

1 Minutes of a work session of the Planning Commission of the County of Henrico  
2 held in the County Manager's Conference Room, Administration Building in the  
3 Government Center at Parham and Hungary Spring Roads, beginning at 5:15  
4 p.m. September 11, 2014.  
5

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

Member Absent: Mr. R. Joseph Emerson, Jr., AICP,  
Director of Planning, Secretary  
(Left at break during work session.)

Also Present: Ms. Jean M. Moore, Assistant Director of Planning  
Mr. James P. Strauss, PLA, Principal Planner  
Mr. Kenny Dunn, Assistant Fire Chief  
Mr. Henry Rosenbaum, Chief Fire Marshal  
Mr. Greg Revels, Building Official  
Mr. Bolman Bowles, Deputy Building Official  
Mr. Billy Moffett, County Planner  
Mr. Lee Pambid, County Planner  
Ms. Sylvia Ray, Recording Secretary

6  
7 Mr. Leabough - I'd like to call the Henrico County Planning  
8 Commission to order. This is the September 11, 2014, work session. I'll now turn  
9 the agenda over to our secretary, Mr. Emerson.

10  
11 The Commission convened a work session in the County Manager's Conference  
12 Room at 5:15 p.m. to discuss Exterior Building Materials with two guest  
13 speakers, architects Mr. Kenny Payne and Ms. Jonathan Fraser.  
14

15 The Commission reconvened at 7:00 p.m. for the public hearing.

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 Spring Roads, beginning at 7:00 p.m. September  
4 11, 2014. Display Notice having been published in the Richmond Times-Dispatch  
5 on August 25, 2014 and September 1, 2014.

6  
7 **Members Present:** Mr. Eric S. Leabough, C.P.C., Chairman (Varina)  
8 Mr. Robert H. Witte, Jr., Vice-Chairman (Brookland)  
9 Mr. C. W. Archer, C.P.C. (Fairfield)  
10 Mr. Tommy Branin (Three Chopt)  
11 Mrs. Bonnie-Leigh Jones, C.P.C., (Tuckahoe)  
12 Ms. Jean M. Moore, Assistant Director of Planning,  
13 Acting Secretary  
14 Mr. David A. Kaechele,  
15 Board of Supervisors' Representative  
16

17 **Member Absent:** Mr. R. Joseph Emerson, Jr., AICP,  
18 Director of Planning, Secretary  
19 (Left at break during work session.)  
20

21 **Also Present:** Mr. James P. Strauss, PLA, Principal Planner  
22 Ms. Rosemary D. Deemer, AICP, County Planner  
23 Mr. Benjamin Sehl, County Planner  
24 Mr. Livingston Lewis, County Planner  
25 Mrs. Lisa Blankinship, County Planner  
26 Mr. William Moffett, County Planner  
27 Mr. John Cejka, Traffic Engineer, Public Works  
28 Ms. Kim Vann, County Planner, Police  
29 Ms. Sylvia Ray, Recording Secretary  
30

31 **Mr. David A. Kaechele, the Board of Supervisors' representative, abstains**  
32 **on cases unless otherwise noted.**  
33

#### 34 **THE PLANNING COMMISSION RECONVENED**

35

36 Mr. Leabough - I would like to reconvene this meeting of the Henrico  
37 County Planning Commission. Earlier today we had a work session. So thank  
38 you all for being here. This is our rezoning meeting. As you all prepare to mute or  
39 silence your cell phones, I ask that you all stand with the Commission for the  
40 Pledge of Allegiance.  
41

42 I don't believe we have anyone from the news media present. It doesn't look like  
43 we do.  
44

45 Mr. Witte - Mr. Chairman, before we get started, this being the  
46 thirteenth anniversary of the terrorist attack, could we take a moment of silence  
47 please?  
48

49 Mr. Leabough - Actually, you took the words right out of my mouth. So  
50 with that, if we all could bow our heads in remembrance of the September 11th  
51 attack.  
52

53 Thank you.  
54

55 With that, I would like to turn the agenda over to our Acting Secretary, Ms.  
56 Moore.  
57

58 Ms. Moore - Thank you, Mr. Chairman. As noted, we did have a  
59 work session regarding—more of an informational work session for the  
60 Commission on exterior buildings, —exterior materials that the County often sees  
61 in building. We had that in the County Manager's conference room at 5:15. Next  
62 we move into the public hearing. First on the agenda are requests for  
63 withdrawals and deferrals. Those will be presented by Mr. Jim Strauss.  
64

65 Mr. Strauss - Thank you, Ms. Secretary. We do have one request  
66 for deferral this evening. It's in the Fairfield District. It's on page 3 of the agenda.  
67 That would be case REZ2014-00041, Ample Storage Lake Worth, LLC. The  
68 applicant is requesting a deferral to the October 9, 2014 meeting.  
69

70 **REZ2014-00041 Bay Companies for Ample Storage Lake Worth,**  
71 **LLC:** Request to rezone from R-5C General Residence District (Conditional) and  
72 B-2C Business District (Conditional) to M-1C Light Industrial District (Conditional)  
73 part of Parcels 804-737-1251, 804-737-7961 and 804-736-0481 containing  
74 13.191 acres located on the east line of Mechanicsville Turnpike (U.S. Route  
75 360) at its intersection with Evans Road. The applicant proposes a mini-storage  
76 facility. The use will be controlled by proffered conditions and zoning ordinance  
77 regulations. The 2026 Comprehensive Plan recommends Commercial  
78 Concentration and Urban Residential. The site is located in the Airport Safety  
79 Overlay District.  
80

81 Mr. Leabough - Is there anyone in the audience in opposition to the  
82 deferral of REZ2014-00041, Bay Companies for Ample Storage Lake Worth,  
83 LLC? There is no opposition.  
84

85 Mr. Archer - Okay, Mr. Chairman. I move to honor the applicant's  
86 request and defer this case until the October 9th meeting.  
87

88 Mrs. Jones - Second.  
89

90 Mr. Leabough - We have a motion by Mr. Archer, a second by  
91 Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it; the motion  
92 passes.  
93

94 At the request of the applicant, the Planning Commission deferred REZ2014-  
95 00041, Bay Companies for Ample Storage Lake Worth, LLC, to its meeting on  
96 October 9, 2014.  
97

98 Ms. Moore - Next on your agenda are any requests for withdrawal.  
99 Staff is not aware of any of those requests, so we can move along to our  
100 requests on the expedited agenda.  
101

102 Mr. Strauss - Thank you, and we do have four requests for approval  
103 on the expedited agenda this evening. The first three are in the Three Chopt  
104 District, the first one being on page 2 of the agenda, REZ2014-00031, Welwood  
105 LLC. This is a request to rezone the acreage from the A-1 District to R-2AC  
106 (One-Family Residential District). The applicants propose single-family  
107 residences. Staff is recommending approval with the proffers on page 5 of the  
108 staff report. We are not aware of any opposition.  
109

110 **REZ2014-00031 John Grier for Welwood I, LLC:** Request to  
111 conditionally rezone from A-1 Agricultural District to R-2AC One-Family  
112 Residence District (Conditional) part of Parcel 736-769-4930 containing .615  
113 acres located approximately 475' northwest of the intersection of N. Gayton Road  
114 and Kain Road. The applicant proposes single-family residences. The R-2A  
115 District allows a minimum lot size of 13,500 square feet and a maximum gross  
116 density of 3.22 units per acre. The use will be controlled by proffered conditions  
117 and zoning ordinance regulations. The 2026 Comprehensive Plan recommends  
118 Suburban Residential 1, density should not exceed 2.4 units per acre.  
119

120 Mr. Leabough - Is there anyone in the audience in opposition to  
121 REZ2014-00031, John Grier for Welwood I, LLC? There is no opposition.  
122

123 Mr. Branin - Mr. Chairman, I'd like to move that REZ2014-00031,  
124 John Grier for Welwood I, LLC, move forward on the expedited agenda with a  
125 recommendation for approval.  
126

127 Mr. Witte - Second.  
128

129 Mr. Leabough - We have a motion by Mr. Branin, a second by Mr.  
130 Witte. All in favor say aye. All opposed say no. The ayes have it; the motion  
131 passes.  
132

133 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.  
134 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the  
135 Board of Supervisors grant the request because it conforms to the



recommendations of the Comprehensive Plan, continues a similar level of single family residential zoning as currently exists in the area, and the proffered conditions will provide appropriate quality assurances not otherwise possible.

Mr. Strauss - The next request for approval on the expedited agenda, also in the Three Chopt District on page 2 of the agenda is REZ2014-00032, PCG1 LLC. This is a request to conditionally rezone from B-1 Business District and B-1C Business District (Conditional) to the B-2C Business District. This is to allow a restaurant with catering. Staff is recommending approval with the proffers on page 5 of the staff report. We're not aware of any opposition for this one.

**REZ2014-00032**                      **Andrew M. Condlin for PCG1, LLC:** Request to conditionally rezone from B-1 Business District and B-1C Business District (Conditional) to B-2C Business District (Conditional) Parcel 747-757-0157 containing .959 acres located at the southeast intersection of Three Chopt and Church Roads. The applicant proposes a restaurant with catering. The use will be controlled by proffered conditions and zoning ordinance regulations. The 2026 Comprehensive Plan recommends Commercial Concentration.

Mr. Leabough - Is there anyone in the audience in opposition to REZ2014-00032, Andrew M. Condlin for PCG1, LLC? There is no opposition.

Mr. Branin - Mr. Chairman, I would like to move for REZ2014-00032, Andrew M. Condlin for PCG1, LLC, to be approved on the expedited agenda and move forward with a recommendation for approval.

Mr. Witte - Second.

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

**REASON -** Acting on a motion by Mr. Branin, seconded by Mr. Witte, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant the request because it conforms to the recommendations of the Comprehensive Plan and it would not be expected to adversely affect the pattern of zoning and land use in the area.

Mr. Strauss - Our final expedited item in the Three Chopt District is REZ2014-00034, Attack West Broad Investors, LLC. This is a request to conditionally rezone from R-6C General Residential District (Conditional) and RTHC General Residential Townhouse District (Conditional) to the C-1C Conservation District, thus fulfilling obligations of the previous zoning case. A Conservation District is proposed. Staff is recommending approval. And there is a proffer on page 4 of the staff report. We are not aware of any opposition.

182  
183 **REZ2014-00034 Timmons Group for Attack WB Investors, LLC:**  
184 Request to conditionally rezone from R-6C General Residence District  
185 (Conditional) and RTHC Residential Townhouse District (Conditional) to C-1C  
186 Conservation District (Conditional) part of Parcels 730-767-7336, 730-766-6366,  
187 and 731-766-4295 containing 6.422 acres located between the Goochland  
188 County line, W. Broad Street (U.S. Route 250), and Interstate 64. The applicant  
189 proposes a conservation district. The use will be controlled by proffered  
190 conditions and zoning ordinance regulations. The 2026 Comprehensive Plan  
191 recommends Environmental Protection Area. The site is located in the West  
192 Broad Street Overlay District.

193  
194 Mr. Leabough - Is there anyone in opposition to REZ2014-00034,  
195 Timmons Group for Attack WB Investors, LLC? There is no opposition.

196  
197 Mr. Branin - Mr. Chairman, I'd like to move that REZ2014-00034,  
198 Timmons Group for Attack WB Investors, LLC, be approved on the expedited  
199 agenda and move forward with a recommendation for approval and the additional  
200 condition.

201  
202 Mr. Witte - Second.

203  
204 Mr. Leabough - We have a motion by Mr. Branin, a second by Mr.  
205 Witte. All in favor say aye. All opposed say no. The ayes have it; the motion  
206 passes.

207  
208 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.  
209 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the  
210 Board of Supervisors grant the request because it was specifically required by  
211 proffer C-18C-12 and conforms to the recommendations of the Comprehensive  
212 Plan.

213  
214 Mr. Strauss - The last request on our agenda this evening for  
215 expedited approval is in the Varina District. It's on page 3 of the agenda,  
216 REZ2014-00039, Becknell Services, LLC. This is a request to rezone from A-1  
217 Agricultural District to M-1C Light Industrial District (Conditional). The applicant is  
218 proposing expansion for truck trailer parking. Staff is recommending approval  
219 with the proffers on page 5 of the staff report. We are not aware of any  
220 opposition.

221  
222 **REZ2014-00039 Randy Hooker for Becknell Services, LLC:** Request  
223 to rezone from A-1 Agricultural District to M-1C Light Industrial (Conditional) part  
224 of Parcel 815-700-1434 containing .915 acre located approximately 400' from the  
225 west line of Darbytown Road approximately 1000' from its intersection with S.  
226 Laburnum Avenue. The applicant proposes truck/trailer parking. The use will be  
227 controlled by proffered conditions and zoning ordinance regulations. The 2026

Comprehensive Plan recommends Planned Industry. The site is located in the Airport Safety Overlay District.

Mr. Leabough - Is there anyone in opposition to REZ2014-00039, Randy Hooker for Becknell Services, LLC? There is no opposition. With that I move that we forward this case to the Board of Supervisors with a recommendation of approval. It is for REZ2014-00039, Randy Hooker for Becknell Services, LLC. This is subject to the conditions noted in the staff report.

Mrs. Jones - Second.

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

**REASON -** Acting on a motion by Mr. Leabough, seconded by Mrs. Jones, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant the request because it conforms to the recommendations of the Land Use Plan and the proffered conditions should minimize the potential impacts on surrounding land uses.

Ms. Moore - Mr. Chairman, that completes our requests for expedited items for this evening. We now move into your regular agenda to the first item, which appears on page 2.

**REZ2014-00033 Andrew M. Condlin for Windsor Enterprise Corp.:**  
Request to conditionally rezone from A-1 Agricultural District to R-2AC One-Family Residence (Conditional) part of Parcels 740-770-9386 and 740-770-7171 containing 8.789 acres located approximately 125' south of the terminus of Grey Oaks Park Lane. The applicant proposes a maximum of 22 single-family residences. The R-2A District allows a minimum lot size of 13,500 square feet and a maximum gross density of 3.22 units per acre. The use will be controlled by proffered conditions and zoning ordinance regulations. The 2026 Comprehensive Plan recommends Suburban Residential 1, density should not exceed 2.4 units per acre. The staff report will be presented by Mr. Ben Sehl.

Mr. Leabough - Is there anyone in the audience in opposition to REZ2014-00033, Andrew M. Condlin for Windsor Enterprise Corp? No opposition. Mr. Sehl, good evening.

Mr. Sehl - Good evening, Mr. Chairman.

This is a request for R-2AC zoning to allow for the development of property directly to the south of the Estates at Grey Oaks. The development would be incorporated into the Grey Oaks community, and the proposed subdivision would be largely consistent with the proffered requirements for Grey Oaks.



274  
275 Adjacent properties to the north and west are also zoned R-2AC, and are  
276 developed as the Estates at Grey Oaks and Mason Park communities,  
277 respectively. To the south and east are properties zoned A-1 and developed as  
278 single-family homes.

279  
280 The applicant has proffered to develop the subject properties with a maximum of  
281 twenty-two homes. Some of these new lots would include property previously  
282 rezoned with the original Grey Oaks case. When this area is included, the  
283 proposed residential density would be 2.29 units per acre, which is consistent  
284 with the site's SR1 designation, shown here.

285  
286 In addition to the proffered maximum density, the applicant has submitted a  
287 number of other proffers, including this concept plan. These proffers have  
288 recently been revised, and have been handed out to you this evening. The  
289 concept plan is generally consistent with the pattern of development throughout  
290 Grey Oaks, and shows the proposed layout of the property, including two  
291 possible road extensions to the east. Other major proffers include:

- 292  
293
  - A minimum finished floor area of 3,000 square feet.
  - 294 • A minimum lot width of 90 feet, with 80 percent of the lots being at
  - 295 least 100 feet wide.
  - 296 • All homes would have a two-car garage, of which 90 percent would be
  - 297 side or rear loaded.
  - 298 • Homes would be constructed of brick, stone, or HardiPlank, and each
  - 299 home would have a minimum of 60 percent brick or stone on the front
  - 300 elevation.

301  
302 To address staff concerns regarding access, the applicant has revised the  
303 proffers to require an additional emergency access to this property should it be  
304 requested at the time of subdivision review. This change is reflected in the  
305 proffers distributed this evening. This proffer change also addresses previous  
306 concerns regarding the wording of Proffer 9.

307  
308 Overall, staff believes this request is consistent with the comprehensive plan, as  
309 well as the quality of development in the adjacent Grey Oaks subdivision. The  
310 proffers should allow for a development in keeping with recent residential  
311 construction in the area, and allow for a logical expansion of the Grey Oaks  
312 community. For these reasons, staff supports this request. This concludes my  
313 presentation, and I'd be happy to try and answer any questions you may have.

314  
315 Mr. Leabough - Are there questions for Mr. Sehl?

316  
317 Mrs. Jones - Where would this emergency access be located?  
318



319 Mr. Sehl - The applicant owns a number of properties in the area  
320 and is also talking with additional property owners in the area. This little portion  
321 here you can see is actually part of one of the subject parcels. So it could  
322 potentially be located here. There are some improved driveways that could be  
323 improved even further, to potentially provide that access. The applicant is also  
324 here and could potentially expand upon that if you'd like.

325  
326 Mrs. Jones - But as far as your review, this does not concern you. I  
327 mean, you don't think this is an insurmountable problem because there are a  
328 number of ways in which it can be solved?

329  
330 Mr. Sehl - Yes, I would agree with that.

331  
332 Mrs. Jones - Okay, all right. Thank you.

333  
334 Mr. Leabough - Are there other questions for Mr. Sehl? Thank you,  
335 sir.

336  
337 Mr. Sehl - Thank you.

338  
339 Mr. Leabough - Mr. Branin? Would you like to hear from the  
340 applicant?

341  
342 Mr. Branin - Sure.

343  
344 Mr. Leabough - Would the applicant please come forward?

345  
346 Mr. Condlin - Members of the Commission, Andy Condlin here  
347 representing Windsor Enterprise Corporation. Mr. Sehl covered everything. I'll be  
348 happy to answer any questions you have.

349  
350 Mr. Branin - I just wanted to bring out that you guys are aware of  
351 the need for possible emergency exits.

352  
353 Mr. Condlin - Yes.

354  
355 Mr. Branin - And I was looking for some insight on the other  
356 consolidation of the properties in the future.

357  
358 Mr. Condlin - With adding onto this property? Yes. As Mr. Sehl  
359 pointed out and we're committed to, we may have to work on the language a little  
360 bit, but as the County requires emergency access anywhere through the  
361 subdivision process, we'll go ahead and provide it. The reason we're not saying it  
362 has to be done is because we might actually provide access—for example,  
363 here's Ellis Meadows Lane, and Windsor Enterprises owns all of this property.  
364 We could certainly connect to that, so that would no longer need an emergency

365 access if we make that public road connection. That could also serve as an  
366 emergency access as Mr. Sehl had pointed out, as well as there's property that  
367 Mr. Winsor owns, a strip of property that comes down here that could serve as  
368 the emergency access through here as well. As we develop, there is property  
369 here that obviously will make that public road connection if we need to. If these  
370 properties are under contract, which they're not, but if they do become under  
371 contract they would provide the public access through this way behind these  
372 homes. So there are a number of ways that access could be provided for full  
373 working public road access as well as the emergency access.

374  
375 The only other thing I would mention is the commitment that we made with  
376 respect to Bridlewood from the back of these lots on the other side of Bridlewood,  
377 Hames Lane, those have been developed. Those are really large lots. We have to  
378 deal with those neighborhoods as well. We committed to come back to them at  
379 some point in the future when we bring subdivision that way. So that's one of the  
380 reasons for the delay. It will just be a temporary delay in developing those other  
381 parcels.

382  
383 Mr. Branin - And Mr. Condlin, we've had extensive conversations  
384 between us, but I wanted the other commissioners to be aware. And you are fully  
385 aware that as this does get developed and then we go into POD, this is going to  
386 be A number 1.

387  
388 Mr. Condlin - Yes. Yes sir.

389  
390 Mr. Leabough - Other questions for—

391  
392 Mr. Kaechele - Yes, one other question. These homes will become  
393 part of the Grey Oaks Homeowners Association?

394  
395 Mr. Condlin - Yes sir. We've committed to do that as well. That  
396 includes the pool and the racquet club, which was sized originally to include this.  
397 It's actually sized to include this property as well as this additional property that  
398 Windsor Enterprises owns. It was always anticipated that those would go into  
399 Grey Oaks. So yes sir, they'll become part of the restrictive covenants, part of the  
400 association, as well as the benefits of all that.

401  
402 Mr. Kaechele - Grey Oaks is really a great subdivision. They have  
403 very high-quality homes and standards. So this will be equally part of that.

404  
405 Mr. Condlin - Yes sir.

406  
407 Mr. Kaechele - Thank you.

408  
409 Mr. Condlin - Yes sir.

411 Mr. Leabough - Thank you. Other questions for Mr. Condlin? If not,  
 412 thank you, sir.  
 413  
 414 Mr. Condlin - Thank you.  
 415  
 416 Mr. Leabough - Mr. Branin?  
 417  
 418 Mr. Branin - Mr. Chairman, I'd like to move that REZ2014-00033,  
 419 Andrew M. Condlin for Windsor Enterprise Corp., move forward to the Board with  
 420 a recommendation for approval.  
 421  
 422 Mr. Witte - Second.  
 423  
 424 Mr. Leabough - We have a motion Mr. Branin, a second by Mr. Witte.  
 425 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
 426  
 427 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.  
 428 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the  
 429 Board of Supervisors grant the request because it conforms with the objectives  
 430 and intent of the County's Comprehensive Plan, reflects the type of residential  
 431 growth in the area, and the proffered conditions will assure a level of  
 432 development otherwise not possible.  
 433  
 434 **REZ2013-00021** **Geriel DeOliveira:** Request to conditionally rezone  
 435 from B-2 Business District to B-3C Business District (Conditional) Parcel 767-  
 436 741-7271 containing .618 acres located on the north line of Horsepen Road at its  
 437 intersection with Catawba Lane. The applicant proposes an automobile repair  
 438 service. The use will be controlled by proffered conditions and zoning ordinance  
 439 regulations. The 2026 Comprehensive Plan recommends Commercial  
 440 Concentration. The site is located in the Enterprise Zone. The staff report will be  
 441 presented by Mrs. Lisa Blankinship.  
 442  
 443 Mr. Leabough - Is there anyone in the audience in opposition to  
 444 REZ2013-00021, Geriel DeOliveira?  
 445  
 446 Mrs. Jones - Do you mind going over all of that, the regulations?  
 447  
 448 Ms. Moore - Certainly, Mrs. Jones. The Commission does adhere  
 449 to some rules that regulate the public hearing process. Basically, the applicant or  
 450 their representative has a total of ten minutes to present the request. At any time  
 451 they can reserve any part of the ten minutes for any responses or testimony to  
 452 questions that may arise. Opposition is also allowed ten minutes to present their  
 453 concerns. This is ten minutes cumulative not per speaker. We ask that you do  
 454 have your questions or concerns related to only the case under consideration. If  
 455 the Commission feels like more time is warranted, they can grant that as well.  
 456



457 Mr. Leabough - Thank you. Ms. Moore. Ms. Blankinship, good  
458 evening.

459  
460 Ms. Blankinship - Good evening. Thank you Mr. Chairman, members of  
461 the Commission.

462  
463 This is a request to rezone .618 acres from B-2 to B-3C to allow for an auto  
464 repair use. Auto repair is first permitted in the B-3 District, hence the reason for  
465 this request.

466  
467 The site is located in the Enterprise Zone and the 2026 Comprehensive Plan  
468 recommends Commercial Concentration. The requested B-3 zoning could  
469 therefore be consistent with the Plan's recommendation and Enterprise Zone  
470 objectives.

471  
472 The site was developed in 1968 as a service station. This use continued until  
473 1977 when an administrative plan was approved for a dry cleaning use. In 1983,  
474 the property was purchased by the current owners who leased the property to  
475 multiple tenants over the years for retail uses.

476  
477 The applicant is requesting to rezone the property to B-3C to allow for an  
478 automobile repair use which is first allowed in the B-3 District. The applicant has  
479 submitted a number of proffers to help minimize negative impacts. These proffers  
480 include:

- 481
- 482 • Prohibited uses;
  - 483 • Limited hours of operation for the auto repair use;
  - 484 • Limited number of auto repair service bays;
  - 485 • Limited number of automobiles to be serviced; and
  - 486 • Site improvements including landscaping and the closing of two
  - 487 entrances closest to the Catawba/Horsepen intersection.
- 488

489 Since the staff report, the applicant has submitted revised proffers and building  
490 elevations that have been handed out to you this evening.

491  
492 These revised proffers address:

- 493
- 494 • The screening material of the dumpster enclosure;
  - 495 • The size of the tow truck that will be utilized;
  - 496 • The assurance that the bay doors will be closed when repairs are
  - 497 conducted; and
  - 498 • The assurance that there will be no exterior storage of tires,
  - 499 equipment, tools, auto parts, or auto fluids.
- 500

501 A community meeting was held on August 13, 2014, and was attended by  
502 approximately fifteen citizens. Concerns raised included the use of auto body



503 repair, and auto body painting, the number of automobiles to be serviced, and  
504 the hours of operation. The applicant believes he has addressed these concerns  
505 with revised proffers.

506  
507 Staff notes that since the staff report, the Planning Department has received  
508 letters and phone calls in opposition to this request.

509  
510 The requested B-3 zoning could be consistent with the Plan's recommendation of  
511 Commercial Concentration and the Enterprise Zone incentives directed at  
512 encouraging continued revitalization and economic growth. In addition, the  
513 applicant has submitted proffers that would further regulate the site and help to  
514 mitigate negative impacts on adjacent property owners. For these reasons, staff  
515 believes this request could be appropriate.

516  
517 Staff notes the time limits would need to be waived. This concludes my  
518 presentation. I will be happy to answer any questions.

519  
520 Mr. Leabough - Are there questions for Ms. Blankinship?

521  
522 Mrs. Jones - I do, if no one else does. Because the revised proffers  
523 have just been submitted, they were not available to folks on the website were  
524 they.

525  
526 Ms. Blankinship - No ma'am.

527  
528 Mrs. Jones - So just because we do have a number of people here  
529 tonight who I don't believe have had a chance to actually know what's in the  
530 revised proffers—there are only several of them where wording has changed.  
531 Would you just go over those—

532  
533 Ms. Blankinship - Yes ma'am.

534  
535 Mrs. Jones - —I believe there are three of them—so that  
536 everybody in the audience knows what is in those proffers that have been  
537 changed.

538  
539 Ms. Blankinship - Right. Proffer #6 regarding trash receptacles. It's  
540 elaborating what the building material would be made of. Around the wall, the  
541 enclosure will be made of brick.

542  
543 Mrs. Jones - Would you read the proffers as they are now?

544  
545 Ms. Blankinship - Oh, yes ma'am. "Trash receptacles, not including  
546 convenience cans, shall be screened from public view at ground level and  
547 enclosed with walls made of bricks and doors made of material that is not  
548 transparent."

549  
550 Mrs. Jones - Okay.  
551  
552 Ms. Blankinship - Number 7 with regards to the tow truck. "A tow truck  
553 weighing three to four tons, may be used during the hours of operation, but shall  
554 not be parked on the property between the hours of 8 p.m. and 7 a.m."  
555  
556 Number 8 regarding the auto repair bays. "The number of bays for the auto repair  
557 service shall be limited to three. During the hours the car repair shop will be  
558 open, any repair service performed or oil change will be done within enclosed  
559 doors."  
560  
561 And then lastly it's an additional Proffer #13. "There will be no exterior storage of  
562 tires, equipment, materials, tools, auto parts, or auto fluids." I'm sorry; that was  
563 not underlined in your handout.  
564  
565 Mrs. Jones - I just wanted to make sure—I know we have  
566 neighbors here tonight who are very interested in this case—they realize where  
567 the proffers stand at this moment.  
568  
569 Are you able to show the elevations for us please?  
570  
571 Ms. Blankinship - Yes ma'am.  
572  
573 Mrs. Jones - And the site plan and other things that might help  
574 folks understand?  
575  
576 Ms. Blankinship - These are the proposed elevations. Up top is the  
577 proposed; the bottom is the existing. Facing east. Facing Horsepen. And then we  
578 have facing south, the side elevation facing Catawba. And then we have the site  
579 plan showing the proposed landscaping, the closure of the entrances at the  
580 Catawba and Horsepen with landscaping around the perimeter. Would you like to  
581 see anything additional?  
582  
583 Mrs. Jones - If you have anything additional that you think might  
584 help everyone understand.  
585  
586 Ms. Blankinship - There's just a close-up of the floor plan, existing and  
587 proposed.  
588  
589 Mrs. Jones - This is proposed?  
590  
591 Ms. Blankinship - Yes ma'am.  
592  
593 Mrs. Jones - All right. I have no more questions for Ms.  
594 Blankinship.

595  
596 Mr. Leabough - I just have a quick question. So is this an existing  
597 business that's operating currently?  
598  
599 Ms. Blankinship - No sir. It's an existing building but not an existing—  
600  
601 Mr. Leabough - It's not in operation.  
602  
603 Ms. Blankinship - No sir.  
604  
605 Mr. Leabough - Okay. Thank you.  
606  
607 Ms. Blankinship - You're welcome.  
608  
609 Mrs. Jones - All right. Mr. Chairman, I think because it would be  
610 easier to address the issues that folks wish to raise, I'd like the people who are  
611 here in opposition to come forward. And just among yourselves try to be non-  
612 repetitive. And just remember we're working with ten minutes. And then we will  
613 certainly try to get answers to all the issues you raise.  
614  
615 Mr. Leabough - As you approach the podium, these are recorded  
616 proceedings, so if you could state your name for the record, we would appreciate  
617 it.  
618  
619 Mr. Lafayette - Mr. Chairman, my name is Michael Lafayette. I am an  
620 attorney.  
621  
622 Mrs. Jones - Hold on a moment. Folks, you can relax in a chair,  
623 and we'll call you up. This is a much less formal proceeding than you might think.  
624 Okay. Thank you. I'm sorry.  
625  
626 Mr. Lafayette - I thought I was going to get attacked.  
627  
628 Mrs. Jones - All right. Go ahead.  
629  
630 Mr. Lafayette - My name is Michael Lafayette. I'm an attorney here in  
631 Henrico County. My office is at 10160 Staples Mill Road. I do represent the  
632 Bisker Family and MB Ventures, which is the property owner immediately  
633 adjacent to the east of this property. So if you're facing it, it's the property that's  
634 right to the right. So they would be impacted with respect to this development.  
635  
636 This is a downgrading zoning from B-2 to B-3, so it downgrades the use of this  
637 area. Our concern and my client's concern is that it's inconsistent for this  
638 neighborhood. There has been a substantial investment made in this  
639 neighborhood from apartments to homes to different things over the last several  
640 years. The neighborhood has increased as far as property values. The



neighborhood has done better with respect to drawing new businesses and different businesses. And we feel that allowing an automobile repair service at this location, which is full time, is inconsistent with the use of this property.

Very specifically, right now it's B-2. As you're well aware, B-2 does allow for auto repair if it's ancillary to a service station. But does allow for a full-time use of repairing of cars. And we feel that a full-time use of the vehicle repair, again, is inconsistent.

There were some proffers that were offered. No doubt the landscaping and things like that look great. I certainly have no objection to that. But it's not the landscaping and the finishing touches that are important here; it's what they're going to do at the premises. And what they're going to do at the premises again we feel is inconsistent.

I'd also like to point you to the code and say that inoperable vehicles may be stored on the premises for up to the thirty days. That has not been proffered out, so they have proffered no more than ten vehicles. But really, that's nothing, because the lot can't hold but ten vehicles. So they really haven't provided anything with respect to parking or the storage of vehicles that are not working.

The last thing this neighborhood needs is a repair shop that has vehicles, broken down vehicles sitting in the parking lot when this neighborhood is on the rebound and up and going.

So I would ask you to consider that, consider the characteristics of this neighborhood, consider the use, and consider that this is a step backwards for the community. And the community does not want this, members of the Commission. They certainly do not want an auto repair shop next door. They would support retail; they would support anything that would be consistent with B-2. They want this owner to do that. They want to be a good neighbor and support the use of this property for retail and other uses. But just not an automobile repair shop.

Thank you for your time.

Mr. Leabough - Thank you.

Mrs. Jones - All right. Whoever would like to come on up.

Mr. Lipscomb - My name is Lawrence Lipscomb. I lease 6410 Horsepen Road. I've been there for twenty-nine years, and I've seen a lot of improvements in the area. I don't believe down-zoning this property would be an asset to the community. I appreciate your time.

Mr. Leabough - Thank you, sir.



687  
688 Mrs. Jones - Thank you.  
689  
690 Mr. Hendrick - I'm Richard Hendrick with Custom Kitchens. My  
691 brother, David, and I, and our dad own that building. We've invested in that  
692 building over the years and seen that neighborhood go down. And it's come back  
693 up with the new houses and other retail on the street. We're really opposed to  
694 seeing the zoning being downgraded. Thank you.  
695  
696 Mr. Leabough - Thank you.  
697  
698 Mr. Hendrick - My name is David Hendrick. I'm Richard's brother.  
699 Both of us own Custom Kitchens, and my dad owns the building. But we would  
700 like to see that be retail. We were very fortunate that we were the retailer of the  
701 year for the Retail Merchants Association. And we have worked very hard to  
702 make that a very good retail space. So what I did, I went and took some pictures  
703 in some other areas in Lakeside that we feel like could be done in that area and it  
704 would enhance Horsepen Road. I would urge you for the other members on  
705 Horsepen Road to not pass this. I'd like to just show what we feel like could be  
706 done. Thank you for your time.  
707  
708 Mr. Leabough - Thank you, sir.  
709  
710 Mrs. Jones - Thank you.  
711  
712 Ms. Myers - My name is Roberta Myers. My husband and I have  
713 lived on Horsepen Road for thirty-six years. We've seen the different businesses  
714 that have come into that location. We don't think an auto repair shop is  
715 appropriate. There are already two repair shops half a block down the road.  
716 There is one around the corner on Broad Street. There are two at least three  
717 miles up the road. So there is no need for an auto repair shop, especially not  
718 across the street from where I live. Thank you.  
719  
720 Mr. Leabough - Thank you.  
721  
722 Mr. Myers - Good evening. I'm J. R. Myers, the other half. We  
723 bought this property when the neighborhood was really crumbling. We've been  
724 here thirty-six years. We've seen it come and go. And we beg you, please don't  
725 accept this. It could be so much better in other businesses. We don't—we've  
726 seen the fly-by-night operations. We call for help. The County's closed at 4:30.  
727 When we finally get attention, nobody's around; it's over and done with. Let's  
728 look for better usage of for the property. Thank you.  
729  
730 Mrs. Jones - Thank you, Mr. Myers.  
731

732 Mr. Kirkland - Good evening, my name is Rick Kirkland. My wife and  
733 I own a building at 2006 Redman Road, which is in the Pine Acres area, as we  
734 call it. For fifteen years we've been there, and we've seen a lot of changes for the  
735 better also. But we've also seen in that fifteen years all-night sweepstakes, all-  
736 night clubs living in business structures, all-night phone stores—everything  
737 imaginable that's illegal goes on in that area. Community Revitalization has an  
738 inspector that stays there. Every day he comes through, he cites, he writes. And  
739 the owner of the property has had reasonable use of this property since 1982 as  
740 a B-2. To pigeonhole it to an automobile repair shop and to take out all of the  
741 other uses in this B-3 case would condemn this land to an automobile repair  
742 shop for its history. You would have to come back and rezone it and change it  
743 again. And we've had tow truck issues in this neighborhood. And I can tell you,  
744 after 4:30, a tow truck is going to be parked on the property. On the weekends,  
745 the tow truck's going to be on the property. You can't do nothing about it. You'll  
746 call the owner on Monday. He'll call the other person that's running the business.  
747 It just goes around and around and around and around it goes. ICE and another  
748 couple of law enforcement agencies stay in there pretty often too on a lot of the  
749 businesses.

750  
751 So we are cleaning it up. And I think the gentleman from Custom Kitchens has a  
752 good idea: Keep it retail and not an auto repair shop. Thank you very much. Do  
753 you have any questions? Thank you for your time.

754  
755 Mr. Leabough - Thank you.

756  
757 Mrs. Jones - Thank you, Mr. Kirkland.

758  
759 Mr. Leabough - Would you like to hear from the applicant now, Mrs.  
760 Jones?

761  
762 Mrs. Jones - I just want to commend you all. I don't think I've ever  
763 had a group of folks in opposition to a case who have actually come in  
764 underneath the ten-minute deadline. However, if anyone else has any comments,  
765 there is a little bit of time left over. However, at the moment I would like  
766 somebody to come forward for the applicant. We'll talk about some of the issues  
767 that were raised. Just remember to state your names for the record.

768  
769 Ms. Bernardes - Yes. Good evening. My name is Pabla Bernardes. My  
770 husband, Edison Santos, is partner with Mr. DeOliveira. We saw the building  
771 over there on Horsepen. We drove by it for seven years. We saw trash on that  
772 building. We saw it was decaying. And I know there were people trying to rent it  
773 before. But pretty much in the evenings when I would come and get my bread on  
774 the block behind it from the Asian bakery, I would often see people parking there.  
775 And, you know, just seeming to kill time or do something wrong. And we said you  
776 know what? My husband was trying to open a business Ms. DeOliveria said why

777 don't you guys try to find out who's renting that business and actually—I hope my  
778 husband doesn't regret that I gave him this idea.

779

780 Basically what we were trying to do is work, do the right thing. And as you guys  
781 know, the people that were there before did not try to get licensed. Right? Or if  
782 they did, they did not come through all the way as we are here. Like I don't like  
783 standing in front of a bunch of people, but I'm doing it today because we are  
784 trying to do the right thing. That being said, we have made all the promises and  
785 commitments that we were supposed to do with the County to make that property  
786 decent and clean. And I know you have had ideas of what a repair shop should  
787 look like. But give us a chance to show you that we're going to do it different. It  
788 doesn't mean [unintelligible] [0:34:49.9]\* business because you have seen  
789 people do it in a different way. We can prove to the community that we can do it  
790 in a different way and provide a good service, keep a clean place. We have plans  
791 to keep storage inside, as I have spoken to the County representatives before.  
792 We don't have to keep tires outside. You have options. And we have room in that  
793 building that we could store those tires inside. Actually, I don't think it would be  
794 healthy for us to keep tires outside collecting water or whatever, especially during  
795 the summer.

796

797 The other thing is we are proposing and we are accepting the County  
798 landscaping plan which would keep the sounds away from the neighbors. And  
799 just think, there are other uses on B-2 that could damage the neighborhood too.  
800 You know, it all depends on [unintelligible] [0:35:50.3]\*. If you go on the County  
801 list of kinds of businesses that you can have under B-2, some of you would say  
802 hey, I don't want that in my neighborhood either.

803

804 So it's not a matter of changing the zoning. What I think is it's a matter of who's  
805 managing the business. And if you know how to do it—and my parents were  
806 business owners since I was seven. I don't want to alarm you, but I started  
807 serving people when I was seven years old cleaning tables. So I know what it  
808 takes to please customers. And I know an ugly, dirty place will not please  
809 customers. And it will not bring money to my pockets either. And it will not pay  
810 taxes.

811

812 So basically, we're just trying to get it done properly. And if the neighbors and the  
813 community would help us, we would be willing to do whatever it takes to make it  
814 happen.

815

816 Mrs. Jones - Okay. Thank you for that introduction.

817

818 Ms. Bernardes - You're welcome.

819

820 Mrs. Jones - If you don't mind staying there for a moment. Okay. I  
821 know this isn't easy, so thank you. We've had a number of concerns that have  
822 been raised by the adjacent business owners and neighbors. And we've told you

823 that there have been a number of letters sent to the County. Some of the things  
824 that were raised here tonight are what were in the letters that were received. So  
825 maybe you can speak to some of these.

826  
827 Inconsistent with the neighborhood or a full-time use for auto repair and the  
828 impacts that it would have. Parking, storage of vehicles. Can you talk a little  
829 about those points?

830  
831 Ms. Bernardes - In thinking about having it full time, we know we have  
832 certain hours that we could operate as a B-3, but we don't have necessarily to be  
833 under those hours full time. We can arrange to work less hours. So let's say we  
834 don't have to be there at six unless the County asks us to stay there. We could  
835 stay there until six, but we could arrange to close it earlier, open it a little bit later  
836 as far as using it in hours.

837  
838 Inconsistent? I would say the County plan for the building will bring the property  
839 up. We'll show that the property will have a better look and actually will improve  
840 what it looks like now.

841  
842 For the improvement itself, I think that would improve the neighborhood. What it  
843 doesn't look like, good for the neighborhood should have that building the way it  
844 is right now? You come and you see those old windows, and you see the way the  
845 building is. And I think that that could make the neighborhood—I think if we work  
846 together, the neighborhood could get an improvement from the business being  
847 opened. That's what I think. All the things that I said before—the way you  
848 manage it. And we are willing to do it.

849  
850 Did I miss anything?

851  
852 Mr. Leabough - I have a quick question. As far as work being done  
853 exterior to the building, have you all proffered something that speaks to that?

854  
855 Ms. Bernardes - You mean work—physical work or?

856  
857 Mr. Leabough - Yes, like repairing a wheel bearing in the parking lot  
858 or something.

859  
860 Ms. Bernardes - No. We have the proffers and we have the projects,  
861 but we were waiting for this meeting to know if we basically could put any more  
862 funds into the project. Basically that's it. Because, I mean, it would only make  
863 sense. But we know we have to close those entrances. If it went through today,  
864 that would be our next project, to work on close the—going from four entrances  
865 to two. That's one request that the County has made to diminish traffic over  
866 there. That would help. And then from there go with landscaping. We would have  
867 a ninety-day deadline to get everything together once we are approved. Did I  
868 answer what you asked me?



869  
870 Mr. Leabough - Yes. How long has the business been vacant or how  
871 much turnover have they had? Do you know?  
872  
873 Ms. Bernardes - I know it has been a while, but Mr. Sung, the property  
874 owner is here. I think he would be a better person to tell you how many people  
875 have rented it in the last thirty years since he purchased it.  
876  
877 Mr. Leabough - Yes, please.  
878  
879 Mrs. Jones - Okay.  
880  
881 Mr. Leabough - If you would, please state your name for the record.  
882  
883 Mr. Sung - Yes. My name is Daeyong Song Sung, and my family  
884 has owned that building since 1984, 85—83. And we have had a number of  
885 tenants including—the previous tenant, I'd rather not mention the name. But Mr.  
886 Strauss can testify that he also wanted to operate an automobile business. And  
887 actually he submitted a rezoning application as well. But just like what was stated  
888 earlier, the previous tenants maintained the property real poorly. I mean, it was  
889 not consistent with what he promised to comply with for the rezoning process. So  
890 as a result, we had to evict him. And then earlier this year I met—I hate to  
891 pronounce this name because every time I pronounce it, it's wrong. It's Dr.  
892 DeOerbra?  
893  
894 Ms. Bernardes - DeOliveira.  
895  
896 Mr. Sung - See?  
897  
898 Ms. Bernardes - I know.  
899  
900 Mr. Sung - I mean, I never pronounce his name right. Anyway.  
901 He and Mr. Santos, who is sitting over there, are the two partners who are  
902 interested in opening an automobile business. Just because we had a bad  
903 experience, my first reaction was oh no. I mean I didn't want to go through the  
904 same thing again. But they are really religious people, honest people. And they  
905 pointed out what was wrong with the previous tenant, and they pointed out that  
906 they had a plan to correct every wrongdoing of the previous guy, that they will do  
907 it the right way. So he convinced me that we wanted to take the chance.  
908  
909 Your original question was how long was the place vacant. It was vacant since  
910 last January.  
911  
912 Mr. Leabough - And have you had a lot of turnover in tenants?  
913

914 Mr. Sung - No, no, no. I'm talking about January 2014 we had to  
 915 evict him. And it's been vacant since they moved.  
 916

917 Mr. Leabough - So prior to that tenant, have you had a lot of turnover  
 918 or has it been pretty consistent?  
 919

920 Mr. Sung - We had a pretty consistent tenant for years. And then  
 921 the one that applied for the rezoning for the automobile service, he stayed there  
 922 for only like six months. And then the one before that stayed—didn't finish the  
 923 lease, but was there for about a year and a half.  
 924

925 Mr. Leabough - Okay. Thank you, sir.  
 926

927 Mr. Sung - Okay? Thank you.  
 928

929 Mrs. Jones - Do you have another question for Mr. Sung?  
 930

931 Mr. Witte - I still don't understand why they can't operate under  
 932 the existing zoning. Can somebody enlighten me with that?  
 933

934 Mrs. Jones - Go ahead, Ms. Moore.  
 935

936 Ms. Moore - Their current zoning is B-2. And under the B-2 District  
 937 Zoning Ordinance you can have a service station that has fuel sales as the  
 938 primary use. And with that—and that's how this was established originally back in  
 939 the '60s. At that time, that was an allowed use. It would have bays that would be  
 940 ancillary to do small repairs. So over the years—and they could have a service  
 941 station there now with that and some small repairs. Over the years, the fuel  
 942 station is no longer offered on the site. And because that has been removed,  
 943 they now have to request B-3 zoning to have an auto repair without gas sales.  
 944

945 Mr. Witte - Thank you.  
 946

947 Mrs. Jones - And the tanks have been removed.  
 948

949 Mr. Branin - That was going to be my question, have the tanks  
 950 been removed.  
 951

952 Mr. Leabough - Someone mentioned something about the only thing  
 953 the property could be used for is an auto repair. My understanding of the  
 954 conditions that were proffered for that, they proffered out other uses like auto  
 955 body painting, billiard parlor, things of that nature. But I guess Ms. Blankinship or  
 956 Ms. Moore, there are other uses that are allowed under the B-3 zoning other than  
 957 just an auto repair place. Am I correct?  
 958

959 Ms. Moore - If I may, and I wanted to clarify that too. And I'm not  
960 advocating it either way, just to clarify. What they are offering to do is because  
961 they are requesting to rezone to B-3 that the only B-3 use allowed would be for  
962 the auto repair. It would not prohibit anything that would currently be allowed  
963 under B-2 and B-1, except they do have a list that they went through those B-1  
964 and B-2 to see further prohibited that might not be suitable for the site now.  
965 There are plenty of B-1 and B-2 uses that would be allowed should they leave  
966 the site.

967  
968 Mr. Leabough - Thank you for clarifying.

969  
970 Ms. Bernardes - May I please ask you all a question since we are  
971 here. That B-3 changed if we got it, would that be—how can I say it?—attached  
972 to our business or to the property?

973  
974 Mrs. Jones - To the property.

975  
976 Ms. Bernardes - Okay. So if eventually—let's say we operate it for two,  
977 three years, and we say we love it here, we love the place, we love the property,  
978 but auto repair is good, but we can do something else even better with this  
979 property. Do we have to change it back or can we still use it under B-2 and B-1?  
980 Could we still use it under B-1 and B-2 if we could improve it for something else  
981 greater, like the people are stating here?

982  
983 Mrs. Jones - They would have to go through a different process for  
984 a plan of development, would they not?

985  
986 Ms. Moore - If this was approved, the B-3 runs with the land until it  
987 changed. So even if you downgraded it to a different use, you'd have to go  
988 through this public hearing process again to rezone. However, the B-3, if it was  
989 approved, will always allow those uses under B-2 and B-1 excluding the ones  
990 that you're offering to proffer out.

991  
992 Mrs. Jones - Does that make sense?

993  
994 Ms. Bernardes - Yes, it makes sense. Thank you.

995  
996 Mr. Archer - You can use the property as long as the uses that  
997 you're thinking about fall within that zoning classification and are not proffered  
998 out by the proffers that you're submitted now.

999  
1000 Ms. Bernardes - I think it's a good neighborhood. I understand the  
1001 concerns of everybody here. I'm not saying that we don't want to do the business  
1002 we want to do, but we are open to the future.

1003  
1004 Mrs. Jones - All right. Are there any other questions?



1005

1006

Mr. Leabough -

No, no questions from me.

1007

1008

Mr. Witte -

No, I'm good.

1009

1010

Mrs. Jones -

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1012

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1019

1020

Okay. As you can see, this has been a difficult situation. Before I make a motion I did want to express a few thoughts here about this case and the process we've gone through because I want to be sure for the applicant's sake, and for the sake of those in the community who have joined us this evening, and also for my fellow commissioners that I'm clear in expressing my analysis of this rezoning request. It's important as this goes forward to the Board that we have pulled together all the aspects of it so that it can be presented to the Board completely, comprehensively, and obviously not everyone is going to be satisfied with whatever decision is reached by this Commission.

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I would encourage you all—all of you who are here and have an interest in this case—to follow this onto the Board level in one month and present your opinions there for their consideration the way you've done tonight for us here at the Planning Commission. I don't know whether Mrs. O'Bannon would want to have another community meeting, but if in fact she does, I would encourage you to take part and to be involved. The Board has the final say in this rezoning matter. And no matter what this ultimate outcome is at the end of the process, I do believe that everybody has had an opportunity to voice their opinions and be part of the conversation.

1031

1032

1033

1034

1035

1036

That being said, I do have some strong feelings about this case. And these opinions have evolved over a period of the last six months or so as this proposal has become more defined. To me it was almost like peeling away layers, and each layer, one by one, showed some other considerations and concerns that needed to be addressed.

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1049

I do think the applicant has great enthusiasm for this project. You can hear it in their voices. And they're tried through their proffers to resolve the County and neighborhood concerns. And always—I cannot not stress this enough—they have been cooperative and a pleasure to work with. Lisa Blankinship and Jim Strauss are to be commended as well for the hours that they have spent helping the applicant through a process with which they were not familiar. And as well they are to be commended for their thoughtful analysis of this case. Roy Props, the Enterprise Zone program manager, has been integrally involved as well in helping the applicant with site layout and design and other considerations. So a lot of people have spent a lot of work, a lot of time, and a lot of energy bringing this case to the form that you see it in before you this evening. I did want to just publically take a moment and thank everyone.



1050 The basic question as I see it before us is whether or not a conditional B-3  
1051 rezoning request for an auto service use is appropriate in this location. Without  
1052 reiterating all the points in the staff report which we have just heard, it is true that  
1053 redevelopment, especially in an Enterprise Zone, generally contributes to  
1054 economic growth in the community, and it's considered a benefit to the area. A  
1055 refurbished site that has long been an eyesore can present a far more pleasant  
1056 aesthetic and reflect positively on the community surrounding it. And a successful  
1057 business obviously presents incentives for more business and certainly brings  
1058 renewed energy to a site that has been unused and untended for a while. Staff  
1059 does support this request for all the reasons outlines in their report.

1060  
1061 Redevelopment, in my view, must also meet other thresholds of quality and  
1062 compatibility. This is in order to be appropriate for this location. There has been  
1063 recent significant redevelopment taking place not too far away with the overhaul  
1064 of Willow Lawn and the large-scale developments like Libby Mill. And business  
1065 owners along Horsepen have commented to me that they're hoping this high-  
1066 quality redevelopment is heading west. While that remains to be seen, Horsepen  
1067 has experienced some of that large-scale revitalization with the Estates at  
1068 Horsepen and the other significant upgrades in residential areas in the area. And  
1069 there have been business sites along Horsepen that have been recently  
1070 upgraded for lease or sale. So it really comes as no surprise that this parcel here  
1071 at Horsepen and Catawba is a prime candidate for redevelopment.

1072  
1073 It comes down to whether or not an auto service use is able to fit compatibly and  
1074 well into an area that is not geared to B-3 uses. The category of B-3 is our most  
1075 intense business zoning classification, and there is obviously a reason for that.  
1076 The applicant has tried through their proffers to regulate their business to have  
1077 as little impact on adjacent residences and businesses as possible. They're  
1078 proffered out other B-3 uses. They have restricted their hours. They've restricted  
1079 their repairs. They restricted the scope of their operation. They've restricted the  
1080 number of cars to be serviced. They're restricted their signage. They've promised  
1081 to move the tow truck at night—and on and on.

1082  
1083 As we—and again, I come back to that analogy of peeling back the layers. But as  
1084 we went further and further into the specifics of this case, it became clear to me  
1085 that the only way in which this use could really be compatible with the area was  
1086 to restrict almost every aspect of the operation of an auto service use to the point  
1087 that it could hardly function at all. If you are to have a successful auto service  
1088 operation there will inevitably be noise from equipment used for repairs, a tow  
1089 truck will bring cars that are not operable to the site. Even with the best of  
1090 intentions, to restrict the number of cars being serviced to ten is an almost  
1091 impossible promise to keep. There will inevitably be things that get left or stored  
1092 outside. This is just the nature of it. The applicants have never operated an auto  
1093 service business before, but I do honestly believe that they are sincere in hoping  
1094 to be able to proffer away all the impacts.

1096 The list of concerns, however, comes from the impacts that are unavoidable with  
1097 a use such as this. It's no one's fault. At the same time there is really no way to  
1098 have a successful auto service business with two or three bays without having  
1099 undesirable impacts on surrounding properties. While these very specific proffers  
1100 have been offered by the applicant with the best of intentions—I truly believe  
1101 this—wanting to make the case meet and exceed County requirements and be  
1102 appealing to the neighbors, the fact that such restrictions are needed to manage  
1103 the negative impacts of this use are, in my view, almost the best indicator that  
1104 this use cannot fit appropriately into this location. The use is too intense; it is just  
1105 that simple. And I do not want to create what could become an enforcement  
1106 nightmare for the County or for the owner or for the operator of the business with  
1107 so many restrictions that could become problematic. Ongoing enforcement  
1108 issues would inadvertently lead to more problems than they would solve.

1109  
1110 So, rezoning to accommodate a request for a specific use also carries with it the  
1111 potential for setting a precedent for further and increased requests for rezoning to  
1112 put a particular use shoehorned in place that would not be allowed by right in the  
1113 existing zoning. In many older areas of my district, the zoning may not match  
1114 development patterns. And certainly in some cases it would be appropriate to  
1115 follow a change in a zoning. Each case has to be evaluated on its own merits.  
1116 But if a rezoning such as this is successful in gaining approval, other rezoning  
1117 requests down the line may well argue that they are no different and should be  
1118 accommodated based on the precedent set. In this case, I believe the existing  
1119 zoning category is a good match for the area and for redevelopment potential.

1120  
1121 The Comprehensive Plan supports revitalization and reinvestment in this area.  
1122 However, it carries as well in its community character description the goal that a  
1123 strong sense of community identity is built when existing development and  
1124 residential areas are protected from encroachment by incompatible uses, that the  
1125 new development should minimize disruption and conflict among existing uses.  
1126 The Plan's vision for this corridor includes mention that residential uses of the  
1127 surrounding area should be respected and that new development into those  
1128 areas should occur only where appropriate.

1129  
1130 I am not convinced that an auto service use at this location will bring the kind of  
1131 quality assurances needed and compatibility of use that this corridor of far less  
1132 intense business office and residential zoning should have. I also believe that  
1133 there are adverse effects on adjoining properties which simply cannot be  
1134 proffered out or mitigated sufficiently enough to justify the rezoning request. The  
1135 applicants have done everything they could think of to make this request suitable.  
1136 I cannot emphasize that enough. However, the nature of the business use they  
1137 are requesting simply cannot, in my opinion, be overcome.

1138  
1139 So it is for those reasons, Mr. Chairman, if it suits you for me to make a motion at  
1140 this point.

1142 Mr. Leabough - Yes ma'am.  
 1143  
 1144 Mrs. Jones - I'd like to make a motion that MS. BERNARDES,  
 1145 Geriel DeOliveira, move to the Board of Supervisors with a recommendation for  
 1146 denial.  
 1147  
 1148 Mr. Archer - Excuse me, Mr. Chairman. The time limits have to be  
 1149 waived on the proffers, I believe, before—  
 1150  
 1151 Mr. Leabough - Yes, you're correct. But it's a recommendation for  
 1152 denial, so do we need to waive time limits.  
 1153  
 1154 Mrs. Jones - No.  
 1155  
 1156 Mr. Branin - No, not on a denial.  
 1157  
 1158 Mr. Archer - All right.  
 1159  
 1160 Mr. Witte - Second.  
 1161  
 1162 Mr. Leabough - So we are voting right now at this point. We have a  
 1163 motion by Mrs. Jones, a second by Mr. Witte. All in favor say aye. All opposed  
 1164 say no. The ayes have it; the motion passes.  
 1165  
 1166 **REASON -** Acting on a motion by Mrs. Jones, seconded by Mr.  
 1167 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the  
 1168 Board of Supervisors deny the request because it would likely set an adverse  
 1169 zoning and land use precedent in the area and the intensity of the business  
 1170 development will detrimentally impact surrounding uses.  
 1171  
 1172 Mr. Branin - Mrs. Jones, if you would, because you had a question  
 1173 from—just real quick review the process of where it goes from here onto the next.  
 1174  
 1175 Mrs. Jones - I want to encourage those of you who have an  
 1176 interest in this case to be active in the next month as this case proceeds to the  
 1177 Board. The Board has the final decision. I don't have the exact date in hand—  
 1178  
 1179 Ms. Moore - I believe it's the fourteenth.  
 1180  
 1181 Mrs. Jones - The 14th of October.  
 1182  
 1183 Ms. Moore - Can staff double-check that?  
 1184  
 1185 Mrs. Jones - Is that a Tuesday?  
 1186  
 1187 Mr. Archer - That's correct.



1188  
1189 Mrs. Jones - At that point, there will be opportunities for the  
1190 applicant to present their case and for the opposition to present theirs. And the  
1191 Board of Supervisors will make that final decision.

1192  
1193 Mr. Branin - Do you know if there will be another community  
1194 meeting or not?

1195  
1196 Mrs. Jones - At this point I don't know. But as I said in my remarks,  
1197 Mrs. O'Bannon may choose to have a second community meeting, in which case  
1198 there will be ample notice to everyone who has expressed an interest in the case  
1199 whose name is in the file. And there will be an opportunity for a continued  
1200 dialogue on this.

1201  
1202 Mr. Leabough - All right, thank you. And sir, if you have a question,  
1203 Ms. Blankinship, do you mind meeting this gentleman in the hallway to answer  
1204 his question? Thank you.

1205  
1206 **REZ2014-00038 James W. Theobald for Weinstein Family, LLC:**  
1207 Request to rezone from O-2 Office District to R-6C General Residence District  
1208 (Conditional) Parcel 742-741-5065 containing 1.833 acres located at the  
1209 northwest intersection of Castile and Otlyn Roads. The applicant proposes a 30  
1210 unit apartment building. The R-6 District allows a minimum lot size of 2,200  
1211 square feet and a maximum gross density of 19.8 units per acre. The use will be  
1212 controlled by proffered conditions and zoning ordinance regulations. The 2026  
1213 Comprehensive Plan recommends Office. The staff report will be presented by  
1214 Ms. Rosemary Deemer.

1215  
1216 Mr. Leabough - Is there anyone in the audience in opposition to  
1217 REZ2014-00038, James W. Theobald for Weinstein Family, LLC? There is no  
1218 opposition. Good evening, Ms. Deemer.

1219  
1220 Ms. Deemer - Good evening, Mr. Chairman, members of the  
1221 Commission:

1222  
1223 This request is to rezone 1.833 acres from O-2 Office District to R-6C General  
1224 Residence District (Conditional) to permit the construction of a thirty-unit  
1225 apartment building. The subject property is located at the northwest corner of  
1226 Castile and Otlyn Roads. A Bank of Virginia branch office is located to the north,  
1227 Commonwealth Eye Care is located to the northeast, across Otlyn Road, Kings  
1228 Crossing Apartments are located to the east and south and the Ridge location of  
1229 the U.S. Post Office is located directly to the west. The bank, eye care facility and  
1230 post office are zoned O-2 Office, while the apartments are zoned R-5 General  
1231 Residence District. The Comprehensive Plan recommends the site for Office.

1232

The intent is to model the development after The Addison at Kings Crossing. The applicant has submitted a proffered conceptual/landscape plan as shown here, as well as proffers, amended September 4, 2014 and being handed out this evening, which include:

- One-bedroom units would contain a minimum of 740 square feet of finished floor area; two-bedroom units would contain a minimum of 1,050 square feet of finished floor area.
- Walls between units would be constructed to a Sound Transmission Coefficient rating of 50.
- Exterior materials would be limited to brick, stone, stone veneer, cementitious siding, or a combination of the foregoing.
- Any building would be constructed with a roof that has a minimum certified twenty-five-year warranty.
- Detached signs shall be monolithic in style and shall not exceed six (6) feet in height.

While not consistent with the Comprehensive Plan's designation of Office, the request is a logical extension of the multi-family residential in the area and the applicant has provided assurances of quality design and development. With the latest proffer amendment, the applicant has addressed the outstanding issue in the staff report, which was the reduction from eight feet to six feet in sign height. Staff supports the request. I'd be happy to answer your questions.

Mr. Leabough - Are there questions for Ms. Deemer?

Mrs. Jones - Ms. Deemer, that signage specification was the only outstanding issue that you had.

Ms. Deemer - Right.

Mrs. Jones - Okay.

Mr. Leabough - Ms. Jones, there is no opposition, I don't believe. Would you like to hear from the applicant?

Mrs. Jones - Actually, I've done a lot of talking tonight. I think I'll let him off easy. I do want to say, however, that as an extension of an existing community this blends beautifully into what has become a very successful community in my district. And I certainly hope that this will be as well received as the other sections. It's a very nice community and we wish you well. Thank you, Ms. Deemer, for your work on this.

All right. I do not have to do anything with the proffers; they were a week ago or so, weren't they? Okay. With that I would like to make a motion that REZ2014-



00038, James W. Theobald for Weinstein Family, LLC, move to the Board of Supervisors with a recommendation for approval.

Mr. Archer - Second.

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

**REASON -** Acting on a motion by Mrs. Jones, seconded by Mr. Archer, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the request because it would provide for appropriate development and it would not be expected to adversely affect the pattern of zoning and land use in the area.

**PUP2014-00014 James W. Theobald for Gumenick Properties:** Request for a provisional use permit under Sections 24-32.1(aa), 24-34(p), and 24-122.1 of Chapter 24 of the County Code, related to a parking plan and a comprehensive sign program for Libbie Mill Urban Mixed-Use Development on Parcels 771-740-9118, 772-740-0431, -1137, -1743, -2229, -2836, -4023, 773-739-8155, -6286, 773-740-5043, -8899, -9498, 773-741-2637, -3132, -3726, -4222, -5414, -6011, -6808, -7505, -8102, 774-739-4371, -5043, -5750, 774-740-0096, -0894, -1592, -2190, -2403, -2888, -3584, -4182, and 4708 located on the east line of Libbie Avenue approximately 310 feet north of W. Broad Street (U.S. Route 250) to its intersection with N. Crestwood Avenue, then along the east line of Spencer Road to the south line of Bethlehem Road and the west line of Staples Mill Road (U.S. Route 33). The applicant proposes alternative parking rates and signage regulations for the overall mixed-use development. The existing zoning is UMUC Urban Mixed-Use District (Conditional). The 2026 Comprehensive Plan recommends Urban Mixed-Use. A portion of the site along Libbie Avenue north of W. Broad Street (U.S. Route 250) and along Staples Mill Road (U.S. Route 33) is in the Enterprise Zone.

Mr. Leabough - Is there anyone in the audience in opposition to PUP2014-00014, James W. Theobald for Gumenick Properties? There is no opposition. Good evening, Mr. Lewis.

Mr. Lewis - Good evening, Mr. Chairman.

This is a request for a Provisional Use Permit (PUP) for the Libbie Mill development to substitute a shared parking plan; adopt a conceptual signage program; and amend requirements related to in-building emergency command and communication infrastructure.

The 79.5 acre site is zoned Urban Mixed Use (UMU) Conditional and is recommended for Urban Mixed Use in the 2026 Plan. A variety of commercial,



office, industrial, and residential uses surround the property, which is currently in Phase 1 of development.

The original Libbie Mill rezoning and PUP approvals granted in 2007 were subject to a previous version of the UMU zoning code. Subsequent UMU code revisions included language allowing the substitute parking plan (Exhibit A) and requiring the signage plan submittal (Exhibit B). PUP Condition #5 is being revised at the request of the applicant and for consistency with the Division of Police communication upgrades.

The parking study methodology adjusts for different modes of transportation, seasonal and time of day demand variability, and the concept of using a single parking space to serve several destinations in close proximity. Using a 30 percent non-residential parking rate reduction, staff calculations estimate the proposed plan would result in a surplus of approximately 275 parking spaces—if built out according to this layout in the study. As detailed in Condition #11, aggregate parking supply and demand calculations would be updated with each new Plan of Development and Subdivision filing to ensure adequate parking is provided for each phase of the development.

As required by UMU code, the applicant has provided the Libbie Mill Signage Guidelines dated June 2014 for inclusion with other proffered conceptual exhibits. The details submitted are consistent with UMU requirements and provide extensive information about the hierarchy, types, sizes, and placement of potential signage. Former Condition #13, new Condition #12, requires consistency with these guidelines.

Condition #5 approved in 2007 required each non-townhouse multi-family building, regardless of height, to include both a fire command center and emergency communication hardware. Because Building Code requires fire command centers in structures over seventy-five-feet tall and the Division of Fire has stated this is sufficient for their needs, the applicant's request to remove this part of Condition #5 has been accommodated. The requirement pertaining to installation of radio communications infrastructure remains, with additional detailed language provided by the Division of Police.

The other lined changes on the revised conditions handed out this evening reflect housekeeping items after recent discussions between the applicant and staff.

Overall, the nature of the collective changes proposed by the applicant would be compatible with the site's Urban Mixed Use designation in the 2026 Plan and consistent with requirements of the property's UMUC zoning. Staff supports this request subject to the revised conditions before you.

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

1370 Mr. Leabough - Any questions for Mr. Lewis?  
1371  
1372 Ms. Moore - Mr. Lewis, just to clarify. The black lines are just to  
1373 show the black line differences from the staff report. And the conditions, if  
1374 approved, would be twelve total. Is that correct?  
1375  
1376 Mr. Lewis - Yes. I tried to get Word to work on that #12 and #13; I  
1377 couldn't get it to work so. But it would just end up being twelve conditions. The  
1378 one that's #13 would become 12.  
1379  
1380 Ms. Moore - Okay. And that's shown on black line. I just wanted to  
1381 clarify that for the Commission.  
1382  
1383 Mr. Leabough - Thank you. Are there other questions for Mr. Lewis?  
1384 All right. Mr. Witte, would you like to hear from the applicant?  
1385  
1386 Mr. Witte - I would just like to ask a question.  
1387  
1388 Mr. Theobald - Good evening, Mr. Chairman. I'm Jim Theobald here  
1389 on behalf of the applicant.  
1390  
1391 Mr. Witte - Mr. Theobald, I know there's been a lot of banter back  
1392 and forth in the last forty-eight hours. Has everything been accommodated and  
1393 covered?  
1394  
1395 Mr. Theobald - It has. I appreciate Mr. Lewis's and Mr. Emerson's  
1396 efforts in working throw a lot of thorny issues. These UMUs are enormously  
1397 complicated and I appreciate your help. We're satisfied with the conditions.  
1398  
1399 Mr. Witte - So we're satisfied.  
1400  
1401 Mr. Theobald - Yes sir.  
1402  
1403 Mr. Witte - Okay.  
1404  
1405 Mr. Leabough - Are there other questions for Mr. Theobald? If not,  
1406 thank you, sir.  
1407  
1408 Mr. Witte - All right, Mr. Chairman. I move that PUP2014-00014,  
1409 James W. Theobald for Gumenick Properties, move to the Board of Supervisors  
1410 with a recommendation of approval.  
1411  
1412 Mrs. Jones - Second.  
1413

1414 Mr. Leabough - We have a motion by Mr. Witte, a second by Mrs.  
1415 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion  
1416 passes.

1417  
1418 **REASON -** Acting on a motion by Mr. Witte, seconded by Mrs.  
1419 Jones, the Planning Commission voted 5-0 (one abstention) to recommend the  
1420 Board of Supervisors grant the request because it does not significantly alter the  
1421 intent and vision of the Urban Mixed-Use Development and would be compatible  
1422 with surrounding uses and zoning patterns in the area.

1423 Mr. Leabough - Where are we on the agenda?

1424

1425 Ms. Moore - The next item on your agenda comes to the  
1426 consideration of the approval of your minutes from the August 10, 2014 meeting.  
1427 We do have an errata sheet that should be at everyone's seat by now.

1428

1429 Mr. Leabough - Are there other corrections to the minutes? If not, I'll  
1430 entertain a motion.

1431

1432 Mrs. Jones - I move we approve the minutes as corrected.

1433

1434 Mr. Archer - Second.

1435

1436 Mr. Leabough - We have a motion by Mrs. Jones, a second by  
1437 Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion  
1438 passes.

1439

1440 Is there any other business for the Commission?

1441

1442 Ms. Moore - That's all that I have.

1443

1444 Mrs. Jones - I just wanted to clarify. The public hearing for the  
1445 ordinances.

1446

1447 Ms. Moore - Yes.

1448

1449 Mrs. Jones - When is that?

1450

1451 Ms. Moore - I should have mentioned that because they are still on  
1452 the agenda. Those will be on the public hearing rezoning on the 24th of  
1453 September. That has been re-advertised as well. No motion was needed  
1454 because of that.

1455

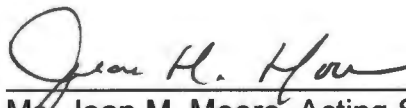
1456 Mrs. Jones - Okay. Thank you.

1457

1458 Mr. Leabough - Thank you for sitting with us tonight. You've done a  
1459 wonderful job.



1460  
1461 Ms. Moore - Thank you.  
1462  
1463 Mr. Leabough - With that, if there's no other business, I'll entertain a  
1464 motion for adjournment.  
1465  
1466 Mrs. Jones - I so move.  
1467  
1468 Mr. Archer - And I second.  
1469  
1470 Mr. Leabough - All right. We're adjourned.  
1471  
1472 Mr. Witte - And I agree.  
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Ms. Jean M. Moore, Acting Secretary



Mr. Eric S. Leabough, Chairman