking in front of it. If you put something back here, it
1553 would just be too deep. You wouldn't get the visibility that you're looking for
1554 otherwise.

1555

1556 Mrs. Jones: May I ask a question? Can you give me just some general
1557 ideas of the kinds of users you envision here? I see a whole list of what can't be
1558 here, but just tell me how you see this.

1559

1560 Mr. Condlin: You can see this has been set up as kind of a pad site. This
1561 is really set up for a bank use here, and this would be a convenience store with
1562 gas pumps—that is permitted, but we haven't proffered that out—at the corner of
1563 Eubank and Laburnum. Again, we're showing a couple pad sites for restaurants.
1564 It's really more of the interest that we've been able to attain for single users from
1565 that standpoint. We also have for an auto service station. Of course, we've got a
1566 number of car dealers across the way. Mr. Carol has talked to a number of them
1567 as well and they like the idea of having a restaurant right there, but also with
1568 respect to the service station, we thought would be a good idea for that purpose.
1569 Those are some of the things that we've looked at and put the footprints for those
1570 particular uses on there. Obviously, you have typical B-1 retail and service uses
1571 that you find like a dry cleaner, any small shops. Things of that nature would be
1572 allowed on here as well.

1573

1574 Mrs. Jones: B-1?

1575

1576 Mr. Condlin: B-1 type neighborhood uses. That's what we've really tried
1577 to [unintelligible] to.

1578

1579 Mr. Archer: All right. Any further questions for Mr. Condlin? I'm sorry,
1580 Mrs. Jones?

1581

1582 Mrs. Jones: No, I was just — the B-1 uses, you're still asking for a B-3
1583 with B-2 hours, but B-1 uses.

1584

1585 Mr. Condlin: We didn't limit them specifically to B-1 uses. We went
1586 through pretty hard and took out—it's a pretty long list of things we've taken out.
1587 B-3 does allow for the service station bays. More than two, I think is—I think
1588 that's what B-2 limits you to. The drive-thru is what we tried to obtain by the B-2.
1589 That was a really critical component.

1590
1591 Mrs. Jones: Just wanted to make sure I had it straight. Thank you.

1592
1593 Mr. Archer: All right. Anything further? Mr. Condlin, we do have
1594 opposition. You'll need to reserve some time.

1595
1596 Mr. Condlin: Whatever I have left after this. I don't know if you kept time
1597 or not, but I don't see more than a few minutes.

1598
1599 Mr. Archer: Okay. I'm sorry I didn't mention that before you spoke.

1600
1601 Mr. Silber: [Unintelligible] he has about five minutes.

1602
1603 Mr. Archer: Okay. All right. Would someone who represents the
1604 opposition come forward please and state your name for the record. I think you
1605 heard Mr. Secretary when he mentioned the 10-minute rule on the prior case. I
1606 believe you were here.

1607
1608 Ms. Bauer: Yes sir.

1609
1610 Mr. Archer: All right. So, that 10 minutes applies to whatever number of
1611 speakers has to speak. If we need to reserve a little more, we'll do it.

1612
1613 Ms. Bauer: Okay.

1614
1615 Mr. Archer: Good evening.

1616
1617 Ms. Bauer: Good evening, Planning Commission, County residents, and
1618 other interested parties. My name is Jamie Bauer and I've lived at the 5400 block
1619 of Riley Road for 28 years. Moved into my house when I was two years old and
1620 later purchased it from my parents.

1621
1622 I'm very concerned about the proposed rezoning that would bring businesses
1623 backing up to my neighbors' homes. The area that's being considered is a
1624 wooded lot that buffers our houses from traffic and noise along Laburnum
1625 Avenue. Approval of the rezoning would allow for the construction of commercial
1626 businesses such as gas stations and restaurants that would operate late into the
1627 evening and disturb the adjacent residential neighborhood. Businesses such as
1628 this would create increased traffic along Laburnum and Eubanks, which are
1629 already congested roads. Eubank is a frequently traveled shortcut from the
1630 airport to Laburnum, and in addition to passenger traffic, it is heavily traveled by

1631 tractor-trailers going to the cold storage warehouses located behind the
1632 Robinwood subdivision. With the current volume of traffic on this road, accidents
1633 already occur involving those individuals on bicycles and operation of these types
1634 of business would only increase that traffic and increase the noise and accidents
1635 along these routes.

1636
1637 The establishment of commercial businesses such as gas stations and
1638 restaurants would also jeopardize the safety of the residents. Such retailers are
1639 often the targets of robberies and residents would have to be concerned about
1640 robbers using their yards as a shortcut to escape being caught by the police.
1641 Included as part of the construction is also a bank. I question the need for
1642 another bank in this area. There are already six currently-operating banks within
1643 one mile of the proposed location. Within that same area, there are two bank
1644 buildings that are vacant, one bank building that was vacant and turned into an
1645 awful looking yellow check-cashing location, as well as a bank that was recently
1646 demolished and a Walgreens put up. Based on this current number of operating
1647 banks and those that were recently vacated, I don't think this area needs another
1648 bank.

1649
1650 It's also unclear if there's been any evaluation of environmental impacts in the
1651 area. Yesterday, I received a letter from the applicant dated November 7th,
1652 informing the neighborhood that the proposed proffers had been revised. I was
1653 glad to see that the proffer prohibited hotels from the property; however, receipt
1654 of this information one day prior to the Planning Commission's consideration,
1655 does not give residents or County staff enough time to thoroughly review the
1656 changes.

1657
1658 Lastly, I ask that the Planning Commission deny this rezoning application, C-
1659 60C-06 and C-63C-06. The property that's being considered is not appropriate
1660 for this type of business. Lastly, if the Planning Commission does not deny this
1661 request, I ask the matter to be deferred to a later date until residents and County
1662 staff has had enough time to review these changes that have been proposed in
1663 the past day.

1664
1665 I will be happy to answer any questions that you all have. Thank you for your
1666 time.

1667
1668 Mr. Archer: Thank you, ma'am. Are there questions?

1669
1670 Mr. Jernigan: Ms. Bauer, did you make the neighborhood meeting?

1671
1672 Ms. Bauer: I did not. I did contact the applicant prior to the meeting and
1673 asked to be e-mailed any information that was discussed at the meeting. I got a
1674 pretty generic e-mail back saying typical neighbor concerns, what type of
1675 businesses and that such thing. Then I received, I believe in the month of

1676 October, the actual write-up of all of the proffers and residents' requests that
1677 were at that meeting.

1678
1679 Mr. Jernigan: What would you like to see there?
1680

1681 Ms. Bauer: Personally, I would like for it to remain a business use. I
1682 think it should be limited—If they do extend Robins Road across Eubank, I would
1683 like to see that be the buffer right there. I don't think there needs to be any
1684 development on the other side of Robins Road between Robins Road and the
1685 houses. I think the way it's currently zoned would be fine. I personally wouldn't
1686 have a problem if there were normal hourly business, 9 to 5, 8 to 5, that type of
1687 thing. I don't like the idea of restaurants and gas stations being open all night.
1688 Another concern that I have is the fact that there's a gas station being proposed,
1689 which will have an entrance from Eubank Road. You already have to sit through
1690 that light cycle several times in order to get out to Laburnum or across Laburnum.
1691 The traffic on this road has been awful. I talked with the traffic engineers for
1692 Henrico County, and I believe it's been three or four years since a study has
1693 been done on Eubank. They are proposing one for this summer, I think.
1694

1695 Mr. Jernigan: Did I hear you correctly? You're okay with it being business;
1696 you just don't want it on the other side of Robins.
1697

1698 Ms. Bauer: I don't want it on the other side of Robins and I don't think
1699 these restaurants—I would prefer to see office business use, as it's currently
1700 zoned. I don't prefer to see restaurants or banks or gas stations. I just don't
1701 think that that's the proper to be butting up to houses.
1702

1703 Mr. Silber: One point clarification, it's not currently zoned business.
1704

1705 Ms. Bauer: I'm sorry, office use.
1706

1707 Mr. Silber: It's really zoned residentially and as A-1, if I'm reading this
1708 map correctly. But what you're saying, I understand. You would accept or live
1709 with office zoning or business zoning back to Robins Road.
1710

1711 Ms. Bauer: Right.
1712

1713 Mr. Silber: Okay.
1714

1715 Ms. Bauer: Thank you.
1716

1717 Mr. Jernigan: Thank you so much.
1718

1719 Mr. Archer: Thank you, ma'am. Anyone else? All right.
1720

1721 Ms. Robinson: Hello.

1722
1723 Mr. Jernigan: Hello.
1724
1725 Ms. Robinson: I'm Marcel Robinson and I live on Coxson Road. I'd just like
1726 to say that the lady that spoke before me, I agree with her. I have lived on
1727 Coxson Road for 13 years, me and my husband. Before that, I lived on Robins
1728 Road for four years. I don't see where we need any restaurants, gas stations,
1729 banks. I agree totally to what she just said. I think most people in that
1730 subdivision feel that same way.
1731
1732 Mr. Jernigan: If they had 30 people there, I'm sure not everybody —
1733
1734 Ms. Robinson: I wasn't there; nobody informed me of it.
1735
1736 Mr. Jernigan: I believe they sent a mailing to everybody in the
1737 neighborhood.
1738
1739 Ms. Robinson: Well, I didn't get one.
1740
1741 Mr. Jernigan: Okay. What would you like to see there?
1742
1743 Ms. Robinson: Offices right on Laburnum. Offices, that type of thing. I don't
1744 think it should go into the subdivision at all.
1745
1746 Mr. Jernigan: They have had retail on both sides of it.
1747
1748 Ms. Robinson: Right.
1749
1750 Mr. Jernigan: Okay. I thank you, ma'am.
1751
1752 Ms. Robinson: Okay. Thank you.
1753
1754 Mr. Archer: Thank you ma'am. Are there any others? We've got about
1755 six minutes now.
1756
1757 Mr. Melton: My name is Dennis Melton and I live on —
1758
1759 Mr. Silber: Say your last name again, please?
1760
1761 Mr. Melton: Melton. M-E-L-T-O-N.
1762
1763 Mr. Silber: Thank you.
1764
1765 Mr. Melton: I have some of the same things to say as Jamie did. We
1766 didn't collaborate. These were my own observations and ideas. On one side of
1767 those woods, the property, it's not really a business; it's a DMV over there. The

1768 rezoning and development of these 11 acres is a mistake. It's wrong because
1769 the intersection at Laburnum and Eubank Road already is congested with too
1770 much traffic, which includes trucks, tractor-trailers from the virtual city of
1771 warehouses on the west side of Laburnum. They usually take Eubank to avoid
1772 Williamsburg Road. That's almost their only access to Laburnum. The increased
1773 congestion will impair the response time of fire and emergency services located
1774 on Charles City Road. It will increase the number of accidents in the vicinity,
1775 which already includes pedestrians. A bicyclist was hit. The traffic light is there
1776 at Eubank and Laburnum because of a bad accident, which killed three people, I
1777 believe, in a pickup truck.

1778
1779 Robinwood subdivision with many old people depends on these trees to protect
1780 them from auto emissions and noise. Removal of this barrier will subject
1781 Robinwood's inhabitants to pollutants such as auto exhaust, noise, germs, and
1782 stench of restaurant dumpsters and loading docks, as well as light pollution. A
1783 50-foot landscape buffer, which I read in the proffers, may have a road right
1784 through it [unintelligible]. A six-foot fence will not prevent any of these
1785 undesirable elements from contaminating our half-century old residential haven.
1786 The winds some out of the west, the prevailing winds, will blow all of that noise
1787 and pollution right on us.

1788
1789 It took me a couple of years to find a house and a neighborhood to move in. My
1790 mother has bad breathing problems. I bought the house to satisfy them.

1791
1792 Laburnum, the word "Laburnum" is a tree, is a kind of tree. Laburnum.

1793
1794 Find a different location to use. We already have Laburnum Green, which isn't
1795 doing that well. It's not doing that well. From my observations, it's not. Empty
1796 stores, very small businesses. They come and they go, month after month.

1797
1798 There was a sign out in the median strip of Laburnum right in front of those
1799 woods that said, "Varina, founded in 1611." Where did that go? It's a historical
1800 site. Varina is the second location the settlers came to after they went to
1801 Jamestown. It's where Pocahontas was living.

1802
1803 Lots of accidents on Eubank Road. We don't need all the crowding,
1804 encroachment on us.

1805
1806 Henrico County should buy and keep it like it is. As far as 30 people being at that
1807 meeting, I just don't see it. There are 30 hours up Riley Road.

1808
1809 Mr. Jernigan: Were you at the meeting?

1810
1811 Mr. Melton: No. The first house is empty and the second one is old
1812 folks. I don't think they went. The next house, I've had an issue with the County
1813 Board of Supervisors. There's this business on the other side of Laburnum using

1814 that house as a boarding, a flophouse for its workers. It's a single-residents
1815 neighborhood. It's always an Asian person coming on the bicycle with a white
1816 bag. Always. Twenty times a day. Coming and going all hours of the day and
1817 night. But we're not really here to talk about that.

1818
1819 Mr. Jernigan: Mr. Melton, did you receive a notice of the meeting?

1820
1821 Mr. Melton: Yes.

1822
1823 Mr. Jernigan: You just chose not to go.

1824
1825 Mr. Melton: I'm not interested in anything they have to say.

1826
1827 Mr. Jernigan: Well, let me ask you this. Do you think that that property is
1828 just going to stay wooded forever? It is front-road property on Laburnum Avenue.
1829 Now, sometime down the line, it's going to be improved.

1830
1831 Mr. Melton: You really can't improve upon it.

1832
1833 Mr. Jernigan: You can't improve it?

1834
1835 Mr. Melton: No.

1836
1837 Mr. Jernigan: Why?

1838
1839 Mr. Melton: How can you improve on it?

1840
1841 Mr. Jernigan: What I mean, being improved, I mean that somebody will be
1842 developing it.

1843
1844 Mr. Melton: You mean destroy it and then build buildings.

1845
1846 Mr. Jernigan: Well, I don't know that we're going to destroy it. You mean if
1847 they're going to cut down some trees, yes. That would happen.

1848
1849 Mr. Melton: Just what I said.

1850
1851 Mr. Jernigan: Okay. I thank you.

1852
1853 Mr. Archer: Any further questions of Mr. Melton?

1854
1855 Mr. Jernigan: Mr. Condlin, come on back up here.

1856
1857 Mr. Archer: Was anyone else in opposition, by the way? We got about
1858 two minutes left. No one else? All right.

1859

1860 Mr. Jernigan: How many notices did you send out?
1861
1862 Mr. Condlin: I was looking back through it. We had over 140, I think. I
1863 told someone it was easy to find. We usually have a hard time drawing the map
1864 as to where you notify, but you can see here it extends all the way up. We sent
1865 notices to everyone. We use the tax records, so sometimes they're incorrect and
1866 there might be a miss-mailing. But certainly the word gets out. I didn't want
1867 there to be any doubt, so anything that was surrounded by M-1. I don't have a
1868 larger map to show you, but it goes all the way up. So, we notified everyone in
1869 here plus heading north of here as well until you hit the next M-1. Pre-application
1870 and we've been in communication with a lot of folks as we went through this
1871 case, quite frankly.
1872
1873 Mr. Jernigan: I think Ms. Bauers said that she's okay with it business, she
1874 just doesn't want it on the other side of Robin's Road.
1875
1876 Mr. Silber: I have a question, Mr. Jernigan. Mr. Condlin was
1877 commenting a while ago on the portion of the question, I guess it's C-63C, where
1878 it's the wider piece that goes to the other side of Robins Road. You were
1879 commenting, Mr. Condlin, that there are easement and impediments in the
1880 existing Robins Road that you would have to build around.
1881
1882 Mr. Condlin: Right.
1883
1884 Mr. Silber: Or work around. You obviously have a fair amount of
1885 frontage on Laburnum and, to a certain extent, when you do come back to
1886 Robins Road, you are beginning to cross into an area that is somewhat
1887 residential. In fact, the Land Use Plan uses Robin Road as a line of demarcation
1888 between the commercial and that residential area. What is the reason for
1889 needing to come all the way back as far as you are, when I'm looking at this slide
1890 and I see the majority of that being shown is parking with one building at a BMP.
1891 Is there some logic why you need to come back as far this?
1892
1893 Mr. Condlin: This was dated back from the response of the neighbors not
1894 wanting residential even back there, but preferring a business with the buffer.
1895 That does provide for parking. Certainly, you could put parking and an access
1896 drive—as you can see, that really comes off of Robins — to line it up. That's
1897 really the intent, was to provide there. We did show that there could be a
1898 building. We didn't want to mislead anyone, that there could be a building. You
1899 can see this one is kind of faced towards the side, the long side with the parking
1900 in and around behind it. We tried to, as is typically the case, at the request, is try
1901 to provide for parking next to and around and push the buildings up. But in this
1902 case, being along Eubank, we thought it was appropriate to that location, given
1903 the preference of the neighbors, the layout that you could otherwise achieve.
1904

1905 Mr. Silber: One of the concerns that staff has had is that even the Land
1906 Use Plan recommends office uses on Laburnum. It is somewhat of a gateway, if
1907 you will, from Laburnum down Eubank towards the airport. I suspect that's why
1908 this is shown as office on the plan, whereas much of Laburnum is commercial
1909 and industrial. So, this is a departure from the Land Use Plan, especially when
1910 you're proposing a convenience store with fuel pumps. A bank would be
1911 something that would be permitted in an office district. That would be in
1912 compliance with the plan. I appreciate you answering those questions.
1913

1914 Ms. O'Bannon: Is this exhibit we're looking at, is that proffered?
1915

1916 Mr. Condlin: No ma'am. It was a conceptual plan the staff asked for
1917 about potential development.
1918

1919 Mr. Jernigan: They don't have takers yet.
1920

1921 Mr. Condlin: We have people that are interested, but ...
1922

1923 Ms. O'Bannon: Okay, thank you.
1924

1925 Mr. Jernigan: Mr. Condlin, I want to tell you, I'm pretty much okay with this,
1926 but we do have some opposition and I didn't make the original meeting, so what
1927 I'd like for you to do is—I feel that most of the people in the meeting, especially
1928 the ones that are right on top of this were pretty much okay. I think what I'd like
1929 for you to do is I'd like for you to defer this case and let's have one more meeting
1930 and see if we can work this out.
1931

1932 Mr. Condlin: That'll be fine, and bring this back, I guess, at the December
1933 7th?
1934

1935 Mr. Jernigan: December 7th, yes. Set up another meeting. I'll be attending
1936 that one.
1937

1938 Mr. Condlin: You don't have another anniversary coming up.
1939

1940 Mr. Jernigan: No, I'm just married to one woman. Try to get everybody
1941 there we can.
1942

1943 Mr. Condlin: We'll use the same notices that we did, which went around
1944 to everyone. My only fear, as you know, is the case, since we've already had a
1945 neighborhood meeting is those that don't have a problem with it don't show up.
1946

1947 Mr. Jernigan: Specify in there that we need everybody as this meeting.
1948 Like I said, mostly everybody — I think you said you did not get —
1949

1950 *[Female speaking off mike.]*

1951

1952 Mr. Jernigan: Ms. Robinson didn't get a notice.

1953

1954 Mr. Condlin: Okay. I'll get their address to make sure.

1955

1956 Mr. Jernigan: But everybody else has. But if you do that, I'd appreciate it.

1957

1958 Mr. Condlin: We'll take care of it that way.

1959

1960 Mr. Silber: Mr. Condlin, you're going to use the same notice?

1961

1962 Mr. Condlin: The address of the tax records. Yeah and that'll get the folks

1963 here.

1964

1965 Mr. Silber: Change the date, though, on it, would you.

1966

1967 Mr. Condlin: Okay, yeah, we'll do that.

1968

1969 Mr. Archer: So, Mr. Jernigan? I think we need, probably, the motion in

1970 these cases separately, don't we, Mr. Secretary.

1971

1972 Mr. Silber: Yes.

1973

1974 Mr. Jernigan: Mr. Chairman, with that, I will move for deferral of case C-

1975 60C-06 to December 7, 2006, by request of the applicant.

1976

1977 Mr. Branin: Second.

1978

1979 Mr. Archer: Motion by Mr. Jernigan and seconded by Mr. Branin. All in

1980 favor of the motion say aye. Those opposed say no. The ayes have it.

1981

1982 Mr. Jernigan: Mr. Chairman, I'd like to make a motion to defer case C-63C-

1983 06 to December 7, 2006, by request of the applicant.

1984

1985 Mr. Vanarsdall: Second.

1986

1987 Mr. Archer: Motion by Mr. Jernigan and seconded by Mr. Vanarsdall. All

1988 in favor of the motion say aye. Those opposed say no. The ayes have it. Both

1989 motions are granted.

1990

1991 Mr. Silber: The next request is in the Brookland District. This is C-61C-

1992 06.

1993

1994 **C-61C-06 William Sowers for ETROF Enterprises:** Request to

1995 amend proffered conditions accepted with Rezoning Case C-12C-82, on Parcel

1996 766-753-7462, located at the southeast intersection of Hungary Spring Road and

1997 Somoa Drive. The applicant proposes to amend Proffers A and C related to
1998 permitted uses and landscaping/buffering. A medical office use is proposed. The
1999 existing zoning is O-1C Office District (Conditional). The Land Use Plan
2000 recommends Office.

2001

2002 Mr. Archer: All right. Is anyone here who is opposed to this case, C-
2003 61C-06 in the Brookland District? No opposition. Ms. Croft.

2004

2005 Ms. Croft: Thank you, Mr. Chairman. The site is located at the
2006 southeast intersection of Hungary Spring Road and Somoa Drive and is
2007 developed with about a 5,000-square foot childcare center constructed in 1983,
2008 which is proposed to be demolished. Office uses are located to the north and
2009 west, and a residential neighborhood is located to the south, east, and west.

2010

2011 The original case rezoned 0.87 acre from R-3 One Family Residence District to
2012 O-1C Office District (Conditional) to permit a child care center only.

2013

2014 Proffers accepted with rezoning case required the site, like I said, to be used for
2015 a childcare center, accessed from Somoa Drive, and have berms along Hungary
2016 Spring Road and Somoa Drive.

2017

2018 The applicant is proposing to amend these proffers to permit a dental office.

2019

2020 A revised proffered conceptual plan was received yesterday, and indicates an
2021 internal sidewalk connecting the parking area to the building. The plan shows a
2022 single point of access from Somoa Drive and a 5,177 square-foot one-story office
2023 building.

2024

2025 An elevation drawing has also been proffered for the proposed dental office, with
2026 a maximum height of 18 feet, and exterior materials of brick, stone, or split-face
2027 block.

2028

2029 Additional proffers include white vinyl fencing; limited hours of construction, trash
2030 pick-up, and parking lot cleaning; and a maximum height of 6 feet for any
2031 detached signage.

2032

2033 The 2010 Land Use Plan recommends Office for the site. The proposed medical
2034 office use and other uses permitted in the O-1 district are consistent with this
2035 designation. The proffered conditions should minimize the potential impacts on
2036 surrounding land uses, and provide appropriate quality assurances not otherwise
2037 available. For these reasons, staff supports this request and does note the
2038 request could be enhanced by reducing the maximum height for parking lot
2039 lighting fixtures to 15 feet, currently proffered at 20 feet.

2040

2041 The time limits would need to be waived as the revised proffered conceptual plan
2042 was received yesterday. The only revision to that plan was to delete the grayed-
2043 out existing improvements on the site to make it more readable.
2044

2045 This concludes my presentation. I would be happy to try to answer any
2046 questions that you may have. The applicant's representative is here tonight.
2047

2048 Mr. Archer: Thank you, Ms. Croft. Are there questions from the
2049 Commission?
2050

2051 Mrs. Jones: The berms referenced in the report are now going to remain.
2052

2053 Ms. Croft: The berms, that proffer has been stricken. However, on the
2054 concept plan, you can see that extensive landscaping is required per normal
2055 zoning regulations that the applicant would have to achieve. So, landscaping will
2056 still be required, just not as originally proffered as a berm. You can see the aerial
2057 photo. Well, it's not really — there's not much landscaping on the site, so I think
2058 we're probably getting more than what's there currently.
2059

2060 Mrs. Jones: The other question I raised was why a white vinyl fence as
2061 opposed to a black vinyl fence or a brick wall?
2062

2063 Ms. Croft: That was something volunteered by the applicant. I'm not
2064 quite sure as to the reasoning.
2065

2066 Mrs. Jones: Okay.
2067

2068 Mr. Vanarsdall: He wanted to get rid of the wooden fence there.
2069

2070 Ms. Croft: Right. The wooden stockade fence is—
2071

2072 Mr. Vanarsdall: [Unintelligible.]
2073

2074 Ms. Croft: Correct.
2075

2076 Mr. Archer: All right. Any further questions?
2077

2078 Mrs. Jones: Do you think the applicant would modify that so that it's not a
2079 wooden fence? I hate to have someone want to put up a black vinyl fence and
2080 it's proffered out that it has to be white. I don't know.
2081

2082 Ms. Croft: I think the intent was to make sure that it was not a wooden
2083 stockade fence in terms of long-term maintenance and durability. I'm not sure
2084 that the color is something the applicant wouldn't mind changing. The applicant's
2085 representative, Mr. Sowers, is here and can answer that question.
2086

2087 Mrs. Jones: All right.
2088
2089 Mr. Archer: Any further questions of Ms. Croft? Thank you, Ms. Croft.
2090
2091 Ms. Croft: Thank you.
2092
2093 Mr. Archer: Will the applicant please come forward and state your name
2094 for the record, sir.
2095
2096 Mr. Sowers: Good evening Mr. Chairman and members of the Planning
2097 Commission. I'm Bill Sowers and I'm representing the ETROF Group, which is a
2098 dental group. They're presently located across the way at Courthouse Commons
2099 and have been working in Henrico County for eight or nine years. They're
2100 expanding their business and they're looking for a new site. We've been working
2101 with staff and Mr. Vanarsdall and come up with this here. We would have no
2102 opposition to a different color fence, if that is one of your questions. One of the
2103 other things, though. The lighting that we talked about, I was speaking with a
2104 lighting company and a 20-foot high pole might be a little high, but the site is so
2105 small and tight, and with the amount of landscaping in there, they said if we went
2106 down to 12, you might get hot spots. They suggested 18 foot or so. Sounds
2107 good to me.
2108
2109 Mr. Vanarsdall: Well, we can address that at POD time.
2110
2111 Mr. Sowers: Okay.
2112
2113 Mr. Vanarsdall: We use these, what you call shoebox lights. We can work
2114 that out.
2115
2116 Mr. Sowers: That's fine.
2117
2118 Mr. Vanarsdall: Thank you, Mr. Sowers.
2119
2120 Mr. Archer: So, Mr. Sowers, would this proffer be amended, then, just to
2121 take the word "white" out and just say, "vinyl fence"?
2122
2123 Mr. Sowers: That would be fine.
2124
2125 Mr. Archer: That wouldn't relegate it to being a white fence forever and
2126 ever until we proffered it again. That's what Mrs. Jones is trying to get out.
2127
2128 Mr. Silber: So, it would be a decorative vinyl fence.
2129
2130 Mr. Archer: All right. Any further questions? Mr. Vanarsdall, we're ready
2131 for a motion.
2132

2133 Mr. Vanarsdall: One thing I was thinking, Nathalie, we could, not tonight
2134 because Dr. Forte is not here to sign this, but we could — if you want to change
2135 the #2, the fence proffer. The way we word it at the discretion of the Planning
2136 Commission during POD. Change that for the Board. I think that might help Mrs.
2137 Jones concern. I wasn't that big on white either, I just wanted them to get rid of
2138 that ugly fence. They said put up a vinyl fence. I said white, they said yes.
2139
2140 Ms. Croft: All right.
2141
2142 Mr. Vanarsdall: I was putting words in his mouth. Not supposed to do that.
2143
2144 Mr. Archer: All right. Do we have any opposition here?
2145
2146 Mr. Silber: No, I don't think we do.
2147
2148 Mr. Archer: No, no opposition. All right.
2149
2150 Mr. Vanarsdall: Do we need to waive the time limits?
2151
2152 Ms. Croft: Yes sir.
2153
2154 Mr. Silber: Yes, you will need to. You need to waive the time limits as
2155 well.
2156
2157 Mr. Vanarsdall: Okay, that's what I was going to do. I want to waive the time
2158 limits on C-61C-06.
2159
2160 Mr. Branin: Second.
2161
2162 Mr. Archer: Motion by Mr. Vanarsdall and seconded by Mr. Branin to
2163 waive the time limits. All in favor of the motion say aye. Those opposed say no.
2164 The ayes have it.
2165
2166 Mr. Vanarsdall: I want to thank Nathalie for putting this all together in time for
2167 the meeting and Mr. Sowers' cooperation. This is not far from here, up on the
2168 corner of Somoa. The building has been there since it was rezoned in 1981 for a
2169 child daycare center and that was the only thing that it was zoned for. It has
2170 since been closed. What they're proposing will certainly be an improvement over
2171 anything that's been there. So, with that, I'll recommend to the Board of
2172 Supervisors that C-61C-06 be approved.
2173
2174 Mr. Branin: Second.
2175
2176 Mr. Archer: Motion by Mr. Vanarsdall and seconded by Mr. Branin. All in
2177 favor of the motion say aye. Those opposed say no. The ayes have it and the
2178 motion carries.

2179 **REASON:** The Planning Commission voted 5-0 to recommend the
2180 Board of Supervisors **grant** the request because it is not expected to adversely
2181 impact surrounding land uses in the area and the proffers continue to assure a
2182 quality form of development with maximum protection afforded to the adjacent
2183 property.

2184
2185 Mr. Silber: The last zoning request tonight is C-62C-06. This is a
2186 request to amend proffered conditions accepted with rezoning case C-36C-00.

2187
2188 **C-62C-06 Richard Bushey for CDA Holding, LLC:** Request to amend
2189 proffered conditions accepted with Rezoning Case C-36C-00, on Parcels 769-
2190 755-9242 and 769-755-7448, located at the northwest intersection of E. Parham
2191 Road and Staples Mill Road (U.S. Route 33). The applicant proposes to amend
2192 proffers related to permitted uses, layout, architecture, loudspeakers, inter-parcel
2193 connection, and play areas. Retail and restaurant uses are proposed. The
2194 existing zoning is O-2C Office District (Conditional) and B-2C Business District
2195 (Conditional). The Land Use Plan recommends Office.

2196
2197 Mr. Archer: All right. Is anyone present who is in opposition to C-62C-
2198 06? We have opposition. We'll get to you, ma'am. Good evening, sir.

2199
2200 Mr. Sehl: Thank you, Mr. Chairman. The site is located at the
2201 northwest intersection of Staples Mill and East Parham Roads, and was
2202 previously occupied by an automobile service station. The applicant is proposing
2203 to amend proffers accepted with case C-36C-00, which was for the development
2204 of a McDonald's Restaurant.

2205
2206 The property is currently zoned B-2C and O-2C. The uses proposed by the
2207 applicant would be permitted under the proffers accepted with C-36C-00, but
2208 those proffers specifically referenced a conceptual layout and architectural
2209 elevations for the McDonald's restaurant. These items are giving rise to the
2210 proffer amendment before you this evening.

2211
2212 The property is bounded by R-3 zoned property to the west and north. Across
2213 Staples Mill Road is a Burger King, and across east Parham Road is a Rite Aid
2214 pharmacy.

2215
2216 The properties to the west and north are zoned residential, but as you can see on
2217 the Land Use Plan are designated for office uses in the 2010 Land Use Plan.

2218
2219 The 2010 Land Use Plan also recommends office uses for the subject parcel.
2220 The proposed uses are not entirely consistent with this designation, but could be
2221 appropriate given the existing zoning for the site and the established zoning
2222 pattern in the area.

2223

2224 The proposed amendments to the proffers pertain to the previously mentioned
2225 conceptual plan and elevations, as well as proffers pertaining to loudspeakers,
2226 buffers, inter-parcel access, and uses.

2227

2228 The amended proffers reference this new conceptual plan. The applicant now
2229 proposes an approximately 12,500 square foot building with restaurant and retail
2230 uses.

2231

2232 The revised proffers allow for a reduced buffer along a portion of Staples Mill
2233 Road to allow for a turn lane into the site, prohibit automotive service stations as
2234 well as check cashing and payday loan uses on the site, limit the distance from
2235 which a loudspeaker is able to be heard, provide for underground storm water
2236 management, and permit inter-parcel connections to properties to the north and
2237 west should they be rezoned in the future.

2238

2239 The revised proffers also reduce the buffer along Parham Road to 17 feet to
2240 allow for the required 13-foot transitional buffer adjacent to the R-3 zoned
2241 property to the north. This buffer is reduced as allowed in the zoning code;
2242 however, staff does have concerns that this reduction is based on the
2243 construction of a masonry wall. The applicant has proffered that a letter of credit
2244 will be provided for the construction of this wall, which could be pulled to provide
2245 for the construction of that wall should the property be developed as R-3 to the
2246 north. Staff does have concerns that the proffer limits the terms of this letter of
2247 credit to five years, at which time it would expire.

2248

2249 The revised proffers allow for a shared entrance from the O-2 property and B-2
2250 property.

2251

2252 The applicant has also proffered this elevation. This elevation has been revised
2253 since the staff report was written to better show how the building would look in its
2254 entirety, rather than just the Panera Bread pictures that were proffered
2255 previously. The applicant has proffered that exterior materials would consist of
2256 brick, stucco, Dryvit, or glass.

2257

2258 The applicant has addressed all issues raised in the staff report. Staff now
2259 supports this request, but notes concerns with the five-year expiration of the
2260 letter of credit as mentioned in Proffer 1C.

2261

2262 These proffers were revised on November 9, 2006, and were distributed to you
2263 this evening. Time limits would need to be waived to accept these proffers this
2264 evening.

2265

2266 This concludes my presentation, I would be happy to answer any questions you
2267 might have.

2268

2269 Mr. Archer: Thank you. Are there questions from the Commission?

2270
2271 Mr. Jernigan: Ben?
2272
2273 Mr. Sehl: Yes sir.
2274
2275 Mr. Jernigan: There's a piece of O-2 that's zoned there, so what you're
2276 saying is if there was any R-3 that went in there they'd have to put the fence up?
2277
2278 Mr. Sehl: As you can see on the conceptual plan, this is kind of a
2279 weird—With Staples Mill Road generally running east and west, this area runs a
2280 little bit more north and south. So, the R-3 property is here and to the far west on
2281 the other side. This site in question is split zoned. Here's the O-2 zoning. This is
2282 B-2 zoning that the applicant is proposing to develop. This entire property is
2283 surrounded by R-3. This is the buffer that was discussed.
2284
2285 Mr. Jernigan: Then there's O-2 right about that. There's a narrow strip
2286 between the B-2 and the O-2.
2287
2288 Mr. Sehl: Again, this is all planned for the Office in the 2010 Land Use
2289 Plan.
2290
2291 Mr. Silber: So what the applicant has proffered is if that property to the
2292 north is developed as a residential use —
2293
2294 Mr. Sehl: They would construct the wall, which would allow the 12-foot
2295 reduction in the 25-foot transitional buffer.
2296
2297 Mr. Silber: They now have added a proffer, amended their proffer to say
2298 that letter of credit would only be good for five years.
2299
2300 Mr. Sehl: Yes sir.
2301
2302 Mr. Jernigan: I don't think you're going to have to worry about that, Mr.
2303 Secretary. I don't think anybody's going to be building a house up there.
2304
2305 Mr. Silber: My question is what happens to the letter of the credit after
2306 five years if it remains the way it is.
2307
2308 Mr. Sehl: I think that's staff's concern at that point, that six years down
2309 the road, if that wall is desired to be built, the letter of credit is no longer in place.
2310
2311 Mr. Branin: Ben, this is currently a closed gas station, correct?
2312
2313 Mr. Sehl: Correct.
2314

2315 Mr. Branin: I probably missed it, but when they remove those tanks,
2316 what precautions are going to be taken?
2317
2318 Mr. Sehl: I believe they'll be required to do so. It has not been
2319 proffered that those tanks would be removed. Maybe the applicant could speak
2320 to what sort of—
2321
2322 Mr. Branin: Yeah. I'd like to speak to the applicant in regards to it. I
2323 think the project's a good project, but anytime that you're removing 50-year-old
2324 fuel tanks from a property, that brings up the question of contamination and
2325 safety.
2326
2327 Mr. Sehl: Yes sir.
2328
2329 Mr. Vanarsdall: I'd like to hear from the applicant.
2330
2331 Mr. Archer: All right. Good evening, Ms. Freye.
2332
2333 Ms. Freye: Good evening, Mr. Chairman, members of the commission.
2334 My name is Gloria Freye. I'm an attorney for McGuire Woods here on behalf of
2335 the applicant.
2336
2337 Mr. Archer: Ms. Freye, excuse me. You're aware we have opposition?
2338
2339 Ms. Freye: Yes sir.
2340
2341 Mr. Archer: Would you like to reserve some time?
2342
2343 Ms. Freye: Maybe two minutes.
2344
2345 Mr. Archer: Okay.
2346
2347 Ms. Freye: Reserved.
2348
2349 Mr. Vanarsdall: In addition to what else you're going to say, I want you to
2350 explain the change that's been made tonight to the rest of the commissioners.
2351
2352 Ms. Freye: Yes sir.
2353
2354 Mr. Vanarsdall: And about the last sentence in 1C.
2355
2356 Ms. Freye: Yes sir.
2357
2358 Mr. Vanarsdall: Thank you.
2359

2360 Ms. Freye: Yes sir. As Mr. Sehl explained, we do need to request the
2361 waiver for the time limits, which we would appreciate. We do also truly appreciate
2362 the assistance, all the efforts that we've gotten from staff to help work out the
2363 changes that were needed on this property to change it from being permitted for
2364 a McDonald's to be permitted for a Panera and a Starbucks. This corner was
2365 zoned back in 2000 for the commercial and the office use, but it was very tailored
2366 to a McDonald's and made it very difficult to change the tenants on that. It's a
2367 tight site and staff went to extraordinary problem-solving efforts to help us work
2368 this out. The uses are already permitted, it's just the proffers, the site plan, and
2369 the elevations that needed to be changed. I think most folks are happy with the
2370 elevations. It's a very attractive building. I think folks think that the tenants would
2371 be desirable. Those things are not the issue, it's getting down to the proffers. We
2372 did make significant improvements in those proffers by amending them, because
2373 now the storm water would be addressed underground. That would not have
2374 been the case in the old zoning. We've also improved the accesses by making
2375 them safer, moving them further from the intersection on Parham, making it safer
2376 on Staples Mill by adding a turn lane. Adding that turn lane then condensed
2377 some of the buffers and we had to make modifications to do that. There are still
2378 going to be nicely landscaped buffers where none are normally required anyway.
2379

2380 The elevations and the revised proffers, we did take out the check cashing.
2381 We've made the uses more restrictive than they were before. We have worked
2382 on the shared access and we've worked on making sure that adequate parking is
2383 being provided.
2384

2385 Mr. Branin, I just want to let you know that the tanks have already been removed;
2386 they're gone.
2387

2388 Mr. Branin: Really?
2389

2390 Ms. Freye: They're already gone, so that is not an issue, we're happy to
2391 say. That's not going to be a development cost for these folks. That's already
2392 taken care of.
2393

2394 The concern that has come up about this 13-foot buffer on the northern property
2395 line adjacent to the R district, the tensions or the pressure, the influence that's
2396 happening there is that most likely it's — and I hate to say "most likely," because
2397 I'm not in a position to rezone, but the pressures to rezone that R district are that
2398 houses are probably not going to be built there, it probably is going to go
2399 commercial or some other designation of office or commercial. The County was
2400 trying to help us find a way to respect the ordinance requirement for a transitional
2401 buffer, make sure that that space is there. That if it is ever developed residentially
2402 that that space is there and that the wall could be constructed at that time. It was
2403 with that idea that we would post a letter of credit to assure the County that the
2404 funds would be there to do that when it happens.
2405

2406 The concern that we have is when you're dealing with bonds or when you're
2407 dealing with cash proffers or even when you're dealing with a dedication of land,
2408 there's a certain period of time where either it's used or it goes back to the
2409 applicant. We thought that five years would be a reasonable term. If in working
2410 with the County, the County attorney, the County staff, or a Commissioner or
2411 Supervisor, if you feel like 15 years is a more reasonable term, we would be glad
2412 to amend the proffers to that this evening. If there is something else that you
2413 think we should maybe try to explore with the County attorney, we'll be glad to do
2414 that between tonight's hearing and before the Board hears this so that staff, the
2415 County attorney, and the Supervisor are satisfied that if that property is ever
2416 developed residentially that that wall will be built. My concern is that there needs
2417 to be a triggering event or an end time when that money can be released. That's
2418 going to be in keeping with the County's policies on any cash proffer, any
2419 dedication, or any bonding. We were trying to find a way. We'll be glad to extend
2420 that to 15 years this evening, if you think that would be more acceptable. Then
2421 we could still continue to work with the County attorney if he wanted to review
2422 that.

2423
2424 Mr. Archer: All right. Thank you. Are there questions for Ms. Freye?
2425

2426 Mr. Branin: Nope, she took care of mine.
2427

2428 Mr. Archer: Anything else?
2429

2430 Mr. Vanarsdall: All right, stand by for the —
2431

2432 Mr. Archer: Ms. Freye, we'll reserve you two minutes. I think you have a
2433 little more than that left, if you need it.
2434

2435 Ms. Freye: Yes sir. Thank you very much.
2436

2437 Mr. Archer: We did have opposition. If you could please come forward
2438 and state your name for the record. Good evening.
2439

2440 Ms. Thornton-Seal: Mr. Chairman and the Board. I don't have the elegance that
2441 she had because I'm not an attorney. My brother and my sisters and I, we live
2442 adjacent to the property that she's speaking of.
2443

2444 Mr. Archer: Pardon me, ma'am, could I have your name, please?
2445

2446 Ms. Thornton-Seal: Yes sir, I'm sorry. My name is Jue Thornton-Seal.
2447

2448 Mr. Archer: All right.
2449

2450 Mr. Vanarsdall: How do you spell your last name?
2451

2452 Ms. Thornton-Seal: S-E-A-L.

2453

2454 Mr. Archer: Go ahead, Ms. Thornton-Seal.

2455

2456 Ms. Thornton-Seal: Our property is adjacent to the property that they're talking
2457 about. About 7 or 8 months ago, I actually came to the County and I asked them
2458 about the land uses and they said that McDonald's was not in the foreseeable
2459 future or anything else. What they suggested to me was that it was going to be all
2460 office space. While we don't oppose the rezoning, we do opposed us being
2461 locked into just being office space if other people can have other kinds of
2462 businesses presented to the Board. We don't have a big corporate lawyer to
2463 represent us; we just have ourselves. If McDonald's becomes a reality, it will
2464 cause us to be really sandwiched in to a very small portion of that piece of this
2465 building that they're doing. We are located on Parham Road. Again, we don't
2466 really oppose that, we just want to be able to be treated fairly and that we be able
2467 to present what we may want to do with our property. According to the language
2468 in this particular paper, it says that for restaurant uses. I think these are
2469 opposed. But when I spoke to the people in the County, they're saying that from
2470 Staples Mill on back to Lucas Road, I was told, had already been proposed for
2471 office space. What she just said was a very big surprise to me because when I
2472 went to the County to talk about it, they didn't even suggest it was a restaurant. I
2473 guess she said it's been five years coming.

2474

2475 I guess you all are probably looking at me like, "Well, what is she saying?" What
2476 I'm saying is that I'm trying to find out where does it put us in the mix in terms of
2477 — we have a house — rezoning. We're R-3.

2478

2479 Mr. Silber: Ms. Thornton-Seal?

2480

2481 Mr. Jernigan: You're right behind the O-2 section.

2482

2483 Ms. Thornton-Seal: Right.

2484

2485 Mr. Jernigan: You're right on Parham. Okay.

2486

2487 Mr. Silber: She's on Parham. She's adjacent to the O-2, which is
2488 adjacent to the subject property. I understand what you're talking about. I think
2489 the Commission does, too. All of this area, basically, along Parham Road from
2490 Staples Mill and back to approximately Lucas Road is shown on the County's
2491 long-range Land Use Plan for office use. That's sort of the blueprint or that's a
2492 guide of how the County would like to see the property developed. However, as
2493 you can see on this corner, it's already zoned for business. That doesn't really
2494 comply, necessarily, with the office designation. I think what's before the
2495 Planning Commission and what will eventually be before the Board of
2496 Supervisors is a request to amend the proffered conditions on this business
2497 piece to see if they see merit in having this used as a business development.

2498 When your property comes in, if you ever sell your property or propose some
2499 other use of the property, you would be evaluated fairly, as this is, against the
2500 Land Use Plan. Now, the Land Use Plan shows offices, but if an argument can
2501 be made or a quality development comes along, then some other use could go
2502 there. I don't see this having any detrimental impact on your property. It's shown
2503 on the Land Use Plan for Office. It's going to stay that way even with this
2504 rezoning. This rezoning really is not changing the classification; it's simply
2505 changing the proffered conditions that exist on this property. I don't know if that
2506 helps or not.

2507
2508 Ms. Thornton-Seal: It helps a little bit. I'm not really familiar with all of the jargon,
2509 all the things it takes to understand this land use thing. The things we have a
2510 concern with is that we be afforded the same opportunity to develop our land as
2511 anyone else, and not just be saying that we have to sell ours. We were told that
2512 it would be, basically, for office use and nothing else other than office use. I
2513 spoke to someone here tonight and they also told me the same thing. Of course,
2514 I guess this is what this is for, you come and you present what you have. We just
2515 wanted to make sure that we're going to be treated fairly in the scheme of things.

2516
2517 Mr. Vanarsdall: Ms. Thornton-Seal, do you have a sign in front of your
2518 house, a "For Sale" sign?

2519
2520 Ms. Thornton-Seal: No sir. We did, but we don't.

2521
2522 Mr. Vanarsdall: Somewhere along there there's a "For Sale" sign.

2523
2524 Ms. Thornton-Seal: It is. It's Victor. I think his name is Victor.

2525
2526 Mr. Vanarsdall: I know where your house is, but that's not your property.

2527
2528 Ms. Thornton-Seal: No. We are adjacent to the property that she was speaking
2529 of.

2530
2531 Mr. Vanarsdall: Yeah.

2532
2533 Mr. Jernigan: When this case came through before with the McDonald's,
2534 we left that piece of O-2 there and didn't rezone that to B because of the
2535 residential next door. McDonald's didn't need that property; they just needed the
2536 portion that was rezoned. We left that to have that transition to your property.

2537
2538 Ms. Thornton-Seal: I kinda better understand it, but I guess what I'm still saying
2539 is that if it's not going to be just land use then we could be looking at something
2540 else as well.

2541
2542 Mr. Jernigan: You want to be able to sell your property off and get some
2543 money.

2544
2545 Ms. Thornton-Seal: No —
2546
2547 Mr. Jernigan: Well, let me — No, but —
2548
2549 Ms. Thornton-Seal: No, no, no. Let me say this to you. I am 58 years old and
2550 we are all in our 50's so money is not an issue. What is at stake here for us is
2551 that our father worked very hard for that piece of land. It really isn't about money
2552 because we could have sold it a long time ago. There's a principle behind this
2553 and the principle is that if your father left you an inheritance, you'd want to reap
2554 the best benefits you could, too. It's really not about money; it's about principle,
2555 sir.
2556
2557 Mr. Jernigan: Maybe I phrased that the wrong way. You want to be
2558 treated just like everybody else when it comes to developing that property.
2559
2560 Ms. Thornton-Seal: Exactly.
2561
2562 Mr. Jernigan: There. That's what I meant.
2563
2564 Ms. Thornton-Seal: Okay.
2565
2566 Mr. Jernigan: You have the chance, rather than selling that as R-3
2567 property, which nobody's going to buy that to build a home. You'd be able to sell
2568 it for either office or retail
2569
2570 Ms. Thornton-Seal: I guess that's the question I'm asking, not just office. Okay.
2571
2572 Mr. Jernigan: That's what I mean. You want to be treated the same as
2573 everybody else down there to where you can your property and develop it.
2574
2575 Mr. Branin: Ms. Thornton-Seal, what are you hoping your property would
2576 be developed as?
2577
2578 Ms. Thornton-Seal: As a family, we had talked about a lot of things. We had
2579 talked about not necessarily office space, but as maybe some kind of — you
2580 down at the hospital where they have the —
2581
2582 Mr. Branin: Condominiums.
2583
2584 Ms. Thornton-Seal: Yeah. Something similar to that.
2585
2586 Mr. Archer: Assisted living.
2587
2588 Ms. Thornton-Seal: Assisted living. That's what I'm saying, sir, thank you.
2589

2590 Mr. Vanarsdall: I don't think it would be large enough.
2591
2592 Mr. Jernigan: How many acres do you have?
2593
2594 Ms. Thornton-Seal: We have a little over one acre. I think it is —
2595
2596 Mr. Jernigan: You have to have a minimum of five acres for assisted living.
2597
2598 Mr. Vanarsdall: That's what I just said; it's not large enough for that.
2599
2600 Ms. Thornton-Seal: Okay. I'm being educated tonight. It's better than not
2601 knowing at all.
2602
2603 Mr. Jernigan: Well, you've done good.
2604
2605 Ms. Thornton-Seal: I don't have a problem with that, sir.
2606
2607 Mr. Vanarsdall: Ms. Thornton-Seal, you weren't told wrong or tricked or
2608 anything. What they told you was that the Land Use Plan is a guide to go by. It
2609 says Office. So, they didn't mean to mislead you. That happens sometimes.
2610
2611 Ms. Thornton-Seal: Well, I don't think I was misled. I guess it's just the way it
2612 was presented. Even when I read this, the language in here says similar to what
2613 I've been saying, that it's for office space and some of it's conditional.
2614
2615 Mr. Archer: Right.
2616
2617 Ms. O'Bannon: Ms. Thornton-Seal, I think it is important. Everything you've
2618 heard from everyone up here tonight I hope indicates to you that you would
2619 definitely be treated fairly. If your property, today if you say you wanted to sell it,
2620 probably what would happen, and this is just the way it usually happens, some
2621 one would come to you, a developer might come to you and say, "I would like to
2622 buy your property and I would like to do something with it." They would go
2623 through the process — you would not necessarily initiate the process — before
2624 the sale. I'm sure Ms. Freye could tell you just generally, or any attorney that
2625 handles these, somebody would buy the property and in the contract it would say
2626 upon the fact that they would get whatever zoning they wanted and then they
2627 would pay you more according to whatever zoning it was that they requested.
2628 That's usually the way this thing sort of gets rolling.
2629
2630 Ms. Thornton-Seal: We've been contacted by some developers, but we have not
2631 done anything about it. I have one more question before I take my seat. If we
2632 chose to leave it as residential, could that happen?
2633
2634 Ms. O'Bannon: Sure. Absolutely.
2635

2636 Mr. Jernigan: As long as it's your property.
2637
2638 Ms. O'Bannon: The person who owns the property is the person who usually
2639 initiates zoning. The County and nobody else is going to impose any zoning on
2640 you.
2641
2642 Ms. Thornton-Seal: The existing building, because there's been some problems
2643 with it, if we chose to tear it down and rebuild as R-3, we can do that.
2644
2645 Mr. Silber: Yes.
2646
2647 Mr. Jernigan: You can leave it residential for as long as you want to.
2648
2649 Mr. Vanarsdall: None of your rights have been taken or are going to be with
2650 this or whatever goes there. One thing, money may not be an issue, but your
2651 property is not going to devalue from this; it's going to go up.
2652
2653 Mr. Branin: What the County does also, Ms. Thornton-Seal, is we sit
2654 down — and we've been going through it this year — and we map out the whole
2655 County. We try to best decide what's best for the community, what's best for
2656 development and we give a suggested use for different areas. Because of the
2657 way Parham and the way Staples Mill is developing, the suggested use for your
2658 property is Office. But that's the County's suggestion for the future. What your
2659 property is now is residential, and your property will stay residential until you
2660 decide to change it or you sell it and that person changes it.
2661
2662 Ms. Thornton-Seal: Thank you. I'll say this. We had some property that we
2663 owned where the Rite Aid is, and we had some property that the County also
2664 used, so we're somewhat familiar with this process. That's why we're someone
2665 speaking out tonight because I don't think we've been treated — and it's not you
2666 guys. But we haven't always been treated fairly. That's why we needed to know,
2667 to have some answers.
2668
2669 Mr. Vanarsdall: I'm glad you came. Do you have a front porch on your
2670 house?
2671
2672 Ms. Thornton-Seal: Yes sir.
2673
2674 Mr. Vanarsdall: I was going to suggest that if you didn't, build one and just sit
2675 there on that porch and wait. One day when you least expect it, someone is
2676 going to come up and instead of saying, "Smile, you're on Candid Camera,"
2677 they're going to say, "I'm a millionaire and I want to talk to you."
2678
2679 Ms. Thornton-Seal: Well, maybe that will happen.
2680

2681 Mr. Jernigan: As a matter of fact, if your case had been in the beginning of
2682 the meeting rather at the end of the meeting, you might have somebody calling
2683 you tomorrow.

2684
2685 Ms. Thornton-Seal: All right.

2686
2687 Mr. Archer: Ms. Thornton-Seal, thank you for coming forward and
2688 expressing that. This is a public hearing and that's why it's a public hearing. We
2689 need to hear from you.

2690
2691 Ms. Thornton-Seal: Yes sir. Thanks.

2692
2693 Ms. Freye: Yes sir. I don't really have any rebuttal. I think that Ms.
2694 Thornton-Seal's questions were answered. I did want to hear from the
2695 Commission what your comfort level would be on how to address the last
2696 sentence of 1C. If it is your pleasure that we amend that to 15 years this
2697 evening, we'd be glad to do that and then still continue to have it reviewed by the
2698 County attorney and with staff for the best solution. Or if you would just prefer
2699 that we go forward and deal with it before the Board, leave it as is, we'll be glad
2700 to do that as well.

2701
2702 Mr. Silber: Ms. Freye, I think I'd be looking for something to be more
2703 like 15 years, but I think you can work on that between now and the Board
2704 hearing.

2705
2706 Mr. Vanarsdall: That's what I'd like to do.

2707
2708 Ms. Freye: We'll be glad to do that. We understand your concern and I
2709 think you kind of understand our concern about the end, how long that expense
2710 would be hanging out there. So, we will be glad to work with the County on that.

2711
2712 Mr. Jernigan: Who wants to make a bet that property will still be R-3 in 15
2713 years?

2714
2715 Mr. Archer: I wouldn't. All right, any other questions? Mr. Vanarsdall, I
2716 think we're ready for a motion.

2717
2718 Mr. Vanarsdall: I was going to thank Ms. Thornton-Seal and the others for
2719 coming, but they've already gone. I think Gloria mentioned this is going to be a
2720 Starbucks and also a Panera Bread. There was a rumor that Kinko's would take
2721 a small part of it and they haven't signed up yet. For my part, you can't believe
2722 the calls that we've had on that piece of property since that piece of junk came
2723 about. This was the best think that's even been thought about on this property.
2724 So, I'm very glad to be a part of it. Mr. Bushey, Ric, he's the applicant and he's
2725 in the audience and he's going to see it goes right. Did you all see a picture of it?
2726 So, I will be looking forward to it. With that, I recommend C-62C-06 —

2727
2728 Mr. Silber: We'll need to waive the time limits.
2729
2730 Mr. Vanarsdall: Oh, I've got to waive the time limits. Waive the time limits on
2731 C-62C-06.
2732
2733 Mr. Branin: Second.
2734
2735 Mr. Archer: Motion by Mr. Vanarsdall and seconded by Mr. Branin to
2736 waive the time limits. All in favor say aye. Those opposed say no. The ayes
2737 have it.
2738
2739 Mr. Vanarsdall: Now, I recommend to the Board of Supervisors that C-62C-
2740 06 be approved.
2741
2742 Mr. Branin: Second.
2743
2744 Mr. Archer: Motion by Mr. Vanarsdall and seconded by Mr. Branin. All in
2745 favor of the motion say aye. Those opposed say no.
2746
2747 **REASON:** The Planning Commission voted 5-0 to recommend the
2748 Board of Supervisors **grant** the request because the changes were determined
2749 to be reasonable in light of the existing business zoning, and the proffers
2750 continue to assure a quality form of development.
2751
2752 Mr. Vanarsdall: Ms. Freye, I want to thank you getting these things today
2753 and yesterday. I think we're getting something every day. We thank you.
2754
2755 Ms. Freye: Yes sir. It was a great team effort and we really appreciate
2756 all the help we got from staff. Thank you.
2757
2758 Mr. Vanarsdall: She sent some stuff to me this morning and I called over to
2759 her office and the secretary said, "Well, we sent it by Wells Fargo." I said it must
2760 have been the stagecoach. It hasn't arrived yet.
2761
2762 Mr. Archer: All right. I think the next item on the agenda is approval of
2763 the minutes. Mrs. Jones, we will abide by whatever you say.
2764
2765 Mrs. Jones: The minutes are fine.
2766
2767 Mr. Archer: The minutes are fine. Do I have a motion for approval?
2768
2769 Mr. Jernigan: If they're okay with her, they're okay with me.
2770
2771 Mr. Jernigan: So I will second that.
2772

2773 Mr. Archer: All right. If we have a motion to second, the minutes are
2774 approved.
2775
2776 Mr. Vanarsdall: Second.
2777
2778 Mr. Archer: Mr. Secretary, is there anything else we need to bring before
2779 the Commission?
2780
2781 Mr. Silber: I was just going to mention, Mrs. Jones mentioned the Tree
2782 Hill Farms charrette that's coming up the beginning of next week. This is in
2783 Varina District. This is an exciting project. The firm DPZ will be holding a one-
2784 week long charrette and it's kicked off with an opening presentation on Monday
2785 the 13th at 7 p.m. Mr. Emerson has confirmed it is 7 p.m. at the Omni Hotel. The
2786 Planning Commission has been invited to that.
2787
2788 Ms. O'Bannon: The first one is at the Jefferson. The second's at the Omni.
2789
2790 Mr. Silber: It's at the Jefferson; I stand corrected.
2791
2792 Mr. Jernigan: It's at the Jefferson?
2793
2794 Mr. Silber: The opening reception, opening presentations.
2795
2796 Ms. O'Bannon: I thought one was at the Jefferson, one's at the Omni, and
2797 one's at the Eastern Government Center.
2798
2799 Mr. Emerson - We have the opening session at the Jefferson Ballroom at
2800 7:00.
2801
2802 Mr. Branin: Monday?
2803
2804 Mr. Emerson - On Monday, the 13th. The community meeting is at the
2805 Omni on the evening of the 15th at 6:30. That's more the design type meeting.
2806 That's not your normal large community meeting. Then your closing session is at
2807 the Glen Echo building at the Eastern Government Center at 7:00 on the 20th.
2808
2809 Ms. O'Bannon: If I may, I believe the manager had a chat with the developer
2810 because the developer did not understand that the City is not part of the County.
2811 Didn't understand that. Apparently, he's a developer from out of the area. He
2812 didn't understand that you really want your meetings close to where the
2813 development's going to be and in the same jurisdiction and that sort of thing.
2814 That's how he ended up at the Jefferson and the Omni. He assumed that was in
2815 the county because cities are generally in the county.
2816
2817 Mr. Jernigan: I questioned that when I first heard it. Because of logistics.
2818 They didn't want to have to rent cars, they wanted to be able to walk to the

2819 restaurants. That was my first thing, why in the world did they have it all the way
2820 up at the Omni. That was —
2821
2822 Ms. O'Bannon: More their convenience.
2823
2824 Mr. Jernigan: Plus, they said the Omni was really one of the only hotels
2825 that could fulfill all the needs that they needed.
2826
2827 Ms. O'Bannon: They needed?
2828
2829 Mrs. Jones: It's a complex procedure.
2830
2831 Mr. Emerson - The locations of the meetings from my understanding is
2832 pretty much along the lines of what, Mr. Jernigan? Their legal team is based at
2833 [unintelligible] Center. It's a very large team of designers that are coming in from
2834 Miami. They have to have adequate housing for them. Then you've got a lot of
2835 support that they need in terms of audiovisual and things like that. That's the
2836 closest site they could really get to Tree Hill that could provide that level of
2837 support they needed. There's not a facility in that direction that can give them
2838 everything that they need to support this process.
2839
2840 Mr. Silber: Keep in mind this is going to go over a period of eight days,
2841 so we don't have any public facility that we could block out for eight days and
2842 have them set up and stage out of. They really needed the facilities. I think they
2843 had to go to where they could find it.
2844
2845 Mr. Emerson - And they're taping. There's a lot of support they need.
2846
2847 Mr. Silber: Anyway. If you can make the opening and closing
2848 presentations, that would be nice.
2849
2850 Mr. Archer: All right, Mr. Secretary.
2851
2852 Ms. O'Bannon: I had one comment. I was unable to attend the last Planning
2853 Commission meeting because I was attending an All Hazards Forum up in
2854 Baltimore, Maryland. This was with a captain in the police department, a captain
2855 in the fire department, and an IT specialist who specializes in inter-operability of
2856 our emergency communication system. The presentation was excellent. Staff
2857 applied for and was awarded a grant through the National Association of
2858 Counties that paid for the two captains and the IT gentleman and me to go. They
2859 said they had to have one elected official. I know they selected me because I'm
2860 on a lot of telecommunications committees and that sort of thing. The ultimate
2861 goal by 2015 is for inter-operability of all communications systems in the Mid-
2862 Atlantic region, all of us to be inter-operable between North Carolina, Virginia,
2863 Maryland, Washington, DC, Pennsylvania, New Jersey, Delaware, New York,
2864 West Virginia. The ultimate goal was to be totally inter-operable with all

2865 emergency communication systems. Nationally, shortly thereafter, an initiative
2866 from the Department of Homeland Security.

2867
2868 I'm sort of mentioning it because I wasn't at the meeting last time. I don't want
2869 you to think I just don't attend.

2870
2871 Mr. Archer: We knew. In fact, we started to cancel the meeting until you
2872 got here.

2873
2874 Ms. O'Bannon: There are the general issues of tower, but you're also going
2875 to find with the types of equipment that are coming up and that's one of the
2876 things you talk about with inter-operability are the need for fewer towers. So, got
2877 into a lot of those issues. That's why I thought it's always been so important to
2878 have, when you do the provisional use permit for a tower, that it has that listed as
2879 we gotta take it down. We talked about when you have to remove the tower and
2880 how long it has to be before you remove it. It's going to be very difficult. I'm
2881 going to conferences this weekend where this is going to be part of the big
2882 discussion. We've got books and everything on this for how Virginia — which is
2883 kind of frightening. We switch radios, a walkie-talkie with other jurisdictions and
2884 we've worked with the minimum ability to do inter-operability with all the
2885 jurisdictions. Between the City of Richmond, Henrico, Chesterfield, Hanover, and
2886 Charles City, New Kent, Powhatan, Goochland, and actually all the way to
2887 Charlottesville west, east to Hampton, north to Fredericksburg, and south to
2888 Virginia/North Carolina state line, we have achieved inter-operability. We are
2889 considered the gold standard to the country, which is amazing to me because we
2890 have sort of a patchwork of jackleg systems, so to speak. Yet when I go to other
2891 jurisdictions—and that's what I was doing about a week ago, is went down and
2892 tried to discuss it—it just shocked me. When I talked to representatives of Miami
2893 (the City of Miami and Dade County, which surrounds Miami), and other people
2894 in California—San Francisco and down near San Mateo County where they're
2895 around other cities—they refuse to even begin the process. They say, "Oh, it'll
2896 never happen, our police department doesn't even talk to our fire department.
2897 We're not going to do that." I don't know what it's going to take.

2898
2899 Here, of course, I think we've learned a lesson because of Washington, DC and
2900 the evacuation of Washington, DC. Our emergency people will have to go to DC
2901 or points around there, Baltimore perhaps and all that. We have good
2902 relationships. That's why is strikes me now is I guess that's why we're the gold
2903 standard. We at least talk to each other. I get upset when they keep beating us
2904 up about how we don't have any regional cooperation. It's an amazing process
2905 and it's been a really good learning process for me. I wish I could take those
2906 people who criticize us for not talking and see how we really have managed to
2907 get along more exceptionally than most other jurisdictions in the nation. That's
2908 what I was doing.

2909
2910 Mr. Archer: Thank you, Ms. O'Bannon. On that note, it's 9:38.

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~~2920~~
2922

Randall R. Silber, Secretary

C. W. Archer, CPC, Chairman