

1 Minutes of the regular monthly meeting of the Planning Commission of the County of  
2 Henrico, Virginia, held in the Board Room of the County Administration Building in the  
3 Government Center at Parham and Hungary Springs Roads, Beginning at 9:00 a.m. Tuesday,  
4 January 26, 1999.

5

6 Members Present:

Ms. Elizabeth G. Dwyer, C.P.C., Chairman (Tuckahoe)  
Mr. Ernest B. Vanarsdall, C.P.C., Vice-Chairman (Brookland)  
Mr. C. W. Archer, C.P.C., (Fairfield)  
Mrs. Debra Quesinberry, (Varina)  
Mrs. Mary L. Wade (Three Chopt)  
Mr. James B. Donati, Jr., Board of Supervisors Representative  
(Varina)

13

14 Others Present:

Mr. John R. Marlles, AICP, Director of Planning, Secretary  
Mr. Randall R. Silber, Assistant Director of Planning  
Mr. David D. O'Kelly, Jr., Principal Planner,  
Mr. Jim P. Strauss, CLA, County Planner  
Mr. E. J. (Ted) McGarry, III, County Planner  
Mr. Kevin D. Wilhite, County Planner  
Mr. Mikel C. Whitney, County Planner  
Ms. Leslie A. News, CLA, County Planner  
Mr. Todd Eure, Assistant Traffic Engineer  
Ms. Diana B. Carver, Recording Secretary

24

25 Ms. Dwyer - Good morning. Welcome to our Planning Commission meeting. Before  
26 we get started, I would like to take an opportunity to introduce Mrs. Debra Quesinberry, for  
27 those of you who may not know Debra, to my left. Debra is our new Planning Commission  
28 member representing the Varina District and she just started her tenure on the Commission this  
29 month. We want to welcome you. This is a different crowd than we have on zoning nights,  
30 so I just wanted to take this chance to reintroduce her, and you might want to stop and say  
31 hello to Debra and welcome her to the Commission if you have an opportunity to do that.

32

33 Mr. Vanarsdall - The first meeting we had, the Rezoning meeting, she deferred nine  
34 cases.

35

36 Mrs. Wade - She learns fast.

37

38 Mrs. Quesinberry - I've got that figured out. I can defer real well.

39

40 Ms. Dwyer - All right. Let's get started, Mr. Secretary. All of our Commissioners  
41 are present and we have a quorum.

42

43 Mr. Marlles - The first item, Madam Chairwoman, are the requests for deferrals and  
44 withdrawals. That will be handled by Mr. McGarry.

45

46 Mr. McGarry - Good morning, Madam Chairman, members of the Commission, ladies  
47 and gentlemen. The first request for a deferral is on page 10 of your agenda.

48

49 **PLAN OF DEVELOPMENT**

50

POD-4-99  
Burger King @  
Tuckahoe Village  
Shopping Center  
(POD-70-96 Revised)

**Grattan Associates, P.C. for Burger King Corporation and Tuckahoe Village Shopping Center Corporation: Request for approval of a revised plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 4,109 square foot restaurant. The 0.67-acre site is located approximately 580 feet east of Westbriar Drive on Patterson Avenue (State Route 6) on part of parcel 88-A-25 and all of 88-A-22. The zoning is B-2, Business District. County water and sewer (Tuckahoe)**

51

52 Mr. McGarry - The applicant is requesting a deferral to the February 23, 1999, meeting.

53

54 Ms. Dwyer - Is there any opposition to the deferral to POD-4-99, Burger King @  
55 Tuckahoe Village Shopping Center? No opposition. I move that we defer POD-4-99, Burger  
56 King @ Tuckahoe Village Shopping Center, to our February 23, 1999, meeting.

57

58 Mr. Vanarsdall - Second. And, that's at the applicant's request.

59

60 Ms. Dwyer - Right. At the applicant's request. The motion was made by Ms. Dwyer  
61 and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion  
62 carries.

63

64 At the request of the applicant, the Planning Commission deferred POD-4-99, Burger King @  
65 Tuckahoe Village Shopping Center (POD-70-96 Revised), to its February 23, 1999, meeting.

66

67 **SUBDIVISION**

68

Twin Hickory  
Collector Roads  
(January 1999 Plan)

**Youngblood, Tyler & Associates, P.C. for HHHunt Corporation: The 426.45-acre site is located on the terminus of Twin Hickory Road on parcels 18-A-2, 18-A-39A, 18-A-55, 26-A-30, 31, 32, 27-A-3A, 27-A-4, 27-A-5A, 27-A-6, 27-A-7, 27-A-8, 27-A-9A, 27-A-11 and 37-A-1. The zoning is R-2C, One-Family Residence District (Conditional), R-2AC, One-Family Residence District (Conditional), R-3C, One-Family Residence District (Conditional), R-4C, One-Family Residence District (Conditional), R-5C, General Residence District (Conditional), R-6C, General Residence District (Conditional), RTHC-Residential Townhouse District (Conditional), O-1C, Office District (Conditional) and O/S-2C, Office Service District (Conditional). (Three Chopt) 0 Lots**

69

70 Mr. McGarry - On page 15 of your agenda, Twin Hickory Collector Road, the applicant  
71 is requesting a deferral to the February 23, 1999, meeting.

72

73 Ms. Dwyer - Is there any opposition to the deferral to Twin Hickory Collector Roads  
74 subdivision? No opposition.

75

76 Mrs. Wade - I move Twin Hickory Collector Road subdivision be deferred to the  
77 February 23, 1999, meeting, at the applicant's request.

78

79 Mr. Vanarsdall - Second.

80

81 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.  
82 All in favor say aye...all opposed say nay. The motion carries.

83

84 At the request of the applicant, the Planning Commission deferred Twin Hickory Collector  
85 Roads (January 1999 Plan), to its February 23, 1999, meeting.

86

87 **PLAN OF DEVELOPMENT, TRANSITIONAL BUFFER DEVIATION AND**  
88 **ALTERNATIVE FENCE HEIGHT**

89

**POD-6-99  
Rite Aid @ Church  
And Pumps Roads**

**Jordan Consulting Engineers, P.C. for Earl Thompson, Inc.  
and Sigma Development of Virginia Inc.: Request for approval  
of a plan of development, a transitional buffer deviation and an  
alternative fence height as required by Chapter 24, Sections 24-106,  
24.206.2 and 24-95(1) of the Henrico County Code to construct a  
one-story, 10,000 square foot pharmacy with a drive-thru window.  
The 1.34-acre site is located on the southwest corner of Pump and  
Church Roads on part of parcel 66-A-11J. The zoning is B-3,  
Business District. County water and sewer. (Tuckahoe)**

90

91 Mr. McGarry - On page 19 of your agenda, POD-6-99, Rite Aid @ Church and Pump  
92 Roads, the applicant is requesting a deferral to the February 23, 1999, meeting.

93

94 Ms. Dwyer - Is there any opposition to the deferral of POD-6-99, Rite Aid @ Church  
95 and Pump Roads? No opposition. I move for deferral of POD-6-99, Rite Aid @ Church and  
96 Pump Roads at the applicant's request, until February 23, 1999.

97

98 Mr. Vanarsdall - Second.

99

100 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall.  
101 All in favor say aye...all opposed say nay. The motion carries.

102

103 At the request of the applicant, the Planning Commission deferred POD-6-99, Rite Aid @  
104 Church and Pump Roads, to its February 23, 1999, meeting.

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105

**106 LANDSCAPE PLAN (Deferred from the October 27, 1998, Meeting)**

107

**LP/POD-26-98  
Sunrise Cottages**

**Niles Bolton Associates: Request for approval of a landscape plan as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 6.33-acre site is located at the northeast corner of Parham and Michael Road on parcel 79-A-69. The zoning is R-6C, General Residence District (Conditional). (Three Chopt)**

108

**109 Mr. McGarry - On page 21 of your agenda, LP/POD-26-98, Sunrise Cottages, the  
110 applicant is requesting a deferral to the February 23, 1999, meeting.**

111

**112 Ms. Dwyer - Is there any opposition to the deferral of LP/POD-26-98, Sunrise  
113 Cottages? No opposition.**

114

**115 Mrs. Wade - I move LP/POD-26-98, Sunrise Cottages, be deferred until the 23<sup>rd</sup> of  
116 February, at the applicant's request.**

117

**118 Mr. Vanarsdall - Second.**

119

**120 Ms. Dwyer - The motion was made by Mrs. Wade seconded by Mr. Vanarsdall. All  
121 in favor say aye...all opposed say nay. The motion carries.**

122

**123 At the request of the applicant, the Planning Commission deferred LP/POD-26-98, Sunrise  
124 Cottages, to its February 23, 1999, meeting.**

125

**126 PLAN OF DEVELOPMENT (Deferred from the December 15, 1998, Meeting)**

127

**POD-114-98  
River Road Church  
Baptist - Additions  
And Renovations**

**Draper Aden Associates for River Road Church-Baptist: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a two-story, 16,000 square foot education building addition and related improvements to an existing church site. The 6.8-acre site is located at the intersection of River Road and Ridge Road on parcels 113-9-K2, 126-A-2 and 126-5-C-2. The zoning is R-1, One-Family Residence District. County water and sewer. (Tuckahoe)**

128

**129 Mr. McGarry - On page 25 of your agenda, POD-114-98, River Road Church - Baptist  
130 - Additions and Renovations, the applicant is requesting a deferral to the February 23, 1999,  
131 meeting.**

132

**133 Ms. Dwyer - Is there any opposition to the deferral of POD-114-98, River Road  
134 Church Baptist Additions? No opposition. I move the deferral of POD-114-98, River Road**

135 Church, at the applicant's request, to our February 23, 1999, meeting.

136

137 Mr. Vanarsdall - Second.

138

139 Ms. Dwyer - The motion was made by Ms. Dwyer seconded by Mr. Vanarsdall. All  
140 in favor say aye...all opposed say nay. The motion carries.

141

142 At the request of the applicant, the Planning Commission deferred POD-114-98, River Road  
143 Church - Baptist - Additions and Renovations, to its February 23, 1999, meeting.

144

145 Ms. Dwyer - Is that all, Mr. McGarry?

146

147 Mr. McGarry - That is all that staff is aware of.

148

149 Ms. Dwyer - Is there anyone in the audience who would like to defer a case? No one.  
150 Okay, we will move to the next item.

151

152 Mr. Marles - Madam Chairman, Our next item is our expedited agenda. That will  
153 also be presented by Mr. McGarry.

154

155

#### EXPEDITED AGENDA ITEMS

156

157 **TRANSFER OF APPROVAL (Deferred from the October 27, 1998, Meeting)**

158

POD-69-79

Best Products  
Company, Inc.

**George W. Moore III for West End Presbyterian Church:  
Request for transfer of approval of a plan of development as  
required by Chapter 24, Section 24-106 of the Henrico County  
Code from Best Products Company, Inc. to West End Presbyterian  
Church. The 8.31-acre site is located on the north line of  
Quioccasin Road at its intersection with Blue Jay Lane on parcel  
90-A-28. The zoning is B-2, Business District. County water and  
sewer. (Tuckahoe)**

159

160 Mr. McGarry - Your first case for the expedited agenda is on page 2 of your agenda,  
161 Transfer of Approval, POD-69-79, Best Products.

162

163 Ms. Dwyer - Is there anyone in the audience who would like to speak to POD-69-79,  
164 Best Products Company, Inc., transfer of approval? All right. I move for the transfer of  
165 approval of POD-69-79, Best Product Company.

166

167 Mr. Vanarsdall - Second.

168

169 Ms. Dwyer - The motion was made by Ms. Dwyer seconded by Mr. Vanarsdall. All  
170 in favor say aye...all opposed say nay. The motion carries.

171

172 The Planning Commission approved the transfer of approval request for POD-69-79, Best  
173 Products Company, Inc. subject to the standard conditions and additional conditions previously  
174 approved and the following additional condition.

175

176 1. The site deficiencies as identified in the inspection report, dated October 16, 1998, shall be  
177 corrected by April 30, 1999.

178

179 **TRANSFER OF APPROVAL**

180

POD-93-93                    **Daniel R. Baker for Coastal American Corporation: Request**  
POD-92-93                    **for transfer of approval of a plan of development as required by**  
POD-11-83                    **Chapter 24, Section 24-106 of the Henrico County Code from**  
**Loehmann's Plaza**                    **Village Green Associates to Coastal American Corporation. The**  
**17.1-acre site is located north of W. Broad Street (U.S. Route 250)**  
**between West End Drive and Homeview Drive on parcel 59-A-10**  
**and 12D. The zoning is B-2, Business District and R-6C, General**  
**Residence District (Conditional). County water and sewer.**  
**(Brookland)**

181

182 Mr. McGarry - On page 4 of your agenda, we have three transfers of approval grouped  
183 together known as Loehmann's Plaza, the first one is POD-93-93, then POD-92-93 and POD-  
184 11-83.

185

186 Mr. Vanarsdall - Did you say these are deferrals?

187

188 Mr. McGarry - No these are transfers of approval on the expedited agenda.

189

190 Ms. Dwyer - Is there anyone in the audience who would like to speak to Loehmann's  
191 Plaza, POD-93-93, POD-92-93 or POD-11-83 transfer of approval? Do any of the  
192 Commissioners have any questions about this case? Okay.

193

194 Mr. Vanarsdall - I move POD-93-93, POD-92-93 and POD-11-83, Loehmann's Plaza be  
195 approved with condition No. 1 and the conditions for transfers of this nature recommended by  
196 staff.

197

198 Mrs. Wade - Second.

199

200 Ms. Dwyer - The motion was made by Mr. Vanarsdall seconded by Mrs. Wade. All  
201 in favor say aye...all opposed say nay. The motion carries.

202

203 The Planning Commission approved the transfer of approval requests for POD-93-93, POD-  
204 92-93 and POD-11-83, Loehmann's Plaza, subject to the standard conditions and additional  
205 conditions previously approved and the following additional condition.

206

207 1. A bond shall be posted to cover the site deficiencies as identified in the inspection report,

208 dated August 14 and August 20, 1998, and any deficiencies shall be corrected by April  
209 30, 1999.

210

## 211 LANDSCAPE & LIGHTING PLAN

212

LP/POD-102-96  
Interport Business  
Center, Phase III

**McKinney & Company: Request for approval of a landscape and lighting plan as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 3.54-acre site is located on the northwest corner of Laburnum Avenue and Eubank Road on parcel 172-A-26 and part of 25. The zoning is M-1, Light Industrial District. (Varina)**

213

214 Mr. McGarry - On page 8 of your agenda, LP/POD-102-96, Interport Business Center,  
215 Phase III.

216

217 Ms. Dwyer - Is there anyone in the audience who would like to speak to LP/POD-  
218 102-96, Interport Business Center, Phase III? Do any of the Commissioners have any  
219 questions about this case? A motion is in order.

220

221 Mrs. Quesinberry - I would like to make a motion to approve the landscape and lighting plan  
222 for LP/POD-102-96, Interport Business Center, Phase III.

223

224 Mr. Vanarsdall - Second.

225

226 Ms. Dwyer - The motion was made by Mrs. Quesinberry seconded by Mr.  
227 Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

228

229 The Planning Commission approved the landscape and lighting plan for LP/POD-102-96,  
230 Interport Business Center, Phase III, subject to the standard conditions applicable to such  
231 plans.

232

233 Mr. McGarry - That's all I have for the expedited agenda.

234

235 Mr. Vanarsdall - Madam Chairman. I'd like to thank Mr. Marles for getting these  
236 transfers of approval on the agenda. I know we have discussed it many times. I thought  
237 maybe I was going to have to ask you about it again today.

238

239 Ms. Dwyer - It does help move our agenda along a little bit by having these cases on  
240 the expedited agenda. If the applicant and staff are in agreement and the Commissioner is in  
241 agreement, any case can be placed on the expedited agenda and be heard at the beginning of  
242 our meetings and approved fairly quickly, so you don't have to sit here for six hours or so.  
243 Before we get to our next agenda item, I would like to ask Mr. Archer to come down to the  
244 lectern.

245

246 Mr. Archer, you are our past chairman or ex-chairman, so this year you get to sit back and

247 relax. We have this small token of our appreciation for your leadership during the last year.  
248 We want to thank you for your evenhanded and very respectful leadership in the way you  
249 managed our meetings and managing our Commission business over the last year. We very  
250 much appreciate it and I'm sorry to see you leave the post. Congratulations.

251

252 Mr. Archer - Thank you so much, Madam Chairman. I appreciate this very much.  
253 This is very nice. I wanted a pony but this is real nice. Thank you very much. I appreciate  
254 it. I move to accept this gift subject to the standard conditions.

255

256 Mr. Vanarsdall - Second. You did a good job.

257

258 Mr. McGarry - Madam Chairman, I have been told that there are three additional  
259 expedited items that did not make it on the printed list.

260

261 Ms. Dwyer - Did they meet the deadline?

262

263 Mr. McGarry - Yes. I think it was just an administrative error.

264

265 Ms. Dwyer - All right. What are they?

266

267 Mr. McGarry - Page 21.

268

269 **LIGHTING PLAN (Deferred from the December 15, 1998, Meeting)**

270

|  |  |
|--|--|
| LP/POD-21-96<br>The Greens Virginia<br>Center Apartments | <b>Castle Development Company: Request for approval of a lighting plan as required by Chapter 24, Section 24-106 of the Henrico County Code. The 13.4-acre site is located at the southwest corner of the intersection of Brook Road (U. S. Route 1) and Virginia Center Parkway on part of parcel 33-A-10 and 11. The zoning is R-6C, General Residence District (Conditional). (Fairfield)</b> |
|--|--|

271

272 Ms. Dwyer- Is there anyone in the audience to speak to LP/POD-21-96, The Greens  
273 Virginia Center Apartments? Is there anyone on the Commission that has a question about this  
274 case? Okay. Mr. Archer.

275

276 Mr. Archer - This plan had a few tweaks that had to be made to it and Mr. Strauss was  
277 able to get that worked out and because of that I move approval of LP/POD-21-96, The  
278 Greens Virginia Center Apartments, subject to the annotations and the standard conditions.  
279 Are there any other conditions to this?

280

281 Mr. McGarry - Yes, sir. They are on your addendum.

282

283 Mr. Strauss - Mr. Archer, it's page 3 of the addendum. It simply refers to the new  
284 staff plans submitted on January 26, 1999.



285

286 Mr. Archer - OK. Then we will make it subject to the new staff plan that was dated  
287 January 26, 1999.

288

289 Mr. Vanarsdall - I second.

290

291 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.

292 All in favor say aye...all opposed say nay. The motion carries.

293

294 The Planning Commission approved LP/POD-21-96, The Greens Virginia Center Apartments,  
295 subject to the standard conditions for lighting plans and the annotations on the plan.

296

297 **LIGHTING PLAN**

298

LP/POD-110-97

Temple Beth El

**Uniwest Construction Inc. Request for approval of a lighting plan as required by Chapter 24, Section 24-106 of the Henrico County Code. The 16.25-acre site is located on N. Parham Road, east of its intersection with Derbyshire Road on parcels 100-A-46, 100-20-B1, 14, 22 and 23 and 100-30-F-26. The zoning is R-2, One-Family Residence District and R-3, One-Family Residence District. (Tuckahoe)**

299

300 Mr. McGarry - The next one is on page 22, Temple Beth El.

301

302 Ms. Dwyer- Is there anyone in the audience to speak to LP/POD-110-97, Temple  
303 Beth El, lighting plan? No one is here. Mr. Strauss, do you have anything to add?

304

305 Mr. Strauss - I would simply direct your attention to page 4 of the addendum. There  
306 are two additional conditions, which the applicant has agreed to.

307

308 Ms. Dwyer - And those are the ones we discussed earlier.

309

310 Mr. Strauss - Yes, ma'am.

311

312 Ms. Dwyer - All right. Are there any Commissioners that have questions about this  
313 case? I move the approval of LP/POD-110-97, lighting plan, for Temple Beth El, subject to  
314 the annotations on the plans, the standard conditions for lighting plans and the additional  
315 conditions Nos. 5 and 6 found on page 4 of the addendum.

316 Mr. Vanarsdall - Second.

317

318 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall.

319 All in favor say aye...all opposed say nay. The motion carries.

320

321 The Planning Commission approved LP/POD-110-97, Temple Beth El, lighting plan subject to  
322 the standard conditions for lighting plans, the annotations on the plan and the following

323 additional conditions.

324

325 5. The building mounted lights shall be wall mounted sconces (250 watts – mh) submitted  
326 January 22, 1999 (and made apart of the file).

327 6. The light pole at the circular turnaround, at the northern part of the site, shall be limited to  
328 18 feet in height.

329

330 **PLAN OF DEVELOPMENT**

331

POD-7-99  
Grove Park Phase II  
(POD-1-97 and POD-  
15-96 Revised)

**McKinney & Company for Loch Levan Land Limited Partnership and Highwoods Properties, Inc.:** Request for approval of plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 71,326 square foot office building addition to an existing office site. The 5.14-acre site is located 640 feet east of Shady Grove Road on the south side of Nuckols Road on parcel 10-A-23A. The zoning is O/SC, Office/Service District (Conditional). County water and sewer (Three Chopt)

332

333 Mr. McGarry - The last one is on page 23, POD-7-99, Grove Park Phase II.

334

335 Ms. Dwyer- Is there anyone in the audience to speak to POD-7-99, Grove Park Phase  
336 II? Are there any questions by Commission members?

337

338 Mrs. Wade - I haven't been out there since we talked about this. I do have one  
339 question for either staff or the applicant. There's a privacy fence behind the other section, the  
340 part of the property line, has that been discussed here, do you know?

341

342 Mr. Whitney - Yes, I did ask the applicant about that. He really has more information  
343 on that than I do. It was used to screen some part of Phase I.

344

345 Mrs. Wade - I would like to speak to the applicant for just a moment please.

346

347 Mr. Burcin - Good morning. My name is Stacey Burcin with McKinney and  
348 Company. In connection with the Phase I privacy fence, located in the 50-foot buffer, that  
349 fence was on the plan originally approved for that case, right before the time of occupancy for  
350 Phase I. The question came up whether the fence was really needed. It was determined that  
351 the fence really wasn't needed to meet any code mandated requirements, it wasn't specifically  
352 requested. However, it was on the plans, and needing an occupancy quickly, the applicant  
353 chose to put it on there. When Phase II was developed, we did not elect to show it on there.

354

355 Mrs. Wade - And far as I know we haven't heard anything from the next door  
356 neighbor. Okay. Thank you. I just notice they have got this nice new fence there, but there  
357 are quite a few trees through there.

358

359 Ms. Dwyer - Are you ready for a motion?

360

361 Mrs. Wade - Yes. I move POD-7-99, Grove Park Phase II, be approved subject to  
362 the annotations, the standard conditions for developments of this types, and the following  
363 additional conditions Nos. 23 through 33 as they appear on the agenda.

364

365 Mr. Vanarsdall - Second.

366

367 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.  
368 All in favor say aye...all opposed say nay. The motion carries.

369

370 The Planning Commission approved POD-7-99, Grove Park Phase II (POD-1-97 and POD-15-  
371 96 Revised), subject to the standard conditions attached to these minutes, the annotations on  
372 the plan and the following additional conditions.

373

374 23. The right-of-way for widening of Nuckols Road as shown on approved plans shall be  
375 dedicated to the County prior to any occupancy permits being issued. The right-of-way  
376 dedication plat and any other required information shall be submitted to the County  
377 Real Property Agent at least 60 days prior to requesting occupancy permits.

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

381 25. The required building setback shall be measured from the proposed right-of-way line  
382 and the parking shall be located behind the proposed right-of-way line.

383 26. The developer shall provide fire hydrants as required by the Department of Public  
384 Utilities in its approval of the utility plans and contracts.

385 27. A standard concrete sidewalk shall be provided along the south side of Nuckols Road.

386 28. The certification of building permits, occupancy permits and change of occupancy  
387 permits for individual units shall be based on the number of parking spaces required for  
388 the proposed uses and the amount of parking available according to approved plans.

389 29. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
390 County Attorney prior to final approval of the construction plans by the Department of  
391 Public Works.

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

395 31. Insurance Services Office (ISO) calculations must be included with the utilities plans  
396 and contracts and must be approved by the Department of Public Utilities prior to the  
397 issuance of a building permit.

398 32. Approval of the construction plans by the Department of Public Works does not  
399 establish the curb and gutter elevations along the Henrico County maintained right-of-  
400 way. The elevations will be set by Henrico County.

401 33. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the  
402 Planning Office and approved prior to issuance of a certificate of occupancy for this  
403 development.

404

405 Ms. Dwyer- OK. We now move from our Expedited Agenda items to our regular  
406 agenda. Mr. Secretary.

407

408 Mr. Marles - Our next item is the subdivision extension of conditional approval. They  
409 will be presented by Mr. Wilhite.

410

411 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**

412

| <b>Subdivision</b>                              | <b>Magisterial District</b> | <b>Original No. of Lots</b> | <b>Remaining g Lots</b> | <b>Previous Extensions</b> |
|---|-----------------------------|-----------------------------|-------------------------|----------------------------|
| <b>Almond Creek Estates (January 1993 Plan)</b> | <b>Varina</b>               | <b>101</b>                  | <b>50</b>               | <b>5</b>                   |
| <b>Chartwood (January 1998 Plan)</b>            | <b>Varina</b>               | <b>88</b>                   | <b>38</b>               | <b>0</b>                   |
| <b>Mill Place West (January 1997 Plan)</b>      | <b>Brookland</b>            | <b>44</b>                   | <b>23</b>               | <b>1</b>                   |
| <b>Wyndham Forest (January 1998 Plan)</b>       | <b>Three Chopt</b>          | <b>132</b>                  | <b>64</b>               | <b>0</b>                   |

413

414 Mr. Wilhite - The first three subdivisions we have listed on the agenda, we recommend  
415 for 12 months extension. The last subdivision listed, Wyndham Forest (January 1998 Plan),  
416 we are recommending for a 30-day extension. We received a formal request last week by the  
417 applicant to reconsider one of the conditions that was a part of the approval. The staff has not  
418 had an opportunity to review that request and make a recommendation to you, so we would  
419 suggest that that be extended for 30 days and that the reconsideration of that condition be  
420 considered at your February meeting along with the full 12 months of that subdivision.

421

422 Ms. Dwyer - Are there any questions by Commission members? Is there anyone in  
423 the audience that would like to speak to the subdivision extensions? Okay. We are ready for a  
424 motion. I guess we will need two motions. One for the first three subdivisions and then a  
425 separate motion for the last subdivision.

426

427 Mrs. Wade - Which one you want the 30 days for?

428

429 Mr. Wilhite - Wyndham Forest (January 1998 Plan).

430

431 Mrs. Wade - I move that the extension of conditional approval for Wyndham Forest  
432 (January 1998 Plan) be extended for 30 days.

433

434 Mr. Vanarsdall - Second.

435

436 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.  
437 All in favor say aye...all opposed say nay. The motion carries.

438

439 The Planning Commission approved a 30-day deferral for extension of conditional approval for  
440 subdivision Wyndham Forest (January 1998 Plan), to February 23, 1999.

441

442 Mrs. Wade - I move the other subdivision extensions of conditional approval be  
443 granted for 12 months.

444

445 Mr. Archer - Second.

446

447 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Archer. All  
448 in favor say aye...all opposed say nay. The motion carries.

449

450 The Planning Commission voted to approve subdivision extensions of conditional approval for  
451 12 months, February 23, 1999, for the subdivision listed above.

452

453 **THREE CHOPT:**

454 **P-2-99**

**Gloria L. Freye for PrimeCo Personal Communications: Request**  
455 **for approval of a provisional use permit in accordance with Sections 24-95(a)(3), 24-120 and**  
456 **24-122.1 of Chapter 24 of the County Code in order to extend the height of an existing 100'**  
457 **communication tower monopole up to 145', on part of Parcel 58-6-2, containing 324 sq. ft.,**  
458 **located at the southern terminus of Mayland Court (3500 Mayland Court). The site is zoned**  
459 **M-1C Light Industrial District. (Deferred from the January 14, 1999, Meeting)**

460

461 Ms. Dwyer - Is there anyone opposition to P-2-99, PrimeCo Personal Communication  
462 Tower? No opposition. Thank you. Mr. Bittner.

463

464 Mr. Bittner - Thank you, Ms. Dwyer. As you are aware, this tower site is next to the  
465 Woodside single-family neighborhood. There has been opposition expressed by residents of  
466 Woodside and the surrounding area. Staff's position is that we would prefer for this to be  
467 located farther to the west within the Deep Run Business Center or the interchange at I-64 and  
468 Gaskins Road. The applicant has explored this and said that no one is willing to accommodate  
469 a tower on their property so this is their only alternative. To try and make the situation better,  
470 the applicant has proposed two new conditions that will require flush-mounted antennas which  
471 they say would extend no more than seven or eight inches beyond the body of the tower, and  
472 also that there would be no lighting installed on this tower. Staff feels that this would improve  
473 the present situation but we would still recommend locating a tower further west within the  
474 Deep Run Business Center. If you decide to approve this, staff recommends that you include  
475 the conditions in the staff report on the provisional use permit. I'll be glad to answer any  
476 questions you may have.

477

478 Ms. Dwyer - Are there any questions of Mr. Bittner by Commission members?

479

480 Mrs. Wade - As I understand it, even extended there could only be two companies  
481 located on this tower, total.

482

483 Mr. Bittner - Correct. The applicant has said that the tower height, which would be  
484 145 feet, which is the maximum allowed because of the distance from the Woodside  
485 neighborhood, would only be able to accommodate two users. Now, we have fashioned a  
486 condition that if technology changes in the future and we could get more, it's possible that you  
487 can get two on there but the applicant states that they would only be able to handle two.

488

489 Mrs. Wade - Now, that's including the current one.

490

491 Mr. Bittner - Yes.

492

493 Mr. Vanarsdall - Mr. Bittner, what was the tower used for when it was 100 feet, or is 100  
494 feet?

495

496 Mr. Bittner - I'm not exactly sure precisely, but it's a PrimeCo tower right now and  
497 it's used as a part of their system. Mark Cornell and Gloria Freye are here, I think they can  
498 handle all of those details.

499

500 Mr. Vanarsdall - The reason I asked you, is why wasn't it 145 feet to become with?

501

502 Mr. Bittner - Because this is M-1 property and in M-1 you can install 100-foot tower  
503 by right. You don't need to get a provisional use permit. So, that's what the applicant did.  
504 I'm not sure exactly when that happened but that's what they did.

505

506 Mr. Vanarsdall - I know that, but I'm wondering is..... Oh, it wasn't rezoned for a tower.  
507 I'm sorry. It was rezoned for something else.

508

509 Mrs. Wade - It was put up with no notice or anything because it wasn't necessary, in  
510 M-1.

511

512 Mr. Vanarsdall - I don't have any more questions. Thank you.

513

514 Mr. Archer - Mr. Bittner, the reason for only being able to accommodate two co-  
515 locators, is that due to the strength of the structure or it just won't work within the 145-foot  
516 limit?

517

518 Mr. Bittner - Well, the applicant tells us it would be able to handle two, and the size  
519 of it, I'll let them explain. The height of this tower is limited by its location; it's only 160 feet  
520 away from the Woodside neighborhood. And, as you know, the tower has to have a setback  
521 of at least 110% of its height. So, the applicant says that at the limited height they could  
522 accommodate two users. But, as I said, we have written a condition so that if technology  
523 allows it, in the future, you can put more than two users on this tower.

524

525 Mr. Archer - So, in other words, it is strong enough to support having more than two,  
526 in terms of structural strength of the tower?

527

528 Mr. Bittner - I don't know, the applicant would have to answer that.

529

530 Ms. Dwyer - Are there any other questions of Mr. Bittner by the Commission? Mrs.  
531 Wade, would you like to hear from the applicant?

532

533 Mrs. Wade - Well, since there is controversy, I suppose we should.

534

535 Ms. Freye - Good morning. My name is Gloria Freye and I am an attorney here on  
536 behalf of the applicant, PrimeCo Personal Communications. Mark Cornell with PrimeCo is  
537 also here with us today. First I want to thank you the Commission for allowing us to have a  
538 deferral from the last meeting so that we could do a balloon test, do some photo simulations  
539 and have a meeting with the neighborhood. We had the hopes that by lowering the profile,  
540 changing the antennae array from the standard installation, the platform installation to the  
541 more narrow line with the flushed mount antennas, that the neighborhood would see an  
542 improvement over the existing tower. The existing tower is already very visible to the  
543 neighborhood and it was our thought that doing the flush mount antennas would improve the  
544 appearance of the tower. Not only would it improve the appearance of the tower, but it would  
545 allow co-location for a, we are certain of one other carrier and possibly a third. We don't  
546 know that for sure. We have to do engineering studies and we would have to do radio  
547 frequency studies, but it is possible that with the flushed mounted antennas there might be the  
548 possibility for a third carrier to go on. We just couldn't commit to that. But, with Mr. Bittner  
549 wording the condition the way he did to make that possible that is an option that is still open.

550

551 We presented it to the neighborhood that it would improve an existing situation. It would also  
552 keep another tower from going in that Deep Run Business area, which would be further  
553 protection for them and an improvement over the existing situation. We did stress that this is  
554 an industrial zoned piece of property. It does meet the setbacks. It is consistent with the  
555 County's land use plan and it is consistent with the County's policies of co-location and non-  
556 proliferation of towers. So, we ask for your consideration and recommend approval of this  
557 extension to meet all those goals.

558

559 Ms. Dwyer - Are there any questions of Ms. Freye?

560

561 Mr. Archer - Mrs. Freye, I guess you heard the question I asked Mr. Bittner. So, you  
562 are saying that in the event that technology should change that this tower could accommodate  
563 an additional use? It is structurally sound so that it could accommodate an additional use.

564

565 Ms. Freye - We would have to analyze that, but with the flush mounted antennas it is  
566 likely that a third carrier could go on there. We would have to analyze the structure  
567 engineering and the radio frequency but we are told by the engineers that it is possible.

568

569 Ms. Dwyer - Are there any other questions of Ms. Freye? I'll ask again, is there

570 anyone here to speak to case P-2-99 PrimeCo Personal Communications? No one here to  
571 speak. Mrs. Wade.

572

573 Mrs. Wade - Most of those with interest in it had called or written to staff or either to  
574 me on this topic and I believe there were several at the meeting that Mrs. Freye held last night.  
575 She certainly worked hard to try to make this as agreeable as possible. There was a balloon  
576 display the other morning and then the meeting last night. I went to look at the balloon and  
577 Mark Bittner went to the meeting last night. Certainly, the flushed mounted antennae is a help  
578 but basically, and I would disagree with what Mrs. Freye said about the goals and objectives  
579 of the 2010, and the paragraph in the staff report dealing with that says that it is not consistent  
580 with the goal of encouraging land use throughout the County which provides for the most  
581 efficient and desirable arrangement based on land use trends, which means it's not considered  
582 compatible with the residential area nearby. It is consistent with the co-location policy and, of  
583 course, there is some question about how much of that could occur here. The fact of the  
584 matter is, I expect if there had been a hearing necessary on the tower in the first place that it  
585 might not even be there given its proximity to the neighborhood and they are apparently  
586 strongly disapproving of it being there. This is not a good time of day, of course, for a lot of  
587 people to come to hearing. They mentioned when it was suggested that they move over  
588 somewhere on the current site that it would take up parking places, I'm still not sure whether  
589 those are required parking places for their square footage or whether there are places where  
590 they think they may need as a practical matter, but whenever I've been back in there, there  
591 have been empty parking places. We are trying hard to keep them out of residential areas.  
592 So, I would suggest perhaps that they keep on looking. The neighborhood feels, well they  
593 don't want them anywhere in the industrial areas, why should we want them this close to us.  
594 So I, therefore, would move that P-2-99 be recommended for denial to the Board.

595

596 Mr. Vanarsdall - Second.

597

598 Ms. Dwyer - The motion for denial was made by Mrs. Wade and seconded by Mr.  
599 Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

600

601 The Planning Commission denied the request for P-2-99, PrimeCo Personal Communications,  
602 to the Board of Supervisors.

603

#### 604 TRANSFER OF APPROVAL

605

POD-54-95

Computer City

**Ronald J. McGraw for Commercial Net Lease Realty, Inc. and Office Depot: Request for transfer of approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code from The Broad Street Group, L.L.C. to Commercial Net Lease Realty, Inc. and Office Depot. The 1.88-acre site is located on the northeast corner of W. Broad Street (U.S. Route 250) and Stillman Parkway on parcel 48-A-23D. The zoning is B-3C B-2C, Business District (Conditional). County water and sewer. (Three Chopt)**



606

607 Ms. Dwyer - Is there anyone in the audience in opposition to the transfer of approval  
608 POD-54-95, Computer City? No opposition. Mr. Whitney.

609

610 Mr. Whitney - Staff did ask the applicant if he would request to be on the expedited  
611 agenda for this transfer. However, I have not heard back from them since I contacted them.  
612 Their representatives are in Florida and Ohio. I think the distance is a problem for them.  
613 Other than that, your caption should be corrected to read the zoning in this is B-2C, Business  
614 District (Conditional), not B-3C. With that, staff is still recommending approval of this  
615 transfer. The applicant has agreed with condition No. 1 to correct the site deficiencies by  
616 March 29, 1999. I'll take any questions you may have.

617

618 Ms. Dwyer - Are there any questions of Mr. Whitney by Commission members?

619

620 Mrs. Wade - Did we determine, then, that it could be open until midnight with the  
621 regular B-2 hours?

622

623 Mr. Whitney - Yes. There are no proffers dealing with hours, so it would be for the B-  
624 2 District, up until midnight.

625

626 Mrs. Wade - Thank you. I asked about the hours because there was an inquiry from a  
627 nearby neighbor about that. I'll convey that message to them. All right. I move the transfer  
628 of approval of POD-54-95 be approved subject to any conditions and No. 1 as listed on the  
629 agenda.

630

631 Mr. Archer - Second.

632

633 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Archer. All  
634 in favor say aye...all opposed say nay. The motion carries.

635

636 The Planning Commission approved the transfer of approval request for POD-54-95,  
637 Computer City, subject to the standard conditions previously approved and the following  
638 additional condition.

639

640 1. The site deficiencies as identified in the inspection report, dated January 5, 1999, shall be  
641 corrected by March 29, 1999.

642

643 **TRANSFER OF APPROVAL (Deferred from the December 15, 1998, Meeting)**

644

POD-123-83  
Nouveau Hair Design  
(Formerly Regency  
International Hair)  
(POD-108-79 Revised)

**Dung (Paul) T. Duong:** Request for transfer of approval of a  
plan of development as required by Chapter 24, Section 24-106  
of the Henrico County Code from Bill and Janet Tsimbos to Paul  
Duong and Hong Yen Nguyen. The 0.410-acre site is located  
along the south line of Horsepen Road, approximately 300 feet  
east of Catawba Lane on parcel 102-12-30-1. The zoning is B-

1C, Business District (Conditional). (Three Chopt)

645

646 Ms. Dwyer - Is there anyone in the audience in opposition to the transfer of approval  
647 POD-123-83, Nouveau Hair Design? No opposition. Mr. Wilhite.

648

649 Mr. Wilhite - When staff was doing the review for this transfer of approval, it was  
650 discovered that a landscape and lighting plan had never been submitted and approved for POD-  
651 123-83. The current applicant has submitted a landscape and lighting plan. The staff has  
652 nearly completed its review and would feel comfortable in recommending approval of this  
653 transfer with one suggested condition. That condition would read: The proposed  
654 improvements, as shown on the approved landscape and lighting plan for this plan of  
655 development, shall be completed by April 30, 1999. The applicant is in agreement with this  
656 condition.

657

658 Ms. Dwyer - Are there any questions of Mr. Wilhite by Commission members?

659

660 Mr. Vanarsdall - Did you say the applicant is in agreement with the condition?

661

662 Mr. Wilhite - Yes.

663

664 Ms. Dwyer - All right. We are ready for a motion.

665

666 Mrs. Wade - I move the transfer of approval of POD-123-83 be approved with the  
667 condition as read by Mr. Wilhite, which indicates that improvements will be in place by April  
668 30, 1999.

669

670 Mr. Vanarsdall - Second.

671

672 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.  
673 All in favor say aye...all opposed say nay. The motion carries.

674

675 The Planning Commission approved the transfer of approval request for POD-123-83,  
676 Nouveau Hair Design (Formerly Regency International Hair) (POD-108-79-Revised), subject  
677 to the standard conditions previously approved and the following additional condition.

678

679 1. The proposed improvements, as shown on the approved landscape and lighting plan for  
680 this plan of development, shall be completed by April 30, 1999.

681

682 **PLAN OF DEVELOPMENT & SPECIAL EXCEPTION**

683

POD-8-99  
Seibert's Convenience  
Store - Pemberton and  
Quioccasin Roads  
(Formerly Sun Oil

Elliott & Associates and James Fox & Sons, Inc. for  
Seibert Properties, Inc: Request for approval of a plan of  
development and special exception as required by Chapter 24,  
Sections 24-106 of the Henrico County Code to convert an  
existing one-story, 4,082 square foot automobile service station

Company)  
(POD-11-70 Revised)

to a convenience store with fuel pumps and three service bays. The.75-acre site is located at the corner of Quioccasin and Pemberton on parcel 79-A-13. The zoning is B-3C, Business District (Conditional). County water and sewer (Tuckahoe)

684

685 Ms. Dwyer - Is there anyone in the audience in opposition to POD-8-99, Seibert's  
686 Convenience Store at Pemberton and Quioccasin Roads? No opposition. Mr. Wilhite.

687

688 Mr. Wilhite - Staff has completed its review of this plan. The annotated copy is being  
689 handed out to you currently. Also, I'll direct you to page one of your addendum, which has  
690 an updated recommendation and suggested conditions. On this corner there is an existing  
691 automobile service station. The applicant is proposing to change this to a convenience store  
692 with fuel pumps and have three service bays remaining. The change to a convenience store  
693 with fuel pumps, due to the wording of the proffers, requires a special exception to be  
694 approved by the Planning Commission and it's up to the applicant to make his case for the  
695 special exception. There is little in the way of new site improvements being proposed here.  
696 The addition of one parking space and some replacement of curb and gutter on the site. Staff  
697 is recommending and the applicant is in agreement with the construction of the sidewalk along  
698 Quioccasin Road. We have in condition No. 25, which allows the applicant to escrow funds  
699 for that sidewalk construction along with conjunction with future right-of-way improvements  
700 to Quioccasin Road and that's the same condition that we had with the addition to Quioccasin  
701 Veterinarian Hospital adjacent to this property. Staff has also recommended that the applicant  
702 meet transitional buffer requirements along the interior side property lines. Landscape and  
703 lighting would be reviewed when the landscape and lighting plans are submitted. With the  
704 annotated plan, the standard conditions for PODs and the conditions listed on your addendum,  
705 staff can recommend approval.

706

707 Ms. Dwyer - Are there any questions of Mr. Wilhite by Commission members?

708

709 Mr. Vanarsdall - I have a question. The dumpster with brick walls to match the building  
710 and vertical wood gates repaired. I don't believe I've ever seen that.

711

712 Mr. Wilhite - The dumpster screen is already existing. That is an existing  
713 improvement that they show. It is brick to match the building.

714

715 Mr. Vanarsdall - I've never seen the word "repair" in it like that.

716

717 Mr. Wilhite - That was staff's annotation on the plan. It looks like the gates were in  
718 disrepair and they need to bring the screen up to good repair.

719

720 Mr. Vanarsdall - Thank you.

721

722 Ms. Dwyer - Are there any other questions of Mr. Wilhite? Thank you, Mr. Wilhite.  
723 Will the applicant come forward, please? Could you state your name for the record please?

724

725 Mr. Vanasse - Good morning. For the record, my name is Duncan Vanesse, West End  
726 Petroleum, representing my partner Seibert Properties.

727

728 Ms. Dwyer - You are required to obtain a special exception from this Commission in  
729 order to have a convenience store in this zoning. Do you have any comments to make about  
730 your case for the special exception?

731

732 Mr. Vanasse - Not really. Any technical questions I can address to the builder. But,  
733 basically, there is a need on that corridor, I believe, for additional C-store items because of the  
734 closing of the 7-Eleven up the street. And my building is such that I've just got more space  
735 than I need for the business for the auto repair and I'm just trying to add on for livelihood, if  
736 you will.

737

738 Ms. Dwyer - Is it three bays across the front?

739

740 Mr. Vanasse - The front three bays, I'm already selling convenience items in the  
741 showroom of the facility and because of the 7-Eleven closing down I would just like to expand  
742 that to the three bays in the front and continue repairing cars in the rear of the building.

743

744 Ms. Dwyer - You have two dumpsters that are not in the dumpster enclosure at this  
745 point, so you will be moving....

746

747 Mr. Vanasse - Moving those to where they were originally required to be.

748

749 Ms. Dwyer - But, the existing dumpster, I notice is only big enough for a single  
750 dumpster. So, will you need two or...

751

752 Mr. Vanasse - It is my understanding, from BFI, Madam Commissioner, that it is big  
753 enough with the taller thinner dumpster that two would fit in there without any problem for  
754 BFI and that's who I contracted to pick up the trash at that facility.

755

756 Ms. Dwyer - So, you won't have any dumpsters anywhere else?

757

758 Mr. Vanasse - No ma'am. We will not.

759

760 Ms. Dwyer - OK. They are kind of visible on that corner at Pemberton and  
761 Quioccasin. The other question, I know that you are only making improvements to the interior  
762 of the building, but would you be willing to work with staff and update your landscaping and  
763 lighting to current code standards?

764

765 Mr. Vanasse - As needed, yes ma'am. One of the gentleman who stopped by said that  
766 there was going to be some need for some landscaping and things and that is perfectly  
767 agreeable and look forward to doing it.

768

769 Ms. Dwyer - Bring that up to code.

770

771 Mr. Vanasse - Yes, ma'am.

772

773 Ms. Dwyer - Thank you very much. Those are all of the questions that I have. Are  
774 there any other questions by Commission members? Thank you. All right. This is an  
775 existing site and I believe as of a result of this new business, a venture that would be attached  
776 to it, that we will see some improvements to the site, some landscaping and lighting, some  
777 remodeling of the building and the removal of the existing dumpsters along Pemberton Road.  
778 I think it is appropriate for the Commission to grant the special exception for a convenience at  
779 this location. Mr. Secretary, do we need a separate motion for this? So, I move that the  
780 Commission grant the special exception for the convenience store for this case and that we  
781 approve the plan of development for POD-8-99, Seibert's Convenience Store, subject to the  
782 annotations on the plan, the standard conditions for developments of this type and the  
783 additional conditions Nos. 23 through 35 as they appear on the addendum to our agenda, and  
784 with the commitment by the applicant that the landscape and lighting will be brought up to  
785 code as a part of this renovation of this site.

786

787 Mr. Vanarsdall - Second.

788

789 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall.  
790 All in favor say aye...all opposed say nay. The motion carries.

791

792 The Planning Commission approved the special exception and plan of development for POD-8-  
793 99, Seibert's Convenience Store - Pemberton and Quioccasin Roads (Formerly Sun Oil  
794 Company) (POD-11-70 Revised), subject to the standard conditions attached to these minutes,  
795 the annotations on the plan and the following additional conditions.

796

797 23. The easements for drainage and utilities as shown on approved plans shall be granted to  
798 the County in a form acceptable to the County Attorney prior to any occupancy permits  
799 being issued.

800 24. The developer shall provide fire hydrants as required by the Department of Public  
801 Utilities in its approval of the utility plans and contracts.

802 25. A standard concrete sidewalk shall be provided along the north side of Quioccasin  
803 Road. The applicant may escrow sufficient funds for construction of said sidewalk in  
804 conjunction with future right-of-way improvements to Quioccasin Road.

805 26. All repair work shall be conducted entirely within the enclosed building.

806 27. Outside storage shall not be permitted.

807 28. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
808 County Attorney prior to final approval of the construction plans by the Department of  
809 Public Works.

810 29. Deviations from County standards for pavement, curb or curb and gutter design shall  
811 be approved by the County Engineer prior to final approval of the construction plans by  
812 the Department of Public Works.

813 30. Insurance Services Office (ISO) calculations must be included with the utilities plans  
814 and contracts and must be approved by the Department of Public Utilities prior to the

815 issuance of a building permit.  
816 31. This business shall not remain in operation after 12:00 midnight – B-1.  
817 32. No merchandise shall be displayed outside of the building except that oil racks will be  
818 allowed on the pump islands.  
819 33. This service station shall be used only for the sale of petroleum products and  
820 automobile accessories and parts. It shall not be used to sell or rent camping trailers,  
821 nor as a base of operation for truck fleets or fuel oil delivery or other such use that is  
822 not strictly a service station operation.  
823 34. Only light repair work shall be allowed at this station, including motor tune-up, brake,  
824 generator, ignition, and exhaust repairs, and wheel balancing. The only work that can  
825 be performed outside the building is those services that are normally furnished at the  
826 pump island and the changing of tires.  
827 35. No wrecked automobiles, nor automobiles incapable of being operated, shall be kept on  
828 the premises.

829

**830 PLAN OF DEVELOPMENT (Deferred from the December 15, 1998, Meeting)**

831

POD-122-98  
The Steward School –  
Upper School  
Addition

**Koontz-Bryant, P.C. for Dixon Independent School Corporation: Request for approval of a revised master plan and approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County to construct a one-story, 43,769 square foot gym and classrooms, a two-story, 34,195 square foot theater with a scenery loft 85 feet in height and a two-story, 9,724 square foot library and offices. The 35.7-acre site is located at the northwest corner of Gayton Road and Ryandale Road on parcels 77-A-4, 77-A-20 and 77-A-21. The zoning is A-1, Agricultural District. County water and sewer. (Tuckahoe)**

832

833 Ms. Dwyer - Is there anyone in the audience here to speak to this case, POD-122-98,  
834 The Seward School Upper School Addition? Yes, there are. We will call on you in a  
835 moment. Mr. Strauss.

836

837 Mr. Strauss - Thank you, Madam Chairman. This application is for approval of a  
838 revised master plan, and there is a new plan enclosed with your addendum this morning. This  
839 is also is for approval of a plan of development for four new buildings, which the Secretary  
840 has mentioned, a one-story gym, a two-story fine arts theater, a two-story library  
841 administrative building and a maintenance building. This is an unusual application in that one  
842 of the proposed buildings has a scenery loft or what they call a "fly tower."

843

844 Ms. Dwyer - Excuse me, Mr. Strauss. May I interrupt you for just one moment? Just  
845 for the benefit of the Commission members, we have a lot of paper for this case. Attached to  
846 your addendum should be a revised master plan.

847

848 Mr. Strauss - And I believe it's the same one on the monitor. Again, this is an  
849 unusual application in that one of the proposed building has a scenery loft or what they call a

850 fly tower, which has a proposed height of 73 feet. I will note that the applicant has reduced  
851 the height of this building by removing a proposed bell tower, which appeared in your  
852 previous packet. The project architect has located the fine arts building in a way as to  
853 minimize visual impact to the extent possible. He centralized the location of the fine arts  
854 building. It's this building right here (referring to picture on the screen). I would add that the  
855 zoning ordinance allows for a height exemption for scenery lofts in Section 24-95. A scenery  
856 loft has an exemption for height. There are additional side and front yard setbacks which apply  
857 for buildings that are over 45 feet in this district. This applicant has met and exceeded those  
858 setbacks. Staff has met with the applicant and the neighbors, particularly the adjacent  
859 homeowners in the Wynmore Subdivision. After two meetings with the citizens a number of  
860 concerns were raised in regard to the proposed gymnasium location and the buffer along the  
861 northern property line. Due to the fact that this application proposes to reduce the buffer, and  
862 that's the buffer along the northern property line, from that which was agreed to on previous  
863 master plans, staff is recommending that a landscape and fence plan be approved by this  
864 Commission as per the addendum this morning, and that would be on page 2 of your  
865 addendum, item No. 33.

866

867 Staff has discussed this recommendation with the applicant and the neighbors and we  
868 understand that there will be some discussion on this topic. However, I can report to the  
869 Commission that this application does meet the requirements of the zoning ordinance and that  
870 all issues raised by Public Works, Utilities and Traffic are resolved. Therefore, staff is now in  
871 the position to recommend approval of this application with the addendum condition that you  
872 have before you, and I'll be happy to answer any questions you may have. And I understand  
873 that Mr. Greg Koontz is here, he is the civil engineer and the architect, Dennis Craig is also  
874 here, as Mr. Vincent Narran, he's from the school.

875

876 Ms. Dwyer - Thank you, Mr. Strauss. Regarding the northern property line, which  
877 borders the homes on Baypines, that setback is 40 feet as required by ordinance, is that right,  
878 the building setback?

879

880 Mr. Strauss - I believe A-1 would require.... That would be a side yard setback and  
881 that would be 40 feet. The applicant has a more restrictive setback, which I calculated to be  
882 57 feet, but in actuality it setbacks... the fine arts is set back at 325 feet and I believe it's 108  
883 for the gymnasium.

884

885 Ms. Dwyer - Did you say 108 feet?

886

887 Mr. Strauss - That's what he is proposing.

888

889 Ms. Dwyer - I had 105, so there is an extra three feet there. And the buffer has been  
890 reduced by what amount? What was the buffer in the most recent master plan before this  
891 between the homes along the northern border and....

892

893 Mr. Strauss - The previous discussions with the master plan agreed to a 75-foot buffer.  
894 We are now at 65 feet, which is a 10-foot reduction.

895

896 Ms. Dwyer - And the tower is now how high?

897

898 Mr. Strauss - The ultimate height, if you lay a scale, would be, I believe it's, let me  
899 get my notes here, I think it's 69 feet.

900 Mrs. Wade - You mentioned 73 at some point.

901

902 Mr. Strauss - It's 73 feet on your plan but I believe the ordinance, because it defines  
903 the height, is the mean average between the eave and the roof peak is something like 69 feet, it  
904 should be labeled on that drawing.

905

906 Ms. Dwyer - So, the actual might be 73 and then the legal would be 69, might be one  
907 way to put it. And it was 85 earlier.

908

909 Mr. Strauss - It was 85 to the top of the bell tower, which has been removed.

910

911 Ms. Dwyer - And you stated that all of the requirements of the ordinance have been  
912 met by this existing master plan.

913

914 Mr. Strauss - That is correct. I discussed the drainage issues with Public Works this  
915 morning. I believe Greg Koontz can elaborate on that more if you need more information.  
916 The Utilities Department has reviewed this latest plan revision; they have no problem with it.  
917 And Mr. Todd Eure of Traffic has discussed traffic at length with the applicant.

918

919 Ms. Dwyer - Our agenda says the Steward School – Upper School Addition, but this  
920 is actually something else, isn't it, master plan and POD for these other additional buildings?

921

922 Mr. Strauss - Yes, it would be a revised master plan first and then it would be the  
923 approval of the POD for these four buildings.

924

925 Ms. Dwyer - Are there any other questions of Mr. Strauss by Commission members?

926

927 Mrs. Wade - Would you repeat, again, what you said about the ordinance related to  
928 the scenery loft?

929

930 Mr. Strauss - It might help if I read verbatim from the ordinance on that item. Section  
931 24-95. Additional requirements, exceptions and modifications Item (a). The height limitations  
932 of this chapter do not apply to the following structures or uses: Item (a) Belfries, chimneys,  
933 flues, church spires, cooling towers, elevator penthouses, fire, bulkhead and parapet walls. It  
934 goes on: cupolas, roof-mounted mechanical equipment such as heating, air conditioning,  
935 ventilating. The item I am referring to is stage towers or scenery lofts and that is exactly what  
936 this is, it is a hollow space building with no successive floors in it, no successive stories, by  
937 definition. It is a hollow space for lifting scenery as part of the theatrical production.

938

939 Mrs. Wade - Yes, I know what it is, but.... And that is in what context now in the



940 ordinance?

941

942 Mr. Strauss - Section 24-94.

943

944 Mrs. Wade - Which is what?

945 Mr. Strauss - It's in general regulations, I believe, for height.

946

947 Mrs. Wade - General regulations. Okay.

948

949 Ms. Dwyer- It is an exemption from the height limitations. Is that right, Mr.  
950 Strauss?

951

952 Mr. Strauss - Yes.

953

954 Mrs. Wade - So, height limitations don't apply to any of those things you mentioned,  
955 any where.

956

957 Mr. Strauss - No, ma'am. It seems odd but that's the way the ordinance reads, and I  
958 can't cite the intent there. I guess, no one envisioned that a scenery loft as being this large, in  
959 terms of volume, but that's how it reads.

960

961 Ms. Dwyer- Well, a church steeple, I assume, might be as tall as that.

962

963 Mr. Strauss - Yes. I've seen a number of church steeples that are rather large, like  
964 Grove Avenue Baptist Church on Parham has a rather large steeple.

965

966 Mrs. Wade- There is no limit as to what kind of tower that I can put on any building  
967 I'm building anywhere.

968

969 Mr. Strauss - Not currently, but I imagine there will be.

970

971 Ms. Dwyer- Are there any other questions of Mr. Strauss by Commission members?  
972 Will the applicant come forward, please? In light of the opposition of this case, the  
973 Commission will impose its ten-minute rule. What that means is that each side to the case has  
974 ten minutes to speak and that time does not include the time during which the Commission  
975 asks questions and the applicant or the opposition answers question. That period of time is  
976 excluded from the ten-minute period. So, as a matter of practice, it's always more than ten  
977 minutes as we usually do have questions. So, what that means is that the applicant has ten  
978 minutes to make his presentation. He may reserve some time for rebuttal and the opposition in  
979 total has ten minutes to make their presentations. You may want to confer with one another  
980 and pool your comments and have a single speaker. But, certainly, as many people who care  
981 to speak are welcome to do so within that time. Okay.

982

983 Mr. Koontz - Good morning, Madam Chairman, ladies and gentlemen of the  
984 Commission. My name is Greg Koontz and I represent the applicant. I would like to reserve

985 some time at the very end to respond to some of the comments that some of the other people  
986 have.

987

988 Ms. Dwyer - How much time?

989

990 Mr. Koontz - Three minutes will be fine. This master plan that was submitted with  
991 this POD, to give a little history, as of a result of two years by the architect, the board of  
992 directors and the faculty and staff, dealing with the expansion of Steward School. Their  
993 ultimate goal is to keep a high-quality private school that's relatively small in nature. Their  
994 current enrolment is around 380 and I think they want to build or expand up to a maximum of  
995 500. That's the way their future plans are for this school. They spend a lot of time trying to  
996 determine in meeting over these last couple of years, trying to determine where the placement  
997 of these buildings went. They have layouts that they have dealt with showing buildings all  
998 over this site. And for various reasons they feel like this is the best layout that would work  
999 with their future programming and existing facilities that they have at this location. And, just  
1000 as this plan was submitted, it complied or exceeded with all of the requirements that Henrico  
1001 County has set fourth in their ordinances and codes.

1002

1003 What we would like to at least go over for a couple of minutes is that the main area of  
1004 concern, based on the conversations we've had over the last couple of weeks or months with  
1005 the neighbors, is been concerning this northern property line and the location of the gym,  
1006 which is the largest building up there at the top of the screen. The school was aware that this  
1007 was a sensitive area during their planning process and they made an effort on the first  
1008 submittal, before the revised one, to preserve a wooded buffer. They exceeded their setback  
1009 requirements. They designed a gym entrance that was totally shielded from the adjacent  
1010 neighbors to provide for access to the gym and to keep noise from going over towards the  
1011 neighbors. They did all of this prior to their first submittal.

1012

1013 Basically, the main reasons that the school has chosen the layout that they have and why the  
1014 gym, which is probably going to be the main topic that's up there, and this is just a list of a  
1015 few of the reasons because there is no way I can duplicate the conversations that the board of  
1016 directors and the faculty had over the last couple of years. They kept moving things around  
1017 trying to come up with what the best situation was, but the primary reasons that they had the  
1018 gym in this location was that the upper school, which is.... That building, right there, is the  
1019 upper school (referring to picture on screen) which is where the high school students go. They  
1020 drive so the parking lot is up there next to that school and they will be the primary users of the  
1021 gym facilities. So, it was in an effort to try to keep the gym up in the area where the primary  
1022 use is going to be. That was one of the reasons. The three larger uses of the parking lot,  
1023 which is going to be the gym, the fine arts building and the upper school. It is centrally  
1024 located so that all three can use the same parking lot. They designed the school with a central  
1025 axis, which went from front lawn on Ryandale in the center of the school, going through the  
1026 administration library building to a courtyard, which overlooks the existing soccer field. And  
1027 that was the center axis of their layout and design for this school. They are also trying to keep  
1028 good access to the tennis courts and to the play fields out there from where the gym location  
1029 is. The other reason is that they are trying to keep the gym in a location that will move

1030 students away from Gayton Road, which as everybody knows there is a lot of traffic on that  
1031 road, and the school is being required to make improvements on that road, which I'll review in  
1032 just a moment.

1033

1034 Based on the meetings we have had with the Planning Commissioner and staff and with the  
1035 residents, the school has made the following revisions to the plan, which is before you today,  
1036 to try to address their concerns. They gym was moved further from the northern property line  
1037 to a distance of approximately 108 feet from the property line. This increased the trees along  
1038 that northern property line. They are trying to preserve as many trees as they can. The curb  
1039 is now 65 feet from the property line on the road that's adjacent to the parking lot and they are  
1040 going to try to preserve as many of those trees as they can and just disturbing as little as  
1041 possible with grading. The maintenance building, which is now shown directly behind the  
1042 gym was approximately where the last tennis court, or the second to the last tennis court is on  
1043 your plan right now, going away from the gym. What we've done, based off discussions, the  
1044 neighbors did not mind tennis courts adjacent to them, so we moved the maintenance building  
1045 close up behind the gym and put the tennis courts up there and moved the building quite a bit  
1046 further away. They eliminated about half of the service road length, which used to be as it  
1047 went along side the gym and then all the way down where the tennis courts went. So, we  
1048 eliminated all of that to keep traffic from going back there. There was some concern as to the  
1049 number of parking spaces being provided by staff and the Planning Commissioner. So, by  
1050 moving the gym away from the property line, we had to shift it back which allowed us add  
1051 approximately 30 more parking spaces and we also went ahead and showed future parking  
1052 areas if the County deem we need more parking. We've shown future parking areas on the  
1053 plan, over adjacent to Gayton Road away from the residential areas.

1054

1055 One of the requirements of this developments is to widen Gayton Road from Ryandale all the  
1056 way across the frontage of the property for a full lane width to the ultimate width shown on the  
1057 County plan. This will allow for a left-turn lane into the entrance, into the lower school,  
1058 which is going to be a new entrance shown on your plan coming off of Gayton Road. This  
1059 will allow for a left-turn lane into that, which is one of the requests in some of the discussions  
1060 with the neighbors. There will also be a right-turn lane added to that to also help with the  
1061 flow of traffic down Gayton Road. One of the goals of the school with this layout, it is  
1062 actually dividing the traffic, currently. And there has been an existing problem at Ryndale and  
1063 Gayton. The school and the neighbors, everybody has talked to the County concerning the  
1064 installation of a light there. And everybody has been told that there won't be a light there.  
1065 So, what we have done is we've divided the traffic to where half of the traffic going into the  
1066 lower school comes in off Gayton and the other portion to the upper school goes in off  
1067 Ryandale, which should help to resolve some of the traffic problems in that area. Removal  
1068 bollards will be used to restrict traffic after school hours from going beyond the gym. The  
1069 front corner of the gym there, at the edge of the parking, they will put removal bollards or  
1070 something.

1071

1072 Ms. Dwyer - Excuse me. Mr. Koontz, would you show us where the bollards would  
1073 be?

1074

1075 Mr. Koontz - Yes. They will be right in this location here (referring to screen) to try  
1076 to eliminate traffic from going behind the gym. The whole reason all these roads and stuff  
1077 goes all the way around there is that we have to have them for fire access. We've been  
1078 required to have these service roads go around the entire building structures for the purpose of  
1079 fire access.

1080

1081 Ms. Dwyer - What will the bollards look like and how will they work?

1082

1083 Mr. Koontz- Well, we have two different choices and we haven't resolved exactly  
1084 how they are going to work yet. We can either put ones in that are removal and lock and  
1085 provide the Fire Department with a key or they could have one where they can actually drive  
1086 thru if they need to. So, we need to actually meet with the Fire Department, the Fire Chief,  
1087 and determine which kind they prefer. But, I think that is a design detail. We will actually  
1088 have something to stop the traffic after school from going beyond that building.

1089

1090 Ms. Dwyer - Have you discussed with the Fire Department these options?

1091

1092 Mr. Koontz - I'm sure we can work one of those out because we have done that in the  
1093 past where we blocked the access and you just have to provide them with a key basically if you  
1094 are going to put something permanently there.

1095

1096 Ms. Dwyer - So, it won'  
1097 t be a chain, it will be something actually fitted in the road?

1098

1099 Mr. Koontz - Yes, ma'am. Right now we are planning on putting some kind of poster  
1100 bollard or something there to stop people from going through.

1101

1102 Ms. Dwyer - Sometimes those chains don't work. They get taken down. Bollards  
1103 might be better. I see that you have parking back behind the gymnasium so how would people  
1104 gain access to those parking spaces and to the maintenance building if the bollards are there?

1105

1106 Mr. Koontz - The purpose of the bollards is to restrict traffic after school hours. So,  
1107 basically, those bollards will be taken down in the morning so that a maintenance staff or  
1108 whatever can go back there to get to the maintenance buildings. And the couple of parking  
1109 spaces that you see at the rear of the building are primarily for staff that are in the gym.

1110

1111 Ms. Dwyer - Okay, so the bollards, then, would not be up during school hours.

1112

1113 Mr. Koontz - Correct.

1114

1115 Ms. Dwyer- And someone would have to be responsible for replacing those?

1116

1117 Mr. Koontz - Yes, ma'am. And that's a commitment that the school said they are  
1118 willing to make. To make sure that that is up everyday.

1119

1120 Ms. Dwyer- I believe you have about three minutes of your time left. You want to  
1121 reserve three minutes and you have about three minutes left at this point.

1122

1123 Mr. Koontz - Just to summarize really quick, the school, I actually have a detail I need  
1124 to give you where the school propose that at the initial point of construction will construct an  
1125 eight-foot-high, chain link vinyl fence with plastic slats along the northern property line prior  
1126 to construction, which is a request by adjacent neighbors. They also have a landscaping plan  
1127 they had done by their landscape architect, which as soon as final grades are reached to where  
1128 they can add an additional secondary screen adjacent to that service road.

1129

1130 Ms. Dwyer - Are you proposing this for approval today?

1131

1132 Mr. Koontz - Yes, ma'am. This can be added as condition to the approval.

1133

1134 Ms. Dwyer- Have you seen the additional condition that Mr. Strauss has placed on  
1135 our addendum which says "The applicant shall submit a "Phase One" landscape and fence plan  
1136 for Planning Commission approval prior to the construction of the new gymnasium?"

1137

1138 Mr. Koontz - Okay. This could be it or I can make a revision if you need me to.

1139

1140 Ms. Dwyer- So, this is a proposal by the school but if this is not agreeable to the  
1141 neighbors then we could certainly go with Mr. Strauss' condition, in which case we could  
1142 revisit this landscape fence issue and resolve that at a later date, but before the gym is  
1143 constructed.

1144

1145 Mr. Koontz - Yes, ma'am. That's fine. I just have one other comment. The existing  
1146 buffer that was on the master plan that Mr. Strauss had mentioned. It is my understanding is  
1147 that there was not a formal buffer of 75 feet ever shown on that plan and the parking along  
1148 Ryandale Road was within 40 feet of the adjacent property line on the original master plan.  
1149 And the 75 feet is basically the area that was not cleared, going behind that. I didn't  
1150 understand where the school had ever actually agreed to a formal buffer along that northern  
1151 property line. I would just like to clarify that. Thank you very much.

1152

1153 Mrs. Wade - I would like to ask him a couple of questions. Will the tennis courts be  
1154 lighted?

1155

1156 Mr. Koontz - No, ma'am.

1157

1158 Mrs. Wade - How many employees do the school anticipate having?

1159

1160 Mr. Koontz - They plan to have 75 employees.

1161

1162 Mrs. Wade - Seventy-five employees. And how many in the upper school, children?

1163

1164 Mr. Koontz - There will be 180 upper school students.

1165

1166 Mrs. Wade - I was just wondering where everybody parks.

1167

1168 Mr. Koontz - There are 200 and approximately 40 parking spaces, I think, that are  
1169 shown.

1170 Mrs. Wade - Okay.

1171

1172 Ms. Dwyer - I think today, Mrs. Wade, they park on Ryandale. That has been a part  
1173 of the neighborhood concern.

1174

1175 Mr. Koontz - The school understands that the existing parking is a problem right now  
1176 and, basically, with this plan we are trying to eliminate the existing problem and provide  
1177 adequate spaces.

1178

1179 Ms. Dwyer - Are there any other questions of Mr. Koontz by Commission members?

1180 Thank you.

1181

1182 Mr. Koontz - Thank you.

1183

1184 Ms. Dwyer - We will call you back later and you have reserved three minutes for  
1185 rebuttal. Anyone who would like to speak on this case in opposition or just to speak, would  
1186 you please come forward.

1187

1188 Mr. Schwartz - Good morning. I'm John Schwartz, I'm vice president of the  
1189 Sussex Square Neighborhood Association. We are the western boundary of this entire campus,  
1190 about 85 homes. We aren't here to complain or to disagree with the mission of Steward  
1191 School. We are not opposed to that at all. Frankly, the neighbors to the north can speak more  
1192 to their concern with the buildings and where they are located. Our concerns are strictly with  
1193 Gayton Road. We really have not been kept informed as we should have. Ms. Dwyer, you  
1194 may recall that it was a month ago was the first time we heard about it when I was here for  
1195 another Planning Commission issue and objected to a deferral which seemed to be odd at the  
1196 time. Since then we have had two meetings with Steward School, one privately and one that  
1197 you attended along with staff and many other neighbors. I guess the concerns are that Gayton  
1198 Road is a major road today. It takes too much traffic, it's going too fast and the stack up and  
1199 back up at Ryandale is just unsafe. Heading eastbound in the morning on Gayton you have  
1200 sun facing everybody's eyes and you have soccer moms and mini-van dads and God knows  
1201 what else, and between coffee and cell phones and sun causes a very dangerous environment.  
1202 You've now agreed, or the County at least is saying with Steward School, that they are going  
1203 to move this entrance some 600 feet west on Gayton. That curves right now from where it  
1204 appears. Where the driveway is, heading westbound, that curve is not very clear, it is a very  
1205 poor line of sight. We would very much like to see Steward School and the County in  
1206 some way cooperate in improving this. I realize there is going to be a stacking lane going  
1207 eastbound. There is going to be a de-acceleration lane going westbound into that drive, but I  
1208 understand there is not going to be any acceleration lane coming out of Steward School  
1209 heading westbound, which means you are going to dump all that traffic that's now being

1210 dumped on Ryandale, that even the applicant address it is a problem and a concern, and you  
1211 yourself mentioned, you are now going to ask all that lower school traffic and middle school  
1212 traffic and teacher parking and faculty and staff parking, to come out of that intersection and  
1213 make a decision on which way they are going without any clear line of sight, let alone  
1214 acceleration going westbound.

1215

1216 Obviously, improvement in that speed limit. Some sort of flashing light, if you are not going  
1217 to have signals. An improved ingress/egress would be a great help to the entire neighborhood.  
1218 The other concern we've got, and I think everybody in the area probably has it. There is no  
1219 doubt in our minds that the theatre and the gym will be rented out for other activities as well as  
1220 the additional playing fields that have been added in the rear. There needs to be some  
1221 assurances/guarantees, from the school and from the County that there will be sufficient traffic  
1222 control of some sort whether it be temporary, and God know what it could be, to alleviate the  
1223 concerns. I only have to point to Collegiate School the events that go on there in the evenings  
1224 and the traffic that's created on Mooreland Road and Steward and River Road, when they have  
1225 events in the evening at the Oates Theatre and at the gym and at the athletic fields. Again,  
1226 nobody is concerned about the mission. We are all in favor of the mission it's just that it is a  
1227 lot of traffic in a very tight area and that's really the problem. Something else, and I realize  
1228 that maybe the school doesn't have this obligation, and maybe the County can't force them,  
1229 but when John Rolfe was expanded or put in at Gayton Road, The County certainly needed to  
1230 widen that road and approach the single neighborhood, which was Sussex Square, to acquire  
1231 the amount or right-of-way to widen that road. It seems like a great opportunity for the  
1232 County and Steward School and some concerted effort of cooperation in the neighborhood to  
1233 possibly offer the widening of that entire road to make Gayton a four-lane road now. You have  
1234 one property owner, that's Steward School, that owns, what, 1,200 or 1,500 feet that would  
1235 solve a lot of the traffic problems, a lot of the turning problems, the line of sight, particularly,  
1236 at the curve at Gayton and Old Compton on the western side of this property and it would  
1237 alleviate a lot of those problem. I thank you for your time and will answer any questions if I  
1238 can, if you have any.

1239

1240 Ms. Dwyer - Are there any questions of Mr. Schwartz by Commission members? I  
1241 would like to ask Mr. Eure to come forward to respond to some of the issues you have raised.  
1242 I know Mr. Eure has looked at this case and examined some of the issues you have raised.  
1243 And, for the record, for the benefit of all of us, if you could respond. I could just go through  
1244 the list as I have written down Mr. Schwartz's comments and maybe you can respond. The  
1245 first has to do with the acceleration lane. And I believe, correct me if I'm wrong, Mr.  
1246 Schwartz, we are talking about traffic leaving the Steward School, turning right and heading  
1247 west toward John Rolfe Parkway. Mr. Schwartz believes that an acceleration lane would be  
1248 appropriate at that point and one was not required by the County. Can you explain that?

1249

1250 Mr. Eure - Yes, ma'am. First off, good morning, I'm Todd Eure your assistant  
1251 traffic engineer. Through (unintelligible) acceleration lane coming out of the proposed  
1252 entrance, that's not a standard design that we require for either private driveways or typically  
1253 public roads. What we do make sure that happens, to insure safe entrance point, is that they  
1254 are required to provide adequate sight distance at the driveway to look both directions.

1255 Currently, there is, I believe, adequate sight distance looking to the east because it is a fairly  
1256 straight section of Gayton Road through. So, they do exceed the minimum sight distance  
1257 requirements, as we apply in that situation so that drivers exiting the driveway do have the  
1258 opportunity to look far enough up Gayton Road to make the decision as to whether to enter the  
1259 road or not. I'm looking to the west as, Mr. Schwartz did indicate, there is a slight curve  
1260 there, the north side of Gayton, it would be on the inside of the curve, just to the west of  
1261 there. With the widening that Steward School is going to be doing along Gayton Road, that  
1262 should significantly help the sight distance there. Again, they are going to have to meet or  
1263 exceed the minimum sight distance requirements looking in that direction as well for the width  
1264 of the road and the speed of the road in order for the driveway to go in at that location. We  
1265 feel, based on what we've been able to review at this point in time, that those conditions  
1266 should be met.

1267

1268 To go back to your original question, the acceleration lane, typically, is something that we  
1269 require at a high volume public road, intersections of too high volume public roads, where we  
1270 provide, basically, channelized right turn with an acceleration onto the adjacent street. For  
1271 example, the intersection of Lauderdale and Broad Street. That only works where you have a  
1272 multiple lane road that the traffic is entering. That typically doesn't apply to private  
1273 driveways.

1274

1275 Ms. Dwyer - What about traffic control devices or reducing the speed limit or having  
1276 flashing light signs to indicate this is a school, to slow down for school traffic in the mornings  
1277 and afternoons?

1278

1279 Mr. Eure - Yes, ma'am. Currently, the speed limit on that portion of Gayton Road  
1280 is 45 mph. We have historically conducted speed studies out on that segment of roadway to  
1281 determine if that was the most appropriate speed limit. The last study we conducted was in  
1282 1996 in that portion of roadway. At that point in time, we determined that the speed limit was  
1283 adequately posted. There certainly may be a need for enforcement and that's something we  
1284 can make the request on behalf of the neighborhood to the Division of Police for some  
1285 additional enforcement in the area. With respect to school flashers, our standards for  
1286 recommending or installing school flashers for a school, whether it be a public school or  
1287 private school, it's a condition that there at least be some students that do walk to the school  
1288 crossing, in this case, Gayton Road. We have not done a formal pedestrian study recently.  
1289 However, we have done some observations within the last several months at the intersection of  
1290 Ryandale and Gayton. It was observed that apparently there are some, either students or  
1291 parents, that do cross Gayton Road at least on an occasional basis. We are not aware of any  
1292 requests on behalf of Steward School to install school flashers on Gayton but that certainly is  
1293 an issue that we would be glad to look into further, if there is an interest in it. And we could  
1294 have those signs, school flashers installed independent of the project.

1295

1296 Ms. Dwyer - So, if I understand, your position on the flashers is that if the school  
1297 takes the initiative to contact you and request the flashers, you believe that's a possibility,  
1298 from what you have observed.

1299



1300 Mr. Eure - Yes, ma'am.  
1301

1302 Ms. Dwyer - So, that is a ball that could be set in motion by the school. Do you  
1303 believe, with the fact, that John Rolfe Parkway now is maybe dumping more traffic onto  
1304 Gatyon Road? Do you think that that would warrant that change in roadways, would warrant  
1305 another traffic study to study the speed limit along Gayton?

1306 Mr. Eure - Yes, certainly. The last study we did, that was prior to the completion  
1307 of John Rolfe, there has been a number of changes in the area. So, on a road like that we  
1308 typically would review the speed every several years anyway, so we would go ahead and  
1309 conduct another study.

1310

1311 Ms. Dwyer - You will look at that, you will study the speed limit then, now?  
1312

1313 Mr. Eure - Yes, ma'am. And we will be glad to respond to Mr. Schwartz or any of  
1314 the neighbors that are interested in the result of the study.

1315

1316 Ms. Dwyer - If you don't have his name and number already, I'm sure he'll be glad to  
1317 give it to you today. So, we will be looking at the speed limit question and the school, then,  
1318 can contact you about the flashing lights. How about the widening of Gayton Road in its  
1319 entirety along that section?

1320

1321 Mr. Eure - This portion of Gayton Road is designated as a major collector road on  
1322 the Thoroughfare Plan. Its ultimate section is to be a four-lane undivided roadway. The  
1323 portion in the vicinity of the school has some very uneven sections, particular on the south  
1324 side. Steward School is doing all of the required widening on the north side, fronting their for  
1325 the full length of the property, as Mr. Koontz indicated. That will hopefully provide adequate  
1326 width currently for at least a three-lane section for a long enough portion for us to provide the  
1327 left-turn lane into the proposed entrance. It may takes some transitions and tapers and so  
1328 forth, but it's something that hopefully we will be able to accomplish. Certainly, it would be  
1329 ideal to have the full four-lane section all along that portion of Gayton Road, but unfortunately  
1330 that's not a requirement that we can require Steward School to do at this point. A lot of it is  
1331 actually County's responsibility. It's not currently in the County's Five Year Plan for  
1332 widening through there but it certainly is an issue that we can review and determine if, again,  
1333 since John Rolfe has come into place that they may accelerate the need for that.

1334

1335 Ms. Dwyer - But, the widening that Steward School will do on the northern side of  
1336 Gayton will improve the site distance you believe from that access point into the new parking  
1337 area?

1338

1339 Mr. Eure - Yes, ma'am. It should certainly improve the sight distance, because of  
1340 being on the inside of the curve, when they do the widening they will have to do a minimum  
1341 amount of clearing along the north edge of Gayton Road, which should improve the sight line  
1342 for traffic existing the driveway as well as any traffic that's sitting on Gayton Road to turn into  
1343 the facility.

1344

1345 Ms. Dwyer - Are there any questions of Mr. Eure by Commission members? You  
1346 might want to chat individually with Mr. Schwartz about the theory of the acceleration lanes. I  
1347 know I've heard the theory, and I think he would probably differ with that, but rather than  
1348 take time here it might be productive to speak with him about that and go into more detail  
1349 about acceleration lanes and why you don't view them as being appropriate at this location.

1350

1351 Mr. Eure - Yes, ma'am.

1352

1353 Ms. Dwyer- Thank you. Are there any other opposition.

1354

1355 Mr. Haigh - My name is Dick Haigh and I'm a homeowner behind the school. There  
1356 are 15 houses behind the school that are involved. And, honestly, Madam Chairman, the ten  
1357 minutes that you give us to talk about all these problems is not enough and I'm going to have  
1358 to address this in a letter after this. I have, item one, real quickly, I have a letter from the  
1359 school that states: We would have between 100 feet and 130 feet as a buffer zone. They snuck  
1360 in this parking lot, and kind of (unintelligible) that 130 feet. In 1992 I was here and it was  
1361 promised that 100 feet would always be there. That's just one problem. I don't like the gym  
1362 where it is. There are many, many, problems and please don't do anything with this until we  
1363 can sit down and address this thing. We have 15 homeowners that are going to be hurt.

1364 Thank you.

1365

1366 Ms. Dwyer - Mr. Haigh, did you say you have a letter from The Steward School  
1367 indicating....

1368

1369 Mr. Haigh - Yes.

1370

1371 Ms. Dwyer- Do you have a copy of that with you today?

1372

1373 Mr. Haigh - I can get you a copy of it, Ma'am.

1374

1375 Ms. Dwyer - I had heard that there was a letter that exist and I had asked Rev.  
1376 Crumpton if he would send me a copy of that and I didn't get a copy.

1377

1378 Mr. Haigh - Also, there is something in your records that shows this, this 100 feet.

1379

1380 Ms. Dwyer- A commitment to a 100-foot buffer?

1381

1382 Mr. Haigh - Yes, ma'am. I know it's here.

1383

1384 Mr. Vanarsdall - Was that in a public hearing, in the minutes?

1385

1386 Mr. Haigh - Yes, sir.

1387

1388 Ms. Dwyer - Mr. Strauss, are you going to address this 100-foot buffer issue?

1389

1390 Mr. Strauss - In my research on this case I did find minutes. I can get them for you.  
1391 It will take me a minute. This case has a history, and it goes back to 1976. I did find minutes  
1392 that indicated a buffer of 75 to 100 feet in that buffer area. This was in previous minutes, it  
1393 will take me a moment to find them but I will make that available to you.

1394

1395 Ms. Dwyer - Thank you, Mr. Strauss. Were there any other questions that the  
1396 Commission would like to address to Mr. Haigh? Thank you.

1397

1398 Mr. Catterton - My name is John Catterton and I live at 10611 Baypines Lane, directly  
1399 behind the proposed site for the gym. I have just given the Chairperson a copy of the minutes  
1400 of this body from 1992 from in which the school agreed to increase the buffer from 75 feet to  
1401 100 feet. Twice in the last four years I've been here to support the school on various plans  
1402 that they have had. In 1992 the appeared before this body with this plan that is mentioned in  
1403 these minutes of POD-54-92. At that meeting the neighbors and the school agreed to leave a  
1404 wooded buffer of 100 feet between the construction and the neighbors on Baypine Lane. This  
1405 is before we moved into our house. In 1995, I think there was a meeting to allow the school  
1406 to put up some trailers for temporary classrooms. We were concerned and consulted and we  
1407 were here to support the school in that proposal. Remember, we were consulted. In 1996, the  
1408 school engaged a firm by the name of Van Yahres, landscape architect of Charlottesville, to  
1409 devise a master plan for the school. Out of that plan, came in March 1997, a POD, which was  
1410 POD-25-97, for the construction of additional athletic fields. At that meeting, mention again,  
1411 was made of the neighbors desire to preserve the wooded buffer between us and the school. I  
1412 have the minutes of that meeting too. Before that meeting, we as neighbors had several very  
1413 cordial meetings with the school and after reviewing the comments we were not in opposition  
1414 since the buffer was preserved. The athletic field has since been built and they are shown on  
1415 this plan. While we have more noise from Gayton Road, because of the loss of the woods that  
1416 were there and endured more noise and dust from the construction and traffic, we still have  
1417 our buffer. Since the construction of these athletic fields, much has changed and that is what  
1418 brings us here today. The school, is a small school, has received a rather generous gift to  
1419 fifteen million dollars (\$15,000,000) and that gift has had the effect, obviously, on their  
1420 pocketbooks but also on their attitude towards their neighbors and their plans for the future.  
1421 The latest plan calls for several large and grand buildings to be built, one of which is this  
1422 approximately 44,000 square foot gymnasium, which we are opposed to, to be built directly  
1423 behind our houses. In addition, and this has not been mentioned particularly, behind the  
1424 gymnasium is this 24-foot-wide road, which decreases the width of the buffer to 64 feet from  
1425 the edge of the road to the backyards of our houses. Twice we have been to meetings at the  
1426 school. Now, remember they have been talking about doing this since 1996. We were not  
1427 shown any plans until November of last year. They had all these consultation with faculty and  
1428 the board of directors and all this other stuff but they didn't consult the neighbors.

1429

1430 The latest addition you have before you is the school's attempt to make the small changes in  
1431 addition to the promise of fencing and landscaping to assuage our opposition. Our contention  
1432 is that fencing and landscaping are not the solution when the location of the building, in  
1433 particular the road, are the problem. In addition to this huge building, they proposed to cut a  
1434 20-foot-wide path through the 65 feet of remaining buffer to install a pipe to drain this entire

1435 construction and road into an existing 18-inch pipe. I have serious doubts that the volume of  
1436 water could be handled by this existing pipe, my concern is more obvious than that. This will  
1437 now cut a clear path 20 feet wide from a paved road directly into our backyards. I think this  
1438 invites trouble that we currently don't have. They have proposed to landscape that area but it  
1439 remains some doubt as to whether they can do anything on this easement. I have a copy of the  
1440 County's plan and there is a note on here about planting and landscaping on the easement. I'm  
1441 not sure where it stands on that. These are the same people, who by their promises in 1992  
1442 and 1996 and their actions in 1997, left our buffer alone. These are also the same people who  
1443 in 1992, when they built the first athletic field, were supposed to install and maintain a  
1444 drainage system in the area as was required. They installed it, they never maintained it, and it  
1445 took me three years of letters and phone calls and pleading with the County to get the school to  
1446 do something about it, which they have done now. They dug a ditch, and I keep the ditch  
1447 clean and keep the water flowing.

1448

1449 The school, which has mostly good rapport with its neighbors, despite some real and  
1450 dangerous traffic concerns, has now, that their bankroll is large, planned to change the rules  
1451 and in the course of these proposed changes adversely effect the neighbors. In 1992 and 1996  
1452 and 1997, had we known this is how we were going to be rewarded for our support, I know  
1453 that we would have opposed those plans then. These and other reasons are why we are here  
1454 today in opposition, in this their most recent incarnation of their plans. Thank you.

1455

1456 Ms. Dwyer - Did you state your name for the record?

1457

1458 Mr. Catterton - Yes, John Catterton.

1459

1460 Ms. Dwyer - Are there any questions of Mr. Catterton by Commission members?

1461

1462 Mr. Vanarsdall - Do you want these minutes back?

1463

1464 Mr. Catterton - Well, I need....

1465

1466 Ms. Dwyer- If I could just see them for a minute. Are these 1992 minutes for the ball  
1467 fields? Mr. Strauss, I would like to ask you a question about these 1992 minutes. These are  
1468 minutes for the athletic field expansion.

1469

1470 Mr. Strauss - Yes, POD-54-92.

1471

1472 Ms. Dwyer- And the statement was that with this POD there was would be a buffer  
1473 between the athletic field. I assume it's the athletic field that's labeled existing on this plan  
1474 that's close to the building.

1475

1476 Mr. Strauss - I have a copy of that POD, reduced size, if you would like to look at it.

1477

1478 Ms. Dwyer - Let me just ask you as a matter of process. The commitment to maintain  
1479 a 100-foot buffer for that POD for that ball field, does that apply in perpetuity for all other

1480 PODs and all other buildings or fields that may be built on that site?

1481

1482 Mr. Strauss - I don't think so. I think that the reason they are here today is to present  
1483 a new master plan that can, if you approve it, change the buffer.

1484

1485 Ms. Dwyer - I guess what I am trying to understand is this was a commitment for this  
1486 piece of development but it was not a commitment necessarily for all future developments.

1487

1488 Mr. Strauss - Correct.

1489

1490 Ms. Dwyer - Because this POD was limited to this particular case. If I may, Mr.  
1491 Catterton, one of the issues that we always struggle with as a Planning Commission, is that  
1492 when commitments are made by owners, applicants or developers, in a zoning case for  
1493 instance, to maintain a 100-foot buffer and that commitment is made in the form of a proffer  
1494 and accepted when property is rezoned, that buffer cannot be changed. That runs with the land  
1495 no matter who owns the land, no matter what happens that buffer will be there. In contrast to  
1496 that, in a plan of development, it is very different from a zoning case. In a plan of  
1497 development a commitment for, my understanding, is that a commitment for a buffer for this  
1498 particular plan of development that was presented in 1992 for this ball field, that commitment  
1499 was adhered to. But, subsequent plans of development may come in for different buildings,  
1500 for different structures, for different development on that site and may change the  
1501 configuration of buildings and relation to property lines. That's just a technical, I guess,  
1502 background that I wanted to set out for the record today. It doesn't have anything to do with  
1503 what you feel is a "moral" commitment on the part of the school.

1504

1505 Mr. Catterton - So, you are suggesting then that they should not have accepted this as a  
1506 promise from the school and 1992 or again in 1997? Whereas there are no specific numbers  
1507 mentioned, it was noted that there was a letter speaking more of wanting to preserve the woods  
1508 and not wanting to have a drainage swale built in. They promised us 100 feet to get us to go  
1509 along with the POD in 1992 with the idea that they were going to come along five years later  
1510 or seven years later and do something else. What would be the advantage in us not opposing  
1511 it? I mean, we accepted their word, not me because I didn't live there, but the neighbors  
1512 accepted their word in 1992 having no idea that they would come along and try to change that.  
1513 They basically offered the 100 feet to get the proposal through. So, you are telling me it has  
1514 no value unless it's in a proffered form?

1515

1516 Ms. Dwyer - No. I'm saying it was a commitment for that development and this is a  
1517 different development. And as I understand it, the earlier commitment doesn't apply to any  
1518 future plans of development that might come on the property. If it had been a commitment  
1519 made in a zoning case that would be a different story, it would apply to all developments, but  
1520 this POD, where this 100-foot commitment was made, was complied with by the school. This  
1521 is a separate case now and they are asking for a change, which they are entitled to do. That  
1522 earlier commitment for that particular ball field is not binding on the building they want to  
1523 place now, as my understanding of the relationship of these developments.

1524

1525 Mrs. Wade - Sometimes we accept letters, in addition to cases, about issues that are  
1526 not in the case assuming that good faith, when we have a letter. And, generally, although we  
1527 recognize that as not being official, we expect that to happen whatever is in the letter and when  
1528 we get them from applicants. And some of you here in the room have submitted letters about  
1529 details that we expect to be what happens. I don't know if that's comparable but maybe we  
1530 should look more closely at letters we get.

1531

1532 Mr. Catterton - The value of the letter has no value if it is not in a more legal form  
1533 apparently. I mean, they promised us 100 feet and they are going to change that.

1534

1535 Mrs. Wade - Yes. I understand. Master plans are sometimes....

1536

1537 Ms. Dwyer - They are not etched in stone as in proffers.

1538

1539 Mr. Archer - Madam Chairman, were we able to determined whether or not the  
1540 language in the minutes referred to a condition or an annotation on the plan or was it just an  
1541 oral agreement that was made? Can we tell from this?

1542

1543 Ms. Dwyer - The language that the new plan shows an increase in the buffer from 75  
1544 to 100 feet between the property line and the ball field.

1545

1546 Mr. Archer- Was it set out as an annotation or was it a condition or was it just an  
1547 agreement that was made?

1548

1549 Ms. Dwyer - I'm assuming that it was an annotation but I'm not certain of that. Do  
1550 you know, Mr. Strauss, the approved 1992 plan?

1551

1552 Mr. Vanarsdall - It sounds like an annotation to me.

1553

1554 Mr. Strauss - (Unintelligible)

1555

1556 Ms. Dwyer - Is there anyone else that wants to speak to this case?

1557

1558 Mrs. Haigh - My name is Norma Haigh and I'm also a Baypines Lane neighbor. I had  
1559 not expected to come up here this morning and speak to you at all, and I appreciate the time. I  
1560 have a letter from when I started my file on Steward School dating to 1987 when we were  
1561 having terrible drainage problems. I have another letter dated 1997, ten years later, from Mr.  
1562 Ross Hotchkins who was representing the school stating they were glad they had finally gotten  
1563 around to doing something to help us with our drainage. This is what we have been dealing  
1564 with and they keep changing the rules, and they keep changing the regulations. The neighbors  
1565 have had a tough time, and we have tried to be good neighbors. But, you know, enough is  
1566 getting to be enough. Thank you.

1567

1568 Ms. Dwyer - Mr. Strauss, could you address the drainage issue, briefly, please?

1569

1570 Mr. Strauss - As recently as this morning, I discussed the drainage problem with  
1571 Public Works. It is their contention, after meeting with Mr. Koontz, that the drainage issue  
1572 can be improved by the addition of the curb and gutter and the underground 50/10 storage  
1573 that's proposed. I think Greg Koontz can elaborate on that much better than I can, but there  
1574 was a meeting as recently yesterday to discuss the drainage there. They are proposing new  
1575 drop inlets, curb and gutter. I've been out to the site there was a ditch dug through the buffer  
1576 area to help with drainage. According to Public Works the situation would get better with the  
1577 new improvements of the school's proposal.

1578

1579 Ms. Dwyer- Thank you, Mr. Strauss. To summarize what you said then, the  
1580 drainage should be improved as of a result of this development?

1581

1582 Mr. Strauss- Yes. If there are any technical questions that you have I'd direct those  
1583 to Mr. Koontz.

1584

1585 Ms. Dwyer- Mr. Koontz, I believe you have four minutes.

1586

1587 Mr. Koontz - Just in response to some of these comments as far as all of the road  
1588 issues. We did try to resolve all of those with traffic, and I feel like the plan that we presented  
1589 will resolve a lot of the problems in that area about widening that whole strip and I do believe  
1590 that if everybody there would like flashers that the school would not have a problem requesting  
1591 that. I think a lot of this other stuff as far as dealing with the buffers and how they are  
1592 maintained, the last master plan, and the reason I think a lot of input was not asked for from  
1593 the residents during the study period was that they had just gone through this master plan  
1594 process for the one that is on the screen. And the parking lot and the maintenance building are  
1595 all approximately 40 feet from the property line. And there was no input hardly at all from  
1596 the neighbors. We had several meetings and only one to two individuals showed up for those  
1597 master plan meetings for that approved master plan. So, I don't believe the school felt like  
1598 they weren't going to be getting much further input because the plan that they showing actually  
1599 moved the maintenance building further and the parking lot is in almost the identical the  
1600 position shown on that master plan. The gym has increased in size and moved closer but they  
1601 try to maintain that same distance from the property line that was shown on the approved  
1602 master plan. We have had these discussions as far as some of the other commitments with  
1603 staff as far as the ball field that was done in 1992, that never got built. When this master plan  
1604 was approved, a relocation of those ball fields was approved at the same time and that's when  
1605 they got built. So, the 1992 plan never did even get built.

1606

1607 I believe that Steward School has tried to work very hard with the neighbors to try to resolve  
1608 some of these issues. The drainage problems that are spoke of, I've been involved with those  
1609 drainage problems since 1990 and I have met out on the site with Mr. Priestas and Mr. Sam  
1610 Amos and inspectors from Henrico County trying to resolve those problems, which stemmed  
1611 from, a ditch was not installed during the development of the subdivision. It's not coming  
1612 from the Steward School because it is basically a wooded area that is draining to the back of  
1613 their yards, but there is no ditch installed with the development of that subdivision, which was  
1614 shown on the plan. And Steward School volunteered to put the ditch in on their property but

1615 there was no consensus from the neighbors that would allow them to take down the trees in  
1616 that area adjacent to the property lines to install the ditch. So, the school has worked  
1617 diligently to try to resolve that, and Mr. Catterton is correct, he has complained quite  
1618 frequently about it and since we could never reach a consensus with Public Works or anybody  
1619 else on how to resolve the issue, basically, they went down there and hand dug a ditch to try to  
1620 direct the water that was draining through the woods to the pipe since they couldn't go in there  
1621 and clear any trees to install the ditch that was not installed with the subdivision.

1622

1623 The new development plan would catch all the drainage from the development. It's going to  
1624 be an underground detention system. It's going to reduce the volume of water that is going  
1625 through the existing pipe, done to the existing volume and the only water that would drain to  
1626 their yards would be what's coming from the wooded buffer. All the other water would be  
1627 caught in the curb. If you have any questions, I'd be more than happy to answer them.

1628

1629 Ms. Dwyer - Are there any questions of Mr. Koontz, by Commission members?

1630

1631 Mrs. Wade - Basically, all of these are familiar problems when we have expanding  
1632 schools and churches so close to residential neighborhoods.

1633

1634 Ms. Dwyer - Okay. Are there any other questions the Commission members may  
1635 have of anyone who has spoken today? We are ready for a motion. We have had, I know  
1636 there have been at least two meetings between the neighbors and Steward School and their  
1637 representatives to discuss this particular master plan within the last, I'd say, three months.  
1638 There is a concern on the part of the neighborhood that they were not consulted earlier in the  
1639 two-year development process and perhaps that could have allayed some of the neighborhood's  
1640 concerns. Given that that was not done, the school has attempted to address some of the  
1641 concerns of the neighborhoods that the neighborhood has had about this particular design.  
1642 They have moved the maintenance building farther away from the property line on the other  
1643 side of the tennis court. They have reconfigured the tennis courts. They have eliminated the  
1644 access drive. In the earlier plan that you had in your packet it went approximately the length  
1645 of the tennis courts to the maintenance building, so that access drive has been, that portion of  
1646 the access drive has been eliminated.

1647

1648 The setback requirements of the ordinance are 40 feet for the building and the new setback for  
1649 the gymnasium is 108 feet so that has more than doubled the minimum required by the  
1650 ordinance. And that is the task before the Commission today, which is to review this master  
1651 plan and determine whether or not it complies with the County ordinance. This setback of this  
1652 gymnasium more than complies with the ordinance. The buffer is now 65 feet, it was  
1653 approximately 40 feet, I believe, in the earlier version of the master plan that was presented to  
1654 the neighborhood. So, it has been increased by approximately 25 feet, although, it is less than  
1655 previous buffers that have been promised to the neighborhood in other cases. We have seen  
1656 the minutes from the 1992 case in which a 100-foot buffer was promised for the athletic field.  
1657 There has been an intervening master plan in which that buffer was reduced and that plan was  
1658 approved by this Commission. So, what we have is a situation in which the goals and the  
1659 plans of the school have changed, the configurations, the buildings have changed and their



1660 commitment to the buffer has changed. As I tried to explain earlier, if the buffer had been  
1661 promised, for instance, as a proffer in a zoning case that would be etched in stone as it were.  
1662 The position we are placed in with each plan of development that the Commission is presented  
1663 with we have to evaluate each individual plan of development on its own merits and determine  
1664 whether that complies with the ordinance.

1665

1666 This master plan does comply with the ordinance as Mr. Strauss has indicated. There may be  
1667 some moral commitments made by the school to the neighbors but those are not commitments  
1668 that we can enforce as a Planning Commission. I'm satisfied that the drainage issues have  
1669 been dealt with. In fact, Mr. Strauss has indicated that it is the opinion of the County that the  
1670 drainage situation will in fact be improved as of a result of this development and the  
1671 underground storage facilities that will installed underneath the parking lot on the northern  
1672 boundary of the property. The gym has been moved farther away, as I indicated. The  
1673 maintenance building has been moved. The access road has been removed. Additional  
1674 parking spaces have been added as future parking on Gayton Road to account for concerns  
1675 both by staff and myself and neighbors about the parking situation in the school.

1676

1677 The addition of the left-turn lane into the school for east bound traffic and the right-turn lane  
1678 into the school for the west bound traffic I think will immensely improve the traffic problems  
1679 that this area experiences, particularly in the morning peak hour for traffic. Mr. Strauss has  
1680 proposed a condition for this POD which would require the school to return to the Planning  
1681 Commission and propose a landscape and fencing plan for Phase 1 development, which would  
1682 be the gymnasium development. So, we will have the opportunity to look at any landscaping  
1683 proposal the school may have. The neighbors will have input on that to determine whether or  
1684 not what they are proposing is acceptable to the neighbors to enhance the effectiveness of the  
1685 buffer that is now proposed with the 65-foot buffer. Again, I would like to reiterate this  
1686 master plan does comply with the ordinance and that is the question that is presented to us as a  
1687 matter of law. That is what we need to determine today as a Planning Commission.

1688

1689 So, with that rather lengthy introduction and explanation, I would like to move that the  
1690 Planning Commission approve POD-122-98, Steward School Revised Master Plan and plan of  
1691 development for four buildings on the site including the annotations on the plans, the standard  
1692 conditions for developments of this type, and including the additional conditions Nos. 23  
1693 through 32 on the original agenda for our meeting today and the additional condition No. 33,  
1694 which requires the landscape plan that appears on our addendum. Generally, I would like to  
1695 also have Nos. 11 amended, for this case, so that all lighting plans and landscaping plans will  
1696 have to come before this Commission for a public hearing. At that time, the neighbors,  
1697 particularly those who border on this northern property line will have a chance to look at the  
1698 lighting plan and have input on how that would affect their residences. That's the end of my  
1699 motion.

1700

1701 Mrs. Quesinberry - Second.

1702

1703 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mrs.  
1704 Quesinberry. All in favor say aye...all oppose say nay. The motion carries.

1705

1706 The Planning Commission approved POD-122-98 The Steward School Revised Master Plan –  
1707 Upper School Addition, subject to the standard conditions attached to these minutes, the  
1708 annotations on the plans and the following additional conditions:

1709

1710 9. **AMENDED** – A detailed landscaping plan shall be submitted to the Planning Office  
1711 for review and Planning Commission approval prior to the issuance of any occupancy  
1712 permits.

1713 11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including  
1714 depictions of light spread and intensity diagrams and fixture mounting height details  
1715 shall be submitted for Planning Office review and Planning Commission approval.

1716 23. The right-of-way for widening of Gayton Road as shown on approved plans shall be  
1717 dedicated to the County prior to any occupancy permits being issued. The right-of-way  
1718 dedication plat and any other required information shall be submitted to the County  
1719 Real Property Agent at least 60 days prior to requesting occupancy permits.

1720 24. The easements for drainage and utilities as shown on approved plans shall be granted to  
1721 the County in a form acceptable to the County Attorney prior to any occupancy permits  
1722 being issued.

1723 25. The required building setback shall be measured from the proposed right-of-way line  
1724 and the parking shall be located behind the proposed right-of-way line.

1725 26. The developer shall provide fire hydrants as required by the Department of Public  
1726 Utilities in its approval of the utility plans and contracts.

1727 27. Outside storage shall not be permitted.

1728 28. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
1729 County Attorney prior to final approval of the construction plans by the Department of  
1730 Public Works.

1731 29. Deviations from County standards for pavement, curb or curb and gutter design shall  
1732 be approved by the County Engineer prior to final approval of the construction plans by  
1733 the Department of Public Works.

1734 30. Storm water retention, based on the 50-10 concept, shall be incorporated into the  
1735 drainage plans.

1736 31. Insurance Services Office (ISO) calculations must be included with the utilities plans  
1737 and contracts and must be approved by the Department of Public Utilities prior to the  
1738 issuance of a building permit.

1739 32. Approval of the construction plans by the Department of Public Works does not  
1740 establish the curb and gutter elevations along the Henrico County maintained right-of-  
1741 way. The elevations will be set by Henrico County.

1742 33. The applicant shall submit a “Phase One” landscape and fence plan for Planning  
1743 Commission approval prior to the construction of the new gymnasium, fine arts/music  
1744 theatre, or maintenance building.

1745

1746 Ms. Dwyer - The Planning Commission will take a ten-minute recess.

1747

1748 Ms. Dwyer - The Planning Commission will now reconvene.

1749

1750 Mr. Vanarsdall - Madam Chairman, instead of going on to the 10 o'clock agenda, since  
1751 we are way past it, I think we should continue on with the cases. Do you think that would be  
1752 a problem, Mr. Marles?

1753

1754 Mr. Marles - We do not feel it would be a problem. We would agree with you that  
1755 we carry on with the cases on the 9 o'clock agenda.

1756 Ms. Dwyer - A number of the cases have been handled through the expedited agenda  
1757 already so it may not take too long. I'm not aware of any other controversial cases so we will  
1758 proceed then with the 9 o'clock agenda. We will finish that before we begin the 10 o'clock  
1759 agenda, although it is 11:20 a.m. Okay, Mr. Secretary, Our next case.

1760

## 1761 LANDSCAPE PLAN

1762

LP/POD-47-98

CVS - Laburnum

Avenue and

Williamsburg Road

VHB, Inc.: Request for approval of a landscape plan as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 1.32-acre site is located on the southwest corner of the intersection of Williamsburg Road (U.S. Route 60) and Laburnum Avenue on parcel 172-A-22 and part of 23. The zoning is B-3-, Business District and M-1, Light Industrial District and ASO (Airport Safety Overlay District). (Varina)

1763

1764 Ms. Dwyer - Is there anyone here who would like to speak to case LP/POD-47-98,  
1765 CVS at Laburnum and Williamsburg Road? We don't have anyone. Okay, Ms. News.

1766

1767 Ms. News - Staff has completed its review of the revised plan, which has just been  
1768 handed out to you. The applicant has agreed with all of the annotations, including provision of  
1769 sod between the parking lot and the public roads, and the addition of all the plant material  
1770 requested by staff. Staff feels the revised plan is much improved. The one remaining issue is  
1771 that staff identified during the landscape review that a chain link enclosure was shown around  
1772 the trash compactor enclosure on the south side of the building at the time of POD review.  
1773 Staff has requested that the applicant revise that enclosure and provide brick to match the  
1774 building. The applicant's representative is here to address that issue if there are no other  
1775 questions of staff.

1776

1777 Ms. Dwyer - Are there any questions of Ms. News by Commission members? Thank  
1778 you.

1779

1780 Ms. Middleton - Good morning. I'm Beth Middleton with VHB, Incorporated. We are  
1781 the engineers representing Wilton Partners and CVS. As Ms. News told you, we have agreed  
1782 to all of the changes that have been requested. The one outstanding issue was the enclosure  
1783 around the trash compactor. My client had not originally figured this into their budget, since  
1784 the plan was approved with a chain link fence, but has agreed, if we could provide the brick  
1785 along the side on Bill Talley Ford, and have a stockade fence gate and a stockade at the rear of  
1786 the enclosure. This would reduce the costs to the developer by a couple thousand dollars, and  
1787 this is what they have proposed instead of a total brick enclosure. It would be brick on just the

1788 one side that can be seen from the right-of-way or from Laburnum Avenue. And they will  
1789 provide a stockade gate and a stockade fence along the rear.

1790

1791 Ms. Dwyer - Thank you, Ms. Middleton. Are there any questions of Ms. Middleton  
1792 by Commission members?

1793

1794 Mrs. Quesinberry - Could I just ask the other Commission if you have had that type of a  
1795 trash enclosure?

1796

1797 Mrs. Wade - Two sides brick and two sides stockade?

1798

1799 Mrs. Quesinberry - Is that what we are talking about two sides brick or one side brick?

1800

1801 Ms. Middleton - One side is like adjacent to the building, which is brick, and then the  
1802 other side would be brick that's parallel to that, basically, and it would be stockade at the rear  
1803 and a stockade gate facing Laburnum Avenue.

1804

1805 Ms. Dwyer - It looks like there are trees planted behind the enclosure, is that right.

1806

1807 Ms. News - The enclosure that we are talking about is the trash compactor enclosure,  
1808 which is directly adjacent to the south side of the building. The dumpster enclosure was  
1809 approved with the stockade fence already.

1810

1811 Mr. Vanarsdall - Did you say it was approved?

1812

1813 Ms. News - Yes, that was approved with the POD to be stockade.

1814

1815 Ms. Dwyer - Well, it looks like the majority of the wall, then, would be brick, the  
1816 long end.

1817

1818 Ms. News - That's correct.

1819

1820 Ms. Dwyer - To answer your question, Mrs. Quesinberry, I've never seen one like  
1821 that but you know whatever brick you can get would probably be an improvement.

1822

1823 Ms. News - From staff's prospective, there is already stockade on the dumpster  
1824 screen so everything at the rear would be matching but everything facing the road would be  
1825 wood and the gates are normally not brick. So, I think that would be a reasonable  
1826 compromise.

1827

1828 Mrs. Quesinberry - Okay.

1829

1830 Mr. Vanarsdall - So, there is no chain link involved, it's just brick and stockade?

1831

1832 Ms. Middleton - Correct.

1833

1834 Ms. Dwyer - Are there any other questions of Ms. Middleton? We are ready for a  
1835 motion.

1836

1837 Mrs. Quesinberry - Yes. This is a very nice corner piece at the corner of Laburnum Avenue  
1838 and Williamsburg Road and a kind of a entranceway into that business area. The applicants  
1839 have done a good job with accepting some of the suggestions from staff with landscaping, and  
1840 making this a very attractive site, and I appreciate the help with the trash compactor situation  
1841 so that we don't have chain link and other kinds of material facing the roadway here. I'd like  
1842 to move the acceptance of LP/POD-47-98.

1843

1844 Mr. Vanarsdall - I second it with the annotations and standard conditions of this type.

1845

1846 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.  
1847 Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

1848

1849 The Planning Commission approved the landscape plan for LP/POD-47-98, CVS - Laburnum  
1850 Avenue and Williamsburg Road, subject to the annotations on the plan and the standard  
1851 conditions for landscape plans.

1852

### 1853 SUBDIVISION

1854

**Mountain Woods  
(January 1999 Plan)**

**E. D. Lewis & Associates, P.C. for William L. & L. P.  
Baker and Neil Farmer: The 8.6-acre site is located on the north  
line of Mountain Road, 2,000 feet west of Woodman Road on  
parcels 31-A-39 and 40. The zoning is R-2AC, One-Family  
Residence District (Conditional). County water and sewer.  
(Fairfield) 17 Lots**

1855

1856 Ms. Dwyer - Is there anyone here who would like to speak to subdivision Mountain  
1857 Woods (January 1999 Plan)? No one. Ms. News.

1858

1859 Ms. News - Staff has completed its review of the revised plan and can now  
1860 recommend approval. The annotations on the original staff plan apply, with the exception of  
1861 the annotation regarding a requirement for a minimum 200-foot radius on Road A. The Public  
1862 Works Departments has approved an 150-foot radius as shown on the revised plan. A  
1863 condition has been added in your addendum to cover conveyance of a strip of land west of  
1864 Road A to the adjacent parcel. A 25-foot proffered buffer exist along Mountain Road. The  
1865 proffer requires that the buffer be left in its natural state or contain landscaping, berming, or a  
1866 fence. A BMP is not permitted in this buffer. The proffer allows for utility easements,  
1867 drainage easements, roads or other purposes specifically permitted by the Planning  
1868 Commission at the time of subdivision review. The applicant is requesting two easements as  
1869 shown on the revised plan and has indicated that a sign may be installed in the buffer. I'd be  
1870 happy to answer any questions.

1871

1872 Ms. Dwyer - Are there any questions of Ms. News by Commission members?  
1873

1874 Mr. Archer - Ms. News, the piece of property referred to in condition No. 14, do you  
1875 know if that was sold or just conveyed to that property owner, not that it would make a lot of  
1876 difference?  
1877

1878 Ms. News - I'm not aware if there was a recent transaction. There is a single-family  
1879 residence on that property now.  
1880

1881 Mr. Archer - That residence fronts on Mountain Road, does it not?  
1882

1883 Ms. News - Yes, it does. And we were concerned with having what amounts to a  
1884 spite strip between this new public road and that house. We talked with the applicant about  
1885 possibly providing access or some other options and they indicated that they would prefer to  
1886 just convey the property.  
1887

1888 Mr. Archer - Okay. I was just curious to know whether they just gave it away or sold  
1889 it.  
1890

1891 Ms. Dwyer - Are there any other questions? Are we ready for a motion?  
1892

1893 Mr. Archer - I think so, Madam Chairman. I move for approval of subdivision  
1894 Mountain Woods subject to the annotations on the plan, the standard conditions for  
1895 subdivisions served by public utilities and the additional conditions Nos. 12 and 13 as well as  
1896 No. 14 that was added on the addendum we received this morning.  
1897

1898 Mrs. Wade - Second.  
1899

1900 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mrs. Wade. All  
1901 in favor say aye...all opposed say nay. The motion carries.  
1902

1903 The Planning Commission granted conditional approval to subdivision Mountain Woods  
1904 (January 1999 Plan), subject to the standard conditions attached to these minutes, the  
1905 annotations on the plans and the following additional conditions. Mr. Donati was absent.  
1906

1907 12. The detailed plant list and specifications for the landscaping to be provided within the 25-  
1908 foot-wide proffered buffer along Mountain Road shall be submitted to the Planning Office  
1909 for review and approval prior to recordation of the plat.

1910 13. Prior to requesting the final approval, a draft of the covenants and deed restrictions for the  
1911 maintenance of the common area by a homeowners association shall be submitted to the  
1912 Planning Office for review. Such covenants and restrictions shall be in form and substance  
1913 satisfactory to the County Attorney and shall be recorded prior to recordation of the  
1914 subdivision plat.

1915 14. The strip of land west of "Road A" which is not part of any lot shall be conveyed to Parcel  
1916 31-A-41 prior to recordation of the plat.

**1917 PLAN OF DEVELOPMENT**

1918

**POD-120-98  
Bruster's Ice Cream  
@ Staples Mill Plaza  
Shopping Center**

**Anderson & Associates for SMP Limited Partnership and Gary Zeller: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 1,145 square foot ice cream store. The 0.7-acre site is located along Staples Mill Road, approximately 400 feet east of the intersection with Hungary Springs Road, 9185 Staples Mill Road on parcels 50-13-A-3 and 4. The zoning is B-2C, Business District (Conditional). County water and sewer (Brookland)**

1919

1920 Ms. Dwyer - Is there any one here to speak to POD-120-98, Bruster's Ice Cream at  
1921 Staples Mill Plaza? No one. Ms News.

1922

1923 Ms. News - Staff has completed its review of the revised plan and can now  
1924 recommend approval. The original architectural elevations submitted did not meet proffered  
1925 conditions, which required compatibility with the existing shopping center. The architectural  
1926 plans have been revised to incorporate building materials and colors used throughout the  
1927 existing shopping center. The applicant has indicated that the parapet will screen the HVAC  
1928 as required by proffer. The trash collection area has also been revised. Please refer to the  
1929 plan in your addendum. The dumpster shown originally near the entrance road to the shopping  
1930 center has been eliminated. A screen wall matching the building has been added at the rear of  
1931 the building, which will hold two trash containers. The owner has determined that a  
1932 traditional dumpster is not necessary for this small store. The wording of condition No. 25  
1933 has been revised and it's included in your addendum. Mr. Vanarsdall, you asked me to find  
1934 out the location of any exterior mounted utility boxes. As of yesterday, the applicant did not  
1935 have the information. He may have it now. I'll be happy to answer any questions.

1936

1937 Ms. Dwyer - Are there any questions of Ms. News by Commission members?

1938

1939 Mr. Vanarsdall - How will the dumpster be screened?

1940

1941 Ms. News - It's being screened with a wall matching the drivit building materials at  
1942 the rear of the building.

1943

1944 Mr. Vanarsdall - I have no more questions. I would like to know about the electrical  
1945 boxes.

1946

1947 Ms. Dwyer - Would the applicant come forward?

1948

1949 Mr. Hornung - Good morning. My name is Chris Hornung and I work with Anderson  
1950 & Associates, representing the applicant. The transformer pad, at this point, we have not  
1951 located that on the site. We will make sure that that is screened. We would like to use the  
1952 dumpster screen behind the building to also include the transformer pad, but at this time we

1953 have not talked with the electric company to see if that has to be a separate screening or what  
1954 they require. So, at this time, I don't have that information but we will work with staff to  
1955 make sure that is screened adequately. Beyond that, I guess I can go on and speak as  
1956 applicant, if that's acceptable.

1957

1958 When we initially brought this project to your attention, Mr. Vanarsdall, and the Planning  
1959 staff, there was a lot of concern about the architectural elements. Since we started, we worked  
1960 with a local architect to come up with a plan that we think works pretty well with the  
1961 surrounding shopping center and really make it a nice amenity to the shopping center. We've  
1962 changed the awning color to match the awning of the shopping center. We changed the  
1963 material on the building. We added a black coping around the top of the building and some  
1964 scored block and also some split face elements on the sill of the building, which all echo the  
1965 shopping center. We have also, as Ms. News mentioned, moved the dumpster. The site is  
1966 highly visible, which made it pretty difficult to put a dumpster anywhere on the site. So, what  
1967 we decided to do instead is to replace it with a trash can enclosure on the rear of the property  
1968 that would have some larger, as you see in some of the residential areas, the larger trash cans  
1969 that are hooked to the truck, that are flipped into the truck, and do it that way since this  
1970 facility will not be generating a tremendous amount of trash. One other thing that was brought  
1971 up by Ms. News to us was that there was some concern about smoke being produced from this  
1972 building as a restaurant. In this building, the only cooking that will be done, it is an ice cream  
1973 store, but there will be some cooking, in a sense, of making cones. They make everything on  
1974 site. But, it is my understanding that it does not produce smoke of any kind. It's not  
1975 necessarily a heated process, so there will not be smoke exiting out at the top of the building.  
1976 Beyond that, if you have any more questions I'll be glad to answer.

1977

1978 Mr. Vanarsdall - And you said you also changed the awning to the same color of the  
1979 shopping center?

1980

1981 Mr. Hornung - Yes, sir. And we have toned down... Mr. Glover had a concern about  
1982 the sign on the awning overpowering the shopping center and so we have modified the sign as  
1983 well, working with the franchise to allow us to put in a different sign. Instead of it being on  
1984 three sides of the awning, it is only on the front of the building, so we now only have the one  
1985 sign in the front that's sort of a toned down version of the original sign you saw.

1986

1987 Mr. Vanarsdall - I want to take this opportunity to thank you for your effort and the  
1988 department, because you really did, you thought you were running into some obstacles you  
1989 couldn't get over but you did. I even talked to the president of the company in Pennsylvania a  
1990 couple of times by phone. If this is going to look anything like the rendering, it's going to  
1991 look good.

1992

1993 Mr. Hornung - We have every intention to make sure it does look like that.

1994

1995 Mr. Vanarsdall- And I wish you good luck on your business. That's a good place for it.

1996 Thank you, Chris.

1997



1998 Mr. Hornung - Thank you.  
1999  
2000 Ms. Dwyer - Are there any other questions by Commission members? Okay. We are  
2001 ready for a motion.  
2002  
2003 Mr. Vanarsdall - I move that POD-120-98, Bruster's Ice Cream at Staples Mill Plaza  
2004 Shopping Center, be approved with the annotations on the plans and standard conditions for  
2005 developments of this type, and then we have some conditions here Nos. 23 through 29. And  
2006 condition No. 25, which is on the addendum is revised to say "exhaust system to minimize  
2007 smoke" it should be "exhaust system to eliminate smoke." So, that's my motion. And like I  
2008 told him, they really did work hard to get this done and thank you, Leslie.  
2009  
2010 Mr. Archer - Second.  
2011  
2012 Ms. Dwyer- The motion was made by Mr. Vanarsdall and seconded by Mr. Archer.  
2013 All in favor say aye...all opposed say nay. The motion passes.  
2014  
2015 The Planning Commission approved POD-120-98, Bruster's Ice Cream @ Staples Mill Plaza  
2016 Shopping Center, subject to the standard conditions attached to these minutes, the annotations  
2017 on the plans and the following additional conditions. Mr. Donati was absent.  
2018 23. The easements for drainage and utilities as shown on approved plans shall be granted to  
2019 the County in a form acceptable to the County Attorney prior to any occupancy permits  
2020 being issued.  
2021 24. The developer shall provide fire hydrants as required by the Department of Public  
2022 Utilities in its approval of the utility plans and contracts.  
2023 25. The developer shall install an adequate restaurant ventilating and exhaust system to  
2024 eliminate smoke, odors, and grease vapors. The plans and specifications shall be  
2025 included with the building permit application for review and approval. If, in the  
2026 opinion of the County, the type system provided is not effective, the staff retains the  
2027 rights to review and direct the type of system to be used.  
2028 26. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
2029 County Attorney prior to final approval of the construction plans by the Department of  
2030 Public Works.  
2031 27. Deviations from County standards for pavement, curb or curb and gutter design shall  
2032 be approved by the County Engineer prior to final approval of the construction plans by  
2033 the Department of Public Works.  
2034 28. Insurance Services Office (ISO) calculations must be included with the utilities plans  
2035 and contracts and must be approved by the Department of Public Utilities prior to the  
2036 issuance of a building permit.  
2037 29. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the  
2038 Planning Office and approved prior to issuance of a certificate of occupancy for this  
2039 development.  
2040

**2041 PLAN OF DEVELOPMENT, SPECIAL EXCEPTION & TRANSITIONAL BUFFER  
2042 DEVIATION**

2043

**POD-125-98  
Springhill Suites  
Hotel**

**TIMMONS for Virginia Center, Inc.: Request for approval of a plan of development, special exception, and transitional buffer deviation as required by Chapter 24, Sections 24-2, 24-63c, 24-106 and 24-106.2 of the Henrico County Code to construct a four-story, 134-136-unit Marriott Hotel. The ~~5.2~~ 7.2-acre site is located on the east line of Brook Road (U.S. Route 1), 400 feet south of its intersection with Virginia Center Parkway on part of parcels 33-A-46 and 33-A-47. The zoning is B-3, Business District and O-3C, Office District (Conditional). (Fairfield)**

2044

2045 Ms. Dwyer - Is there anyone in the audience in opposition to POD-125-98 or anyone  
2046 who would like to speak to this case? No one. Ms. News.

2047

2048 Ms. News - This request for plan of development approval includes a request for  
2049 special exception and a transitional buffer deviation. The special exception is for construction  
2050 of a four-story building and for height exceeding the maximum height limitation of 45 feet,  
2051 which applies only to the central raised portion of the building. As is customary, it is the  
2052 applicant's responsibility to make his case for the special exception. A transitional buffer  
2053 deviation has been requested to allow for a shift in the location of the required 10-foot  
2054 transitional buffer between the B-3 zone and the O-3C portions of the property. The buffer  
2055 has been shifted to the edge of the property to be located on the O-3C portion of the property.  
2056 In addition, the applicant is revising the request from 134-unit hotel to 136-unit hotel, which  
2057 will be accommodated internally by elimination of some conference space. Access to the site  
2058 will be from Virginia Center Parkway by a road, which will ultimately service the future  
2059 restaurant and office development. PODs will be required for all future development. Staff  
2060 has been working with the applicant to try to preserve some existing trees between this  
2061 development and Brook Road in the 20-foot landscape strip. Brook Road is currently planned  
2062 to be widened in front of this development. The applicant has indicated that some of the larger  
2063 caliper specimen trees to the south along the road frontage may be able to be saved through the  
2064 use of retaining walls and relocation or addition of parking lot islands, and they are willing to  
2065 attempt to work that out. The applicant has indicated that all reasonable efforts to save trees  
2066 will be made and coordinated with staff. But, ultimately, the existing grades in this area, and  
2067 road widening, may severely limit the possible tree saved areas.

2068

2069 In any event, this is a limited access portion of Brook Road, and VDOT will require  
2070 substantial landscaping to be installed along this strip to avoid installation of an access  
2071 controlled fence. The applicant prefers to install the landscaping. The applicant has agreed to  
2072 provide a brick dumpster screen, as requested, and all other staff's concerns have been  
2073 addressed. Should the Commission grant the special exception and the transitional buffer  
2074 deviations, staff recommends approval of the revised plan.

2075

2076 Ms. Dwyer - Thank you, Ms. News. Are there any questions of Ms. News by

2077 Commission members?

2078

2079 Mr. Archer - Ms. News, what implications are there, if any, to the transitional buffer  
2080 deviation onto that O-3C property?

2081

2082 Ms. News - There's really nothing substantial. They are just moving it over. They  
2083 are still planning on providing the amount of plant material required between this  
2084 development. It's at the edge of their property line.

2085

2086 Ms. Dwyer - Are there any other questions? Mr. Archer, would you like to hear from  
2087 the applicant?

2088

2089 Mr. Archer - Yes, I think we should.

2090

2091 Mr. West - My name is Junie West representing the applicant. First of all I want to  
2092 express appreciation of staff and the ability they have and to work with us on the project and  
2093 vice versa. It's been a great relationship with the Planning staff on working the concerns of  
2094 the project out, which does include a couple of issues. One we have resolved pertaining to,  
2095 certain comments that the staff and I have resolved, and I think we resolved them all. The  
2096 grading in front of the property is something that staff has indicated that would like to preserve  
2097 as many of the trees as possible and attempt to do that. The pictures aren't as clear as I had  
2098 hoped they would be on the screen, but there are three really large trees on the southern end of  
2099 the project that we very much focus on retaining and at least two of them should not be any  
2100 problem and we will surely make the attempt on the third, with revisions accordingly.

2101

2102 The grading issue is along the front of the property is going to be somewhat trouble to  
2103 preserve the trees. And taking a look at the property and the tree line that's out there, it  
2104 wasn't a great stand of trees, if you would. The focus I think needs to be on really the quality  
2105 trees, which seems to be the three on the southern end of the project. VDOT has a widening  
2106 plan currently to widen that project and will have additional turn lanes, an additional shoulder  
2107 and then their back slopes are pretty much going to take the front of the property where the  
2108 embankment differentials are up to ten feet. The center picture is an embankment of about ten  
2109 feet shown there and that's the embankment where VDOT is going to widen into. So, again, I  
2110 want to compliment staff in the ability to work out the issues.

2111

2112 Regarding the transitional buffer, we do have a proposed 10-foot transitional strip shown on  
2113 the plans that will be reflected to the rear of the parking lot, which would be on the east side  
2114 of the project between the face or curb and the property line. This would be the same  
2115 requirement of that transitional buffer between O-3 and B-3 it's just that the zoning line falls  
2116 across the spaces, and to relocate that buffer on our own property is what the transitional  
2117 buffer request is for.

2118

2119 The special exception, I have Mr. Al Moorelock and Mr. Bob Manning with the design and  
2120 business team of Marriott here. I want them to provide some practical and business  
2121 implication pertaining to this special exception request. The special request, we will show the

2122 pictures here of the elevations of the building (referring to pictures on the screen). That's  
2123 actually the rear away from Route 1 and we have a copy of the front of the building, actually,  
2124 which is.... Well that actually faces Route 1. This one faces away from that. I'm sorry that's  
2125 backward. The request of the special exception to allow the four stories and allow to exceed  
2126 the 45-foot maximum height for a structure. To address the height first, the average height of  
2127 the building, with the exception, to the center of the roofline is 44 feet, which is below the  
2128 maximum allowable. However, the center roofline has an average height of 55 feet in that  
2129 center portion of your diagram there. This area is used for mechanical equipment associated  
2130 with the elevators as well as air handling units for ventilation. This feature will screen the  
2131 equipment from view and promote a superior design for the building and be more compatible  
2132 with the surrounding development.

2133

2134 Also, I would like for you to keep in mind the three story Greens apartments on the southwest  
2135 corner. It has a height of roofline there of 50 ½ We think this project is going to be very  
2136 compatible to the proffers of the proposed office site on this site as well, as proposed in the  
2137 future, which has a restriction in allowance of a maximum of 65-foot height for the proffers of  
2138 that case. We believe the proposed special exception request would fit very well to the  
2139 surroundings and the existing development for the site, and be very compatible to the request  
2140 we had exception for on the Marriott at Westerre. This is actually a lower profiled building  
2141 than that building and I would like for Mr. Manning to address also the practical and business  
2142 issues, design issues, pertaining to the special exception request as well.

2143

2144 Mr. Manning - Good morning. My name is Bob Manning with Marriott International.  
2145 As Junie has mentioned, we are requesting a special exception to allow a fourth floor and to  
2146 allow us to exceed the 45-foot maximum height for structure. As Junie has already addressed,  
2147 the height of the different rooflines, I just want to add that the total roofline area that will  
2148 exceed the 45-foot maximum is only 12% of the total roofline. So, going across that building  
2149 only 12% actually exceeds the 45 feet. The fourth floor is needed to allow for several design  
2150 features that enhance the appeal of the building, not only to our guest but to the surrounding  
2151 properties. The center feature, right in the center there, where the pilasters, vertical columns,  
2152 which is capped to the metal roof; a horizontal band that we are using on the building as well;  
2153 the scoring pattern on the top floor, which breaks up the elevation and the articulation of the  
2154 wall itself; as well as the length along Route 1; all of these design elements would fail if we  
2155 had to delete the fourth floor. The idea was to emphasize the height and reduce somewhat the  
2156 squatty look that would result if we only had a third floor in this building. We are trying to  
2157 promote an elevation that is artistic and in proportion. Internally, if we had to go to three  
2158 floors, the corridors would be too long for the guests. And, there is a perception that height of  
2159 the building connotes security and a more prominent look and that look connotes quality as  
2160 well, not only to the guests, but to the surrounding community. A building of this length needs  
2161 to maintain a certain height to maintain the scale and character. We do not think there are any  
2162 adverse affects upon the health, safety or welfare of persons residing or working in the  
2163 neighborhood nor other adverse affects to those living in the area.

2164

2165 I will also mention that we did send out 50 letters to the residents that live in the immediate  
2166 vicinity of Virginia Center and we met with those individuals that chose to attend the meeting

2167 on January 18 in the evening. We were there for about an hour and a half. We spoke with  
2168 eight residents and discussed the project and there were no significant issues. Thank you.

2169

2170 Mr. Archer - Mr. Manning, what types of mechanical equipment will be located in  
2171 that area?

2172

2173 Mr. Manning - The air handling units that handle the air in the public spaces, those units  
2174 will be located up in that roof area and there are some other minor features associated with the  
2175 elevators.

2176

2177 Mr. Archer - And that's all, and that's fully enclosed on all four sides?

2178

2179 Mr. Manning - There is a parapet wall that runs the depth of the building, yes. It is  
2180 fully enclosed. There won't be any visibility of any of that equipment.

2181

2182 Mr. Archer - What about the individual air units, are they flushed mounted?

2183

2184 Mr. Manning - Yes. They are mounted as flushed as they can be. We presented other  
2185 projects in the County before. There is about an inch and a half grill that does come out but  
2186 it's negligible and it's integrated into the window system. If you look at that elevation you  
2187 will see the windows and below there is a grill that's exactly the width of the window.

2188

2189 Mr. Archer - Madam Chairman, I don't have any further questions.

2190

2191 Ms. Dwyer - Does anyone else have any questions for the applicant?

2192

2193 Mr. Manning - Thank you.

2194

2195 Ms. Dwyer - Are we ready for a motion?

2196

2197 Mr. Archer - I suppose so. I guess we will have to deal with the special exception  
2198 first. To use Mr. Manning's term, I guess that building would look a little bit squatty if it's  
2199 less than four stories. Directly across the street, The Greens are four-story apartment units,  
2200 even though one of the stories (unintelligible), but I don't have any problem with the  
2201 exception. Also that tower in the middle is used to house mechanical equipment. It is  
2202 required by the ordinance to be more than signage. So, I move for approval of the special  
2203 exception to grant the height requirement.

2204

2205 Mr. Vanarsdall - Second.

2206

2207 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.  
2208 All in favor say aye...all opposed say nay. The motion carries.

2209

2210 Mr. Archer - And for the case itself, I think in terms of where this is located it could  
2211 be an attractive addition. We did not have any opposition from the neighborhood. In prior

2212 cases, in this same community, they have represented themselves very well and extensively  
2213 when the need arose. And, to be honest, I haven't heard from a single soul about this project.  
2214 So with that, I move for approval of POD-125-98 with the standard conditions and the  
2215 additional conditions Nos. 23 through 35 and I would like to add Nos. 9 and 11 amended.

2216

2217 Mr. Vanarsdall - Second.

2218

2219 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.

2220 All in favor say aye...all opposed say nay. The motion carries.

2221

2222 The Planning Commission approved the plan of development, special exception and  
2223 transitional buffer deviation for POD-125-98, Springhill Suites Hotel, subject to the standard  
2224 conditions attached to these minutes, the annotations on the plan, and the following additional  
2225 conditions:

2226

2227 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office  
2228 for review and Planning Commission approval prior to the issuance of any occupancy  
2229 permits.

2230 11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including  
2231 depictions of light spread and intensity diagrams and fixture mounting height details  
2232 shall be submitted for Planning Office review and Planning Commission approval.

2233 23. The right-of-way for widening of Virginia Center Parkway as shown on approved plans  
2234 shall be dedicated to the County prior to any occupancy permits being issued. The  
2235 right-of-way dedication plat and any other required information shall be submitted to  
2236 the County Real Property Agent at least 60 days prior to requesting occupancy permits.

2237 24. The easements for drainage and utilities as shown on approved plans shall be granted to  
2238 the County in a form acceptable to the County Attorney prior to any occupancy permits  
2239 being issued.

2240 25. The developer shall provide fire hydrants as required by the Department of Public  
2241 Utilities in its approval of the utility plans and contracts.

2242 26. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
2243 County Attorney prior to final approval of the construction plans by the Department of  
2244 Public Works.

2245 27. Deviations from County standards for pavement, curb or curb and gutter design shall  
2246 be approved by the County Engineer prior to final approval of the construction plans by  
2247 the Department of Public Works.

2248 28. Insurance Services Office (ISO) calculations must be included with the utilities plans  
2249 and contracts and must be approved by the Department of Public Utilities prior to the  
2250 issuance of a building permit.

2251 29. Approval of the construction plans by the Department of Public Works does not  
2252 establish the curb and gutter elevations along the Henrico County maintained right-of-  
2253 way. The elevations will be set by Henrico County.

2254 30. Approval of the construction plans by the Department of Public Works does not  
2255 establish the curb and gutter elevations along the Virginia Department of Transportation  
2256 maintained right-of-way. The elevations will be set by the contractor and approved by

- 2257 the Virginia Department of Transportation.  
2258 31. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the  
2259 Planning Office and approved prior to issuance of a certificate of occupancy for this  
2260 development.  
2261 32. The conceptual master plan, as submitted with this application, is for planning and  
2262 information proposes only. Subsequent detailed plans of development for Planning  
2263 Commission approval, and construction plans, are needed to implement this conceptual  
2264 plan.  
2265 33. There shall be no exterior access to the lounge or restaurant available for patrons.  
2266 34. There shall be no exterior signage or other means of advertising that identifies the  
2267 presence of a lounge or restaurant at this facility.  
2268 35. Restaurant hours shall not extend beyond 11:30 a.m. daily.

2269

**2270 PLAN OF DEVELOPMENT (Deferred from the December 15, 1998, Meeting)**

2271

**POD-119-98**

**Great To Go Store #3 –  
Lakepointe @ Innsbrook  
(POD-136-85 Revised)**

**Grattan Associates, P.C. for Sidney J. Gunst, Jr. and Robert M. Atack Request for approval of a revised plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 4,400 square foot convenience store and restaurant addition with fuel pumps to an existing bank site with a 1,562 square foot future expansion. The 2.338-acre site is located at the northeast corner of Dominion Boulevard and W. Broad Street (U.S. Route 250) on parcel 47-02-B-11A. The zoning is B-2C, Business District (Conditional). County water and sewer. (Three Chopt)**

2272

2273 Ms. Dwyer - Is there anyone in the audience in opposition to POD-119-98, Great To  
2274 Go Store #3 – Lakepointe @ Innsbrook (POD-136-85 Revised) or would like to speak on this  
2275 case? No one. Mr. Whitney.

2276

2277 Mr. Whitney - Thank you, Madam Chairman. Since the deferral of this case, staff has  
2278 been able to answer some additional questions regarding this plan of development. Staff has  
2279 been shown a color rendition of the architectural elements of this development. The applicant  
2280 has shown us that the attempt is to tie this architecture into that of the Lakepointe Shopping  
2281 Center. I would point out though on the rendition an outside dining area was shown on that  
2282 plan. I raised a question and that is not proposed at this time. That will require a provisional  
2283 use permit under the B-2 zoning district. Staff had looked at the revised plan prior to the  
2284 December meeting and Traffic Engineering was involved with that review. The question did  
2285 arise about the location of the underground fuel storage tanks, which are off the canopy in the  
2286 southwesterly portion of the site. I did double check with Traffic Engineering to see if a  
2287 tanker truck would be able to maneuver on this site and he has assured me this morning that  
2288 the site is designed to accommodate that. I will take any questions that you may have. Staff is  
2289 recommending approval of this plan.

2290

2291 Mrs. Wade - Are there four or five pump islands, now?

2292

2293 Mr. Whitney - I see four.  
2294  
2295 Mrs. Wade - I believe on an earlier plan there were five.  
2296  
2297 Mr. Whitney - Yes, the staff plan, December 15, 1998, did show five, the revised plan  
2298 reduced that number to four.  
2299  
2300 Mrs. Wade - Thanks. I believe you added a note about our concern that we share  
2301 with the Police about the location and the seclusion of the ATM that is proposed on the plan.  
2302  
2303 Mr. Whitney - Yes. The current location of the ATM, with this addition, would be  
2304 located in an alcove and Police did recommend that that be relocated. The owner of the  
2305 property was asked about this situation and he has indicated that he will talk to the bank about  
2306 relocating that ATM to make it more safe.  
2307  
2308 Mrs. Wade - And the alcove was essentially in the rear away from the street. So,  
2309 there was concern about the lack of exposure there.  
2310  
2311 Mr. Whitney - That is correct. The engineer and the applicant are here to answer any  
2312 questions you may have as well.  
2313  
2314 Mrs. Wade - There will be a lighting plan also later?  
2315  
2316 Mr. Whitney - I will have to defer that question to the owner. I have not heard any  
2317 indication of what their plans are for site lighting at this time.  
2318  
2319 Mrs. Wade - Because, generally, we encourage or expect canopy lights to be flush.  
2320 That's not something we are approving now necessarily, I just wanted to mention it for future  
2321 reference.  
2322  
2323 Mr. Grattan - Are you waiting for me to address that issue?  
2324  
2325 Mrs. Wade - You might comment on the things we just brought up.  
2326  
2327 Mr. Grattan - Okay. My name is Stuart Grattan with Grattan Associates representing  
2328 the owner. The issues, as I recall, being brought up is the ATM. At this point, the ATM is in  
2329 a recessed corner of the building, which will be enclosed into an alcove with the addition of  
2330 the proposed building. We are acceptable at this point to leaving the ATM there until issuance  
2331 of a CO (certificate of occupancy) or a building permit of the proposed building. The  
2332 visibility ought to be satisfactory then, and hopefully by then we can work out an arrangement  
2333 with the bank to move that to a more suitable location.  
2334  
2335 Mrs. Wade - A building permit or a CO?  
2336  
2337 Mr. Grattan - It's still a building permit because the CO you would have an obstruction



2338 in place. The building permit would have it moved before a wall is constructed there.

2339

2340 Mrs. Wade - Are you sure the owners are concerned about safety also?

2341

2342 Mr. Grattan - Yes, he is. As far as the other issue, the other issue had to do with truck  
2343 access through the site. I have laid truck templates on this site and there is access throughout  
2344 the site to make a loop to the tanks and then access the site out. I've confirmed that with the  
2345 traffic engineer this morning. That doesn't appear to be an issue. As far as the lighting plan,  
2346 once again, I don't have a problem with that coming back to the Commission for review, if  
2347 you see fit.

2348

2349 Ms. Dwyer - Mr. Grattan, if the tanks are located underground at the southwest  
2350 portion, is that right, of the southwest corner?

2351

2352 Mr. Grattan - That is correct.

2353

2354 Ms. Dwyer - If a truck is parked there it seems that all the traffic needs to flow around  
2355 this drive area over the tanks and then into the one way drive isles that have arrows. I'm  
2356 wondering if the tanker truck is parked there fueling where would the other traffic flow within  
2357 the site.

2358

2359 Mr. Grattan - There is access and room in front of the canopy islands, between the  
2360 islands and the canopy, where thru traffic can maneuver and come underneath the canopy and  
2361 around the site that way. I'm looking at it now and it's tough to tell by scale looking up at the  
2362 screen there. But, as I recall, there is enough room to have a truck park there. It would  
2363 definitely congest the area somewhat, whether it would limit access.... One thing you need to  
2364 consider here is the canopy, you know, is 15 feet up in the air and that a car can drive  
2365 underneath it. The canopy is shown on the plan, on the plan view. It is not a limitation to  
2366 traffic flow. The islands around the canopies are.

2367

2368 Ms. Dwyer - So that the traffic couldn't flow around the drive isle, they would have  
2369 to come between....

2370

2371 Mr. Grattan - They can go beneath the canopy.

2372

2373 Ms. Dwyer - Right.

2374

2375 Mrs. Quesinberry - How long does it take for the tanks to be filled?

2376

2377 Mr. Grattan - I don't know. I would assume 30 minutes, that is a guess.

2378

2379 Mrs. Quesinberry - And the truck will go underneath the canopy?

2380

2381 Mr. Grattan - Yes. I think the canopy heights in most cases are 15 feet and the trucks  
2382 are a little over 12, something like that. They are designed to allow the truck to move under.

2383 Ms. Dwyer - Are there any other questions by Commission members of Mr. Grattan?  
2384

2385 Mr. Grattan - Thank you.  
2386

2387 Ms. Dwyer - Are there any questions of staff? Are you ready for a motion, Mrs.  
2388 Wade?

2389

2390 Mrs. Wade - Yes. I think we have covered the remaining issues. I would, I think,  
2391 prefer we not have gas pumps at this corner, but it's allowed in this zoning. And, I would  
2392 also prefer that the buffer and landscaping across Broad there be a little more than 25 feet, but  
2393 that also meets the minimum requirements. Therefore, I move that POD-119-98 be approved  
2394 subject to the annotations on the plans, the standard conditions and the following additional  
2395 conditions Nos. 9 and 11 amended and Nos. 23 through 32.

2396

2397 Mr. Vanarsdall - Second.

2398

2399 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.  
2400 All in favor say aye...all opposed say nay. The motion carries.

2401

2402 The Planning Commission approved POD-119-98, Great To Go Store #3 - Lakepointe @  
2403 Innsbrook (POD-136-85 Revised), subject to the standard conditions attached to these minutes,  
2404 the annotations on the plans and the following additional conditions. Mr. Donati was absent.

2405

2406 9. AMENDED - A detailed landscaping plan shall be submitted to the Planning Office  
2407 for review and Planning Commission approval prior to the issuance of any occupancy  
2408 permits.

2409 11. AMENDED - Prior to the installation of the site lighting equipment, a plan including  
2410 depictions of light spread and intensity diagrams and fixture mounting height details  
2411 shall be submitted for Planning Office review and Planning Commission approval.

2412 23. The easements for drainage and utilities as shown on approved plans shall be granted to  
2413 the County in a form acceptable to the County Attorney prior to any occupancy permits  
2414 being issued.

2415 24. The drainage facilities on W. Broad Street (U. S. Route 250) shall be approved by the  
2416 Virginia Department of Transportation and the County.

2417 25. The developer shall provide fire hydrants as required by the Department of Public  
2418 Utilities in its approval of the utility plans and contracts.

2419 26. Outside storage shall not be permitted.

2420 27. The developer shall install an adequate restaurant ventilating and exhaust system to  
2421 minimize smoke, odors, and grease vapors. The plans and specifications shall be  
2422 included with the building permit application for review and approval. If, in the  
2423 opinion of the County, the type system provided is not effective, the Commission  
2424 retains the rights to review and direct the type of system to be used.

2425 28. Deviations from County standards for pavement, curb or curb and gutter design shall  
2426 be approved by the County Engineer prior to final approval of the construction plans by  
2427 the Department of Public Works.

- 2428 29. In the event of any traffic backup which blocks the public right-of-way as a result of  
 2429 congestion caused by the drive-up teller facilities, the owner/occupant shall close the  
 2430 drive-up teller facilities until a solution can be designed to prevent traffic backup.  
 2431 30. Insurance Services Office (ISO) calculations must be included with the utilities plans  
 2432 and contracts and must be approved by the Department of Public Utilities prior to the  
 2433 issuance of a building permit.  
 2434 31. Approval of the construction plans by the Department of Public Works does not  
 2435 establish the curb and gutter elevations along the Henrico County maintained right-of-  
 2436 way. The elevations will be set by Henrico County.  
 2437 32. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the  
 2438 Planning Office and approved prior to issuance of a certificate of occupancy for this  
 2439 development.

2440  
 2441 **PLAN OF DEVELOPMENT**

2442

POD-2-99  
 Deep Run Shopping  
 Center, Phase 3  
 (POD-30-94 and  
 POD-30-96 Revised)

Jordan Consulting Engineers, P.C. for 10070 W. B.  
 Associates, L.C.: Request for approval of a plan of development  
 as required by Chapter 24, Section 24-106 of the Henrico County  
 Code to construct a one-story, 2,900 square foot retail building in  
 an existing shopping center. The 3.375-acre site is located along the  
 north line of W. Broad Street (U.S. Route 250), approximately 400  
 feet west of Gaskins Road on parcel 48-A-35. The zoning B-2C,  
 Business District (Conditional). County water and sewer. (Three  
 Chopt)

2443

2444 Ms. Dwyer - Is there anyone in the audience here to speak to or in opposition of POD-  
 2445 2-99, Deep Run Shopping Center, Phase 3? No one. Mr. Wilhite.

2446

2447 Mr. Wilhite - The architectural for this proposed development shows three tenant  
 2448 spaces being added to the center. I understand from Public Works that the water quality and  
 2449 stream impact issues have been worked out. The one remaining issue is the architectural  
 2450 design of this building. There is a proffer condition that requires it to be complimentary to the  
 2451 existing buildings on the site. We did see materials and color samples last week that didn't  
 2452 quite meet that requirement, and I understand the applicant is here with new samples of  
 2453 materials and colors to present to you and hope to work that issue out. If you have any other  
 2454 questions, I'd be happy to answer those.

2455

2456 Ms. Dwyer - Are there any questions of Mr. Wilhite? Mrs. Wade, would you like to  
 2457 hear from the applicant?

2458

2459 Mrs. Wade - Unless he wants to bring his current bricks down. They did conclude  
 2460 the ones they submitted in the beginning were not compatible with the other light colored  
 2461 buildings in the area so they have brought some bricks, I believe, that will match the Studio  
 2462 Plus Hotel. We could agree on this today and continue to look at the roof color before it's  
 2463 finally approved. That's happened before. Do you all want to see the bricks, or you will take

2464 my word for it? Thank you. You will have to give some kind of number or name to Mr.  
2465 Willhite to identify the bricks that you have selected.

2466

2467 Mr. Jordan - I'm John Jordan with Jordan Consulting Engineers. I have George  
2468 Duke, the owner, with me. The brick sample, I think that is acceptable, is the shade of  
2469 Colonial, stock No. 1-109, which is southern brick and block. I believe what we discussed  
2470 was, George is going to submit some more roof color samples to you to get something that is  
2471 compatible with the roofs that are already there on the site. Forest green was the last one we  
2472 looked at but I think you want us to endeavor to get one that is just a little bit lighter than the  
2473 forest green. We can resubmit that back to staff and let you take a look at it, if that's  
2474 acceptable to everybody.

2475

2476 Mrs. Wade - That's fine. Thank you.

2477

2478 Ms. Dwyer - Are there any other questions of issues to be addressed?

2479

2480 Mrs. Wade - Not by me.

2481

2482 Ms. Dwyer - All right. We are ready for a motion.

2483

2484 Mrs. Wade - With those considerations about the complimentary architectural  
2485 treatment, I move that POD-2-99 be approved subject to the annotations on the plans, the  
2486 standard conditions and Nos. 23 through 30 and as he said with the brick that was submitted  
2487 and with a roof color to be considered by staff shortly.

2488

2489 Mr. Vanarsdall - Second.

2490

2491 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.

2492 All in favor say aye...all opposed say nay. The motion carries.

2493

2494 The Planning Commission approved POD-2-99, Deep Run Shopping Center, Phase 3 (POD-  
2495 30-94 and POD-30-96 Revised), subject to the standard conditions attached to these minutes,  
2496 the annotations on the plan and the following additional conditions. Mr. Donati was absent.

2497

2498 23. The easements for drainage and utilities as shown on approved plans shall be granted to  
2499 the County in a form acceptable to the County Attorney prior to any occupancy permits  
2500 being issued.

2501 24. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
2502 County Attorney prior to final approval of the construction plans by the Department of  
2503 Public Works.

2504 25. Deviations from County standards for pavement, curb or curb and gutter design shall  
2505 be approved by the County Engineer prior to final approval of the construction plans by  
2506 the Department of Public Works.

2507 26. Insurance Services Office (ISO) calculations must be included with the utilities plans  
2508 and contracts and must be approved by the Department of Public Utilities prior to the

- 2509 issuance of a building permit.
- 2510 27. Storm water retention, based on the 50-10 concept, shall be incorporated into the
- 2511 drainage plans.
- 2512 28. The ground area covered by all the buildings shall not exceed in the aggregate 25
- 2513 percent of the total site area.
- 2514 29. No merchandise shall be displayed or stored outside of the building(s) or on
- 2515 sidewalk(s).
- 2516 30. The portion of the existing variable with drainage and utility easement (within the 100-
- 2517 year floodplain) that will be impacted by the proposed improvements shall be vacated
- 2518 prior to the approval of any construction plans for the development.

2519

2520 **PLAN OF DEVELOPMENT, LIGHTING PLAN, TRANSITIONAL BUFFER**

2521 **DEVIATION, AND ALTERNATIVE FENCE HEIGHT**

2522

POD-121-98  
 Clear Channel Radio  
 (POD-74-83 Revised)

**Lockett & Farley for Clear Channel Radio, Inc.:** Request for approval of a plan of development, lighting plan, transitional buffer deviation and alternative fence height as required by Chapter 24, Sections 24-106, 24-106.2 and 24-95(1) of the Henrico County Code to construct a two-story, 15,400 square foot office building for a radio station. The 15.06-acre site is located along the south line of Basie Road, approximately 600 feet east of Bethlehem Road on parcel 81-A-83. The zoning is O-2C, Office District (Conditional) and R-4, One-Family Residence District. County water and sewer. (Brookland)

2523

2524 Ms. Dwyer - Is there anyone here to speak or in opposition to POD-121-98, Clear

2525 Channel Radio? No one. Mr. Wilhite.

2526

2527 Mr. Wilhite - There is an eight-foot-high chain link fence proposed to enclose part of

2528 the parking lot. The Code requires that any fence over 42 inches high in the front yard has to

2529 have an alternative fence height approval by the Planning Commission. In addition, there is a

2530 requirement under the Code for a transitional buffer between the portions of the property

2531 zoned office and that zoned residential, which is split zoning on this parcel owned by Clear

2532 Channel Radio. Staff would recommend that that be waived and that, if needed, additional

2533 landscaping around the perimeter of this property could be addressed with the landscape plan

2534 when it is submitted for approval. In addition, I understand there might be a discrepancy with

2535 the right-of-way line, as shown on this plan, whether or not all the required right-of-way has

2536 been dedicated previously. The plan does show the ultimate right-of-way as it would appear

2537 on the site but whether or not it's actually dedicated our research hasn't confirmed that. So, as

2538 a result, I would recommend that an additional condition be added, which is the miscellaneous

2539 condition we usually use for the dedication of a right-of-way. It would read: The right-of-

2540 way for widening of Basie Road as shown on the approved plan shall be dedicated to the

2541 County prior to any occupancy permits being issued and a right-of-way dedication plat and

2542 other required information shall be submitted to the County's Real Property agent at least 60

2543 days prior to requesting occupancy permits. And the applicant is agreeable to that additional

2544 condition.

2545

2546 Ms. Dwyer - Would that be condition No. 30?

2547

2548 Mr. Wilhite - That would be condition No. 30, yes. With that, staff would  
2549 recommend approval based on the annotations and the standard conditions and added  
2550 conditions Nos. 23 through 30.

2551

2552 Ms. Dwyer - Are there any questions of Mr. Wilhite by Commission members?

2553

2554 Mr. Vanarsdall - The only question I have is the question I had at break time about the  
2555 right-of-way thing and you've got that tied down, right?

2556

2557 Mr. Wilhite - Correct.

2558

2559 Ms. Dwyer - Are there any other questions? Would you like to hear from the  
2560 applicant Mr. Vanarsdall?

2561

2562 Mr. Vanarsdall - No, I don't have to, unless some of you want to.

2563

2564 Ms. Dwyer - We are ready for a motion.

2565

2566 Mr. Archer - Mr. Wilhite, do you know what radio station this is?

2567

2568 Mr. Wilhite - I'm not sure. There are two radio stations here, I think XL-102 and Q-  
2569 94.

2570

2571 Mrs. Wade - My next door neighbor used to work at XL-102, that's the only reason I  
2572 know.

2573

2574 Ms. Dwyer - That tells you something about our listening habits.

2575

2576 Mr. Vanarsdall - Mr. Secretary, this is a POD, a lighting plan, a transitional buffer  
2577 deviation and an alternative fence height. Can we take all of this in one motion?

2578

2579 Mr. Marles - Mr. Vanarsdall, I think we probably could, but if you feel more  
2580 comfortable splitting up the motion you certainly have that option to.

2581

2582 Mr. Vanarsdall - Maybe the fence height. I'll cover it all. I recommend POD-121-98,  
2583 Clear Channel Radio, which is POD-74-93 Revised, be approved and this would be the plan of  
2584 development, the lighting plan, transitional buffer deviation and the alternative fence height.  
2585 And it would be approved with the standard conditions for developments of this type, the  
2586 annotations on the plan and then we have the added conditions Nos. 23 through 29 and we will  
2587 add condition No. 30, which involves the right-of-way dedication as stated and recommended  
2588 by Mr. Wilhite in his presentation.

2589 Mr. Archer - Second.

2590

2591 Ms. Dwyer - The motion was made by Mr. Vanarsdall and seconded by Mr. Archer.

2592 All in favor say aye...all opposed say nay. The motion carries.

2593

2594 The Planning Commission approved the plan of development, lighting plan, transitional buffer  
2595 deviation and the alternative fence height plan for POD-121-98, Clear Channel Radio (POD-  
2596 74-83 Revised), subject to the standard conditions attached to these minutes the annotations on  
2597 the plan and the following additional conditions. Mr. Donati was absent.

2598

2599 23. The easements for drainage and utilities as shown on approved plans shall be granted to  
2600 the County in a form acceptable to the County Attorney prior to any occupancy permits  
2601 being issued.

2602 24. The developer shall provide fire hydrants as required by the Department of Public  
2603 Utilities in its approval of the utility plans and contracts.

2604 25. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
2605 County Attorney prior to final approval of the construction plans by the Department of  
2606 Public Works.

2607 26. Deviations from County standards for pavement, curb or curb and gutter design shall  
2608 be approved by the County Engineer prior to final approval of the construction plans by  
2609 the Department of Public Works.

2610 27. Insurance Services Office (ISO) calculations must be included with the utilities plans  
2611 and contracts and must be approved by the Department of Public Utilities prior to the  
2612 issuance of a building permit.

2613 28. Approval of the construction plans by the Department of Public Works does not  
2614 establish the curb and gutter elevations along the Henrico County maintained right-of-  
2615 way. The elevations will be set by Henrico County.

2616 29. Storm water retention, based on the 50-10 concept, shall be incorporated into the  
2617 drainage plans.

2618 30. The right-of-way for widening of Basie Road as shown on approved plans shall be  
2619 dedicated to the County prior to any occupancy permits being issued. The right-of-way  
2620 dedication plat and any other required information shall be submitted to the County  
2621 Real Property Agent at least 60 days prior to requesting occupancy permits.

2622

## 2623 LANDSCAPE & LIGHTING PLAN

2624

LP/POD-14-98  
Grove Avenue  
Baptist Church

**Anderson & Associates: Request for approval of a landscape and lighting plan as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 9.69-acre site is located on the corner of Parham and Ridge Roads on parcels 100-A-52 and 100-A-51. The zoning is A-1, Agricultural District and R-3, One-Family Residence District. (Tuckahoe)**

2625

2626 Ms. Dwyer - Is there anyone in the audience to speak or in opposition to LP/POD-14-  
2627 98, Grove Avenue Baptist Church? No one. Mr. Strauss.

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-63-

2628 Mr. Strauss - Thank you, Madam Chairman. Staff came prepared today to  
2629 recommend approval of this plan based on the fact that the landscape plan does meet code.  
2630 However, unless you are aware of an applicant being here to represent his interest.... Okay,  
2631 we do (have a neighbor here). I was handed a letter by a neighbor this morning that I intend  
2632 to make a part of the file and I can give that to you. They are interested in asking.... Well, I'll  
2633 read it, the last paragraph. This is from Carolyn Peter McElhinney. And they asked me, and  
2634 they asked the Commission; "we also asked that the landscaping plans for the church be  
2635 designed to provide as much privacy as possible for the Forest Ridge neighborhood." We  
2636 hope landscaping will help to reduce sound, light and noise, particular from Parham Road, in  
2637 the neighborhood.

2638

2639 Ms. Dwyer - Would you spell that last name for me, Mr. Strauss?

2640

2641 Mr. Strauss - Yes. Carolyn Peter McElhinney. I'll say again, staff reviewed the plan  
2642 and it does meet the requirements of the zoning ordinance. We can recommend approval at  
2643 this time. I will make this letter a part of the file, and I imagine the applicant can answer any  
2644 other questions you may have about the landscaping.

2645

2646 Ms. Dwyer - Are there any questions of Mr. Strauss by Commission members?  
2647 Would the applicant come forward, please?

2648

2649 Mr. Hornung - Hello. I'm Chris Hornung, Anderson & Associates. I represent LKPW  
2650 as well as Grove Avenue Baptist Church on the landscaping plan.

2651

2652 Ms. Dwyer - And your last name, again.

2653

2654 Mr. Hornung - It's H O R N U N G.

2655

2656 Ms. Dwyer - Okay. I had spoken to Mr. Grimes, yesterday, and we had some  
2657 discussion about the dumpster and about the existing landscaping. And, while the existing  
2658 landscaping does comply with Code requirements, I suggested that it would be desirable to  
2659 have some additional shade trees in the parking lot which would have the effect, I guess, of  
2660 satisfying at least one neighbor by providing some shielding from the light and noise from  
2661 Parham Road. He indicated that the church, maybe you are prepared to respond to that  
2662 suggestion on my part.

2663

2664 Mr. Hornung - Somewhat prepared. Originally, when we prepared the landscaping  
2665 plan, we met with Mr. Strauss on it. We at that time added about, from what I can remember,  
2666 four or five shade trees to the parking lot in areas that were not landscaped during the original  
2667 submittal. This is a previous POD, not our current POD. At that time, it was Mr. Strauss'  
2668 suggestion that we go ahead and add some trees in that area. We did not landscape all of the  
2669 islands in that area, but we did add four or five trees. We were above our requirement as far  
2670 as planting in the entire site, primarily, because of the bio-retention facilities we put in for  
2671 stormwater quality management. At that time, we discussed with him the possibility of adding  
2672 other trees and working with Public Works in reducing, having a subsequent reduction in the



2673 number of trees in the bio-retention facility. At that point, we just decided to just go ahead  
2674 and add the four trees to the parking lot in lieu of removing any from the bio-retention facility  
2675 since that had already been reviewed and approved by Public Work.

2676

2677 Ms. Dwyer - Wait, let me stop you right there. So, with this plan you are going to  
2678 add four trees, I thought you said it was the plan before this one when there wasn't a bio-  
2679 retention pond?

2680

2681 Mr. Hornung - We are adding, I don't know what the number is, for this project we are  
2682 adding well over, if I had to guest, probably about 40 trees. It could be up to 50 but at this  
2683 point I don't know what the exact count is. But, most of those are associated with the bio-  
2684 retention facility. With all of those in consideration, we are above the requirement for the  
2685 County as far as landscaping and we also meet our green space requirements and everything  
2686 else. In addition to those bio-retention facilities and an addition to meeting those  
2687 requirements, we also added an additional, Mr. Strauss may know the number, but I believe it  
2688 was between four and five shade trees.

2689

2690 Ms. Dwyer - I thought we just added one.

2691

2692 Mr. Hornung - No. We added four to five in the actual parking lot that we put on  
2693 islands in addition to what was required.

2694

2695 Ms. Dwyer - Does that show on this plan, staff plan 1-26-99, the additional trees?

2696

2697 Mr. Hornung - I believe they are there in the triangular and there are also two down  
2698 here that were added.

2699

2700 Ms. Dwyer - Okay. And so, in summary, we are now prepared to....

2701

2702 Mr. Hornung - In summary, I was told that the church is willing to work with staff but  
2703 at this point, because that they are already over, they would be willing to consider adding  
2704 trees, not adding trees, but possibly taking a look at taking some of the trees in the bio-  
2705 retention facility and replacing them with shade trees. Their landscaping budget has far  
2706 exceeded than they had originally expected by the bio-retention facility. So, they are  
2707 somewhat reluctant to agree to add any more when they are already above their requirement.

2708

2709 Ms. Dwyer - So, you are adding four trees over and above....

2710

2711 Mr. Hornung - There are actually five, now that I see the plan in front of me.

2712

2713 Ms. Dwyer - Five trees over and above what.... That does satisfy my interest to some  
2714 extent. The wonderful thing about the bio-retention facility is that you won't have gapping  
2715 mud holes in two locations on the site, and they should be very attractive, heavily planted  
2716 areas. One of them is adjacent to the residences so that will give heavily landscaped.... It's a  
2717 fairly large area. I tried to walk if off and it's larger than it appears on here. So, that will be

2718 a nice screen at least for the neighbors who live directly adjacent to the bio-retention area.  
2719 The problem is that all of the landscaping is focus in these two relatively small areas compared  
2720 to the whole site. I was interested in having a few more shade trees in the empty landscape  
2721 islands. So, you are adding four or five... When I spoke to Mr. Grimes he said that the  
2722 church would consider adding more. Is that something they are not prepared to do after they  
2723 spoke to the church this morning?

2724

2725 Mr. Hornung - What he told me is that they would be glad to work with the County on  
2726 that. At this point, I don't have the authority to say, yes, they will because I haven't talked  
2727 with the church directly. But, they said they would be happy to work with staff.

2728

2729 Ms. Dwyer - So, one possibility might be removing a tree or two from the bio-  
2730 retention area and relocating it, if that's possible. Of course, there is an advantage to the  
2731 church having a bio-retention facility. And, (unintelligible) disadvantage at least to the  
2732 neighborhood to having it (unintelligible). I think we are going to be conversing about some  
2733 HVAC screening in the future and that will give us an opportunity to discuss some additional  
2734 trees. I appreciate your willingness to at least to consider to go ahead and add these extra five  
2735 trees, as you have indicated, and then to possibly consider other ones. The other discussion  
2736 we had related to the dumpster screen. Did you come with some ideas about that?

2737

2738 Mr. Hornung - No, I do not have any ideas on the dumpster screen. What was required  
2739 during the POD was that we replace the doors on the dumpster screen and I believe the issue  
2740 that the dumpster itself, the enclosure, there have been some recommendations that the  
2741 dumpster enclosure either be replaced or upgraded or modified.

2742

2743 Ms. Dwyer - Maintained.

2744

2745 Mr. Hornung - Maintained, that may be the word for that. At this point, there are no,  
2746 again, the church, I was told, would be glad to work with the County on that.

2747

2748 Ms. Dwyer - So, apparently, we are not going to get an alternative material on that  
2749 and that's acceptable. So, it's not desirable, it's not the best of circumstances, but we expect  
2750 that to be maintained. It has not been maintained well in the past. It's falling apart, it's been  
2751 very unsightly and it's very visible from Ridge Road. That's probably a zoning enforcement  
2752 matter. So, we will let that go. All right. Thank you, Sir. Are there any other questions?  
2753 With that, I'll move approval of LP/POD-14-98, Grove Avenue Baptist Church, subject to the  
2754 annotations on the plans and the standard conditions for landscape and lighting plans.

2755

2756 Mr. Archer - Second.

2757

2758 Ms. Dwyer - The motion was made by Ms. Dwyer, and seconded by Mr. Archer. All  
2759 in favor say aye...all opposed say nay. The motion carries

2760

2761 The Planning Commission approved the landscape and lighting plan for LP/POD-14-98, Grove  
2762 Avenue Baptist Church, subject to the standard conditions for landscape and lighting plans and

2763 the annotations on the plan. Mr. Donati was absent and Mrs. Wade leaves after this case.

2764

2765 Ms. Dwyer - . Mr. Strauss, Ms. Peterson is here, would you raise your hand, please?

2766 We have already approved the next case, which is Temple Beth-El, but we had some

2767 amendments of some changes to that. Mr. Strauss, if you don't have the next case, would you

2768 show those to Ms. Peterson? I would appreciate that.

2769

2770 Mr. Strauss - Okay.

2771

2772 Mr. Mariles - Madam Chairman, that completes our 9:00 o'clock agenda, which brings

2773 us up to our first Public Hearing item, which is an amendment to Chapter 24 of the Code of

2774 the zoning ordinance.

2775

2776 **PUBLIC HEARING: AMENDMENT TO CHAPTER 24 (ZONING) OF THE CODE**

2777 **OF THE COUNTY OF HENRICO: An ordinance to Amend and Reordain Section 24-**

2778 **95(r) of Chapter 24 of the Henrico County Code to prohibit Flag Lots. (Staff**

2779 **Presentation by Dave O'Kelly)**

2780

2781 Mr. O'Kelly - This is an advertised public hearing on a proposed zoning ordinance to

2782 prohibit flag lots. We have copies of the amendment on the table in the lobby. I also have

2783 some additional copies here, if anyone is interested I'd be glad to pass those out. This

2784 ordinance was initiated by resolution of the Commission at your last zoning meeting and it was

2785 advertised for public hearing with ads appearing in the Metro section of the Richmond Times

2786 Dispatch on January 12, 1999 and January 19, 1999. The staff sent to you last week a copy of

2787 the proposed ordinance and also some background information.

2788

2789 By definition a flag lot, under our current ordinance, is a lot having access to a public cul-de-

2790 sac street through a strip of land a minimum of 20-feet-wide being a part of the lot in which

2791 lot being a flag lot does not meet the minimum street frontage or lot width requirement

2792 otherwise required by the ordinance. In practice, members of the Commission, a flag lot is

2793 any lot on a public cul-de-sac with less than 50 feet of road frontage, but with more than 20

2794 feet, which is the minimum frontage requirement for a flag lot. A good example of a flag lot,

2795 Leslie is showing on the screen at this time, Lot No. 6 is the typical flag lot situation that most

2796 folks are familiar with. The second situation I mentioned is a lot, which meets the frontage

2797 requirements but does not meet the lot width requirements typically required for a normal lot.

2798 But this is another example of a flag lot. The third example that I would like to share with the

2799 Commission is an arrangement of flag lots at the end of a cul-de-sac where the four lots do not

2800 have 50 feet of road frontage which is typically required for any lot. All of these lots are less

2801 than 50 feet although they appear to have the normal lot arrangement. By definition, they are

2802 flag lots.

2803

2804 Mr. Vanarsdall - Mr. O'Kelly, in this particular instance would four lots be better than, I

2805 don't want to get into trying a case, what would be acceptable there?

2806

2807 Mr. O'Kelly - Without the flag lot provisions, only three lots could be developed on

2808 **this cul-de-sac. So, I guess it's a density issue.**

2809

2810 **Mr. Vanarsdall - That's what I thought.**

2811

2812 **Ms. Dwyer - Mr. O'Kelly, your definition, was that one you had gleaned from just**  
2813 **reading all of the different provisions in the Code about that, about flag lots, or is there a**  
2814 **specific definition of flag lots?**

2815

2816 **Mr. O'Kelly - There is a specific definition.**

2817

2818 **Ms. Dwyer - And where is that?**

2819

2820 **Mr. O'Kelly - It's in Section 24-3.**

2821 **Mr. Vanarsdall - I'm glad you told me. I'll look for it. What page?**

2822

2823 **Mr. O'Kelly - One second, Mrs. Chairman. It's 24-13.**

2824

2825 **Mrs. Wade - This last example is quite different from the ones on the pipe stems.**

2826 **Actually, this is, as you said, is more of a matter of degree and number of lots.**

2827

2828 **Mr. O'Kelly - That's correct.**

2829

2830 **Mrs. Wade - And, here, you would basically don't have any little access road that**  
2831 **requires special maintenance and that sort of thing.**

2832

2833 **Mr. O'Kelly - That's correct. The ordinance before you, Madam Chairman, members**  
2834 **of the Commission, when adopted would not permit any new flag lots but it would grandfather**  
2835 **those lots that are currently approved, meaning a conditional plan has been approved by the**  
2836 **Planning Commission but the plat is not yet recorded. As long as the applicant keeps that**  
2837 **subdivision plat valid in terms of extensions, necessary extensions, then any flag lots approved**  
2838 **on that plat would be grandfathered under this proposal. In way of background, the flag lot**  
2839 **restrictions permitted by the County were adopted by the Board in November 1982. They**  
2840 **were adopted along with a series of residential density provisions, which were brought forward**  
2841 **by the Richmond Area Homebuilders Association, which they felt provided more flexibility for**  
2842 **subdivision development in Henrico County. The flag lot regulations were later amended in**  
2843 **1987. That amendment prohibited flag lots on private access strips. The Board of Supervisors**  
2844 **was receiving a number of complaints from owners of lots on these access strips that they**  
2845 **weren't being properly maintained. The County was being requested to maintain them. And**  
2846 **the Board, in reaction to those complaints, decided to amend the ordinance to prohibit that**  
2847 **situation.**

2848

2849 **Ms. Dwyer - And you have an example of that in your packet.**

2850

2851 **Mr. O'Kelly - Yes, there are several examples that are currently existing but that type**  
2852 **of arrangement is no longer permitted by the current ordinance. In the metropolitan area, the**

2853 localities most similar to Henrico are Chesterfield and Hanover. Neither of these jurisdictions  
2854 have any provisions in their ordinance to permit flag lots as defined by the Henrico County  
2855 zoning ordinance. Chesterfield does not consider a flag lot a desirable development option and  
2856 there has been no attempt, that staff is aware of, by the development community to approach  
2857 these other localities for permission to permit flag lots. This type of an arrangement seems to  
2858 be more acceptable in northern Virginia counties or localities and even those localities require  
2859 special consideration either through cluster development arrangements or plan units  
2860 developments. Counties that do permit flag lots under their special considerations are,  
2861 Loudon, Prince Williams and Stafford Counties, and I think Fairfax may also permit some  
2862 types of situations.

2863

2864 What problems do flag lots create? They create situations where houses are located in a way  
2865 that's different from what most people consider the normal lot arrangement. You have,  
2866 sometimes, fronts of houses which are facing the rear of other houses. Houses are often  
2867 situated to the rear behind the adjacent houses and the lot lines are configured very differently  
2868 from the normal development patterns when they create problems for folks that want to put up  
2869 fences and things of that nature with very unusual lot configurations.

2870

2871 The current ordinance, the staff feels along with the administration and the policy makers, has  
2872 been mistreated in ways reflecting more dense and undesirable development situations. More  
2873 and more complaints have been received resulting in staff review of the problems. There have  
2874 been a number of applications presented to the Board of Zoning Appeals.

2875

2876 Mr. Vanarsdall - What sort of problems, I mean I don't want you to go into long details,  
2877 but what sort of problems would arise that had to go to BZA, I know because it's crowded?

2878

2879 Mr. O'Kelly - Generally, that's the case. But, on the pipe steam type lots, for  
2880 example, as hard as the staff tries to get those buildable areas identified on construction plans  
2881 at the time of final approval, more times than likely, at the time of building permit, the  
2882 developers have sold lots to a series of developers. That information is not available. They  
2883 have already designed the house. They come in and apply for a building permit and they can't  
2884 fit the house in the buildable area that was approved. So, there solution is to take it to the  
2885 Board of Zoning Appeals and seek a variance.

2886

2887 Mr. Vanarsdall - Thank you.

2888

2889 Mr. O'Kelly - The issues surrounding flag lots have been thoroughly considered by the  
2890 Board of Supervisors. It's the staff recommendation that the County join with its neighboring  
2891 jurisdictions not to permit any further development of flag lots under the current ordinance.  
2892 I'll be happy to answer any other questions, Madam Chairman.

2893

2894 Mr. Vanarsdall - I would like to ask a question. We are at this point today because the  
2895 problem got worse as time goes on or....

2896

2897 Mr. O'Kelly - I think that's a fair statement, Mr. Vanarsdall.

2898

2899 Mr. Vanarsdall - And it was being abused, maybe, by some, not everybody.

2900

2901 Mr. O'Kelly - Correct.

2902

2903 Mr. Vanarsdall - And it goes along with trying to have balanced growth as was in the  
2904 newspaper articles. Thank you.

2905

2906 Ms. Dwyer - Has there been any analysis of BZA requests from people who own flag  
2907 lots and received variances? Is there a high percentage of flag lot application for variances  
2908 than maybe for other types of lots, or do we know?

2909

2910 Mr. O'Kelly - No. We haven't done that type of research. Certainly, the information  
2911 is available.

2912

2913 Ms. Dwyer - Give a few of the typical complaints that we get. Are we getting  
2914 complaints from adjoining neighbors, people who purchased the flag lots, homes on flag lots  
2915 or... You said the complaints have increased. What kind of complaints and who is making  
2916 them?

2917

2918 Mr. O'Kelly - Most of the complaints have probably been from adjoining neighbors,  
2919 not so much from the owner of the lot.

2920

2921 Ms. Dwyer - Someone might have the front of a house facing their side yard or back  
2922 yard.

2923

2924 Mr. O'Kelly - Right.

2925

2926 Mr. Vanarsdall - I would think that there would be a lot of people that would just accept  
2927 it, wouldn't look into who they would have to talk to or how they could do things. Some  
2928 people wouldn't care.

2929

2930 Ms. Dwyer - Are there any other questions of Mr. O'Kelly?

2931

2932 Mr. O'Kelly - Madam Chairman, there are a number of folks here that would like to be  
2933 heard on this issue and I would remind you that it is a public hearing.

2934

2935 Ms. Dwyer - Thank you. All right. Whoever would like to come speak, come  
2936 forward, one at a time.

2937

2938 Mrs. Wade - Do they have a time limit?

2939

2940 Ms. Dwyer - Should we impose a time limit on each speaker or? How many people  
2941 would like to speak, by show of hands? Let's say a limit of five minutes per speaker. Does  
2942 that sound reasonable?

2943

2944 Mr. Vanarsdall - Yes, that sounds reasonable.

2945

2946 Ms. Katz - Hi, Ms. Dwyer and the rest of the Commission. I'm Pam Katz and I  
2947 live at 2401 Islandview Court in Lake Lorraine subdivision and at the very back of a lot very  
2948 similar to Lot 6, which may really be adjacent subdivision to us, I'm not sure. We live  
2949 directly behind the Laurel Lee Estates, which is a fairly new subdivision, it was approved  
2950 awhile back but just got developed within the last couple of years. We are behind Lot 6,  
2951 which is one of three flag lots that is adjacent to our property. We consider that type of  
2952 development very detrimental not only to our property but to the folks in the new subdivision.  
2953 The rear of this two-story house faces directly, the windows faces, directly into our living  
2954 area and our backyard. Therefore we have privacy and not a very good view, and neither do  
2955 they because of the proximity and also the placement of the house on the lot. We also feel that  
2956 we would have a probable affect or a negative affect on the market value when we go to sell  
2957 our house in the future. So, therefore, I'm speaking in favor of the proposal to amend that no  
2958 future flag lots be allowed in Henrico County. Thank you.

2959

2960 Ms. Dwyer - Thank you, Ms. Katz. Are there any questions of Ms. Katz?

2961

2962 Mr. Vanarsdall - Did you say you have the back of a house facing the front?

2963

2964 Ms. Katz - Facing our backyard. But it doesn't angle, it's just directly, when we  
2965 look out, they are looking directly into our living area and we are looking directly into their  
2966 living area, rather than an angle as would be on a normal cul-de-sac.

2967

2968 Mrs. Wade - That other house is in the adjacent subdivision?

2969

2970 Ms. Katz - Yes.

2971

2972 Mrs. Wade - It's not in your subdivision?

2973

2974 Ms. Katz - No.

2975

2976 Ms. Dwyer - Ms. Katz lives in Lake Lorraine and this is the Laurel Lee Subdivision.

2977 Thank you, Ms. Katz. Next.

2978

2979 Mr. Tyler - Good morning. For the record, my name is Webb Tyler and I'm an  
2980 engineer with Youngblood, Tyler & Associates. I'm here today on the behalf of several of our  
2981 firm's clients. We area here today to indicate our support of a modification, and I emphasize  
2982 not an elimination, but a modification to the flag lot ordinance. We have found that it is  
2983 offensive to have, for example, No. 3 up there as indicated, the far one on the right, is  
2984 offensive where you have a front of a house facing a rear of a house. That we firmly support  
2985 should be eliminated, or firmly believe it should be eliminated. However, the definition of a  
2986 flag lot goes well beyond just that example. It includes what I call the "cheesecake slices,"  
2987 which is the middle example on the screen, in Maplewood Farms, which we believe is a very

2988 positive use of the flag lot ordinance. We support wholeheartedly that continued use. There  
2989 we are able to achieve balance in the lot size, which allows the continued support of cul-de-sac  
2990 type designs where the lots square footages are similar in nature. If we eliminate the flag lot  
2991 ordinance provision in its entirety, we will eliminate the “cheesecake slices” or the middle  
2992 example, and we will encourage the use of either of what we call “King Tut Lots,” which are  
2993 these massive lots that are two to three times the size of a normal street lot at the end of a cul-  
2994 de-sac. Or, we will, even worse, set back planning 20 years by encouraging the use of  
2995 through streets rather than cul-de-sac streets in order to achieve the balance of lot sizes. We  
2996 also support the continued use of some stem lot configurations where the front of the house  
2997 looks at the side of a house but never where the front of a house looks at the rear of a house.  
2998 We have found that those, in our marketing efforts, those lots can actually be considered very  
2999 desirable because of the exclusiveness of a little private road no more than 200 feet long. We  
3000 suggest to you that pipe stem lots should be modified so that A, no front to rear house  
3001 orientation should be allowed, and B, no greater than a 200-foot-long stem should be allowed  
3002 and C, the developer of the subdivision is required to construct the pipe stem in accordance  
3003 with normal County road standards of thickness of pavement design. This is allowed under the  
3004 use of condominium developments where we have little pipe stems going off to serve three or  
3005 four houses. They say to be able to support fire trucks. What we don’t want you to do today,  
3006 and we employ you to do, is to defer this matter for at least 30 days. Give the development  
3007 community an opportunity to work with staff to bring forth a good ordinance change that  
3008 would correct the problems, but, hopefully, not throw the baby out with the bathwater. I’d be  
3009 glad to answer any questions.

3010

3011 Mr. Vanarsdall - Mr. Tyler, Mr. O’Kelly, told us Chesterfield and Hanover don’t have  
3012 flag lots, and I believe you develop in both counties. What do you find to substitute in  
3013 Hanover and Chesterfield?

3014

3015 Mr. Tyler - We are trying not to substitute anything. We think that the County of  
3016 Henrico has a better ordinance than Chesterfield and Hanover Counties in this regard. To be  
3017 quite candid with you, we believe that (tape stops at this point and picks up again on the next  
3018 tape). In Hanover and Chesterfield we use more through streets. Whereas in Henrico we use  
3019 many more cul-de-sacs in our design.

3020

3021 Mr. Vanarsdall - So what you are saying if it could be done right and modified it would  
3022 be good?

3023

3024 Mr. Tyler- Yes, sir. I don’t disagree with County staff’s position that it is quite  
3025 offensive to have the front of a house facing the rear of a house. The market says they don’t  
3026 like it because they are the last ones to sell and the lots have to be discounted. So, in my  
3027 opinion the market place is telling us they don’t want that. So, they should be eliminated.  
3028 But, that does not mean, under the current definition, that you should eliminate all flag lots.  
3029 You would be eliminating a tool that is conducive to the use of cul-de-sacs and has created  
3030 much more cul-de-sac design in Henrico County than through street design exist in Hanover  
3031 and in Chesterfield. We think the cul-de-sac design is favorable.

3032



3033 Mrs. Wade - Do you have trouble selling houses on through streets in Hanover and  
3034 Chesterfield?

3035

3036 Mr. Tyler - I can't say that I am experiencing enough to warrant a true evaluation of  
3037 whether or not they can sell them. The question is the desirability of cul-de-sac design and I  
3038 think everyone in the Planning staff would agree, that when at all possible it is desirable to  
3039 have cul-de-sac designs. Clearly they are the first lots to sell on cul-de-sacs, not through  
3040 streets. Less traffic. I live on a cul-de-sac.

3041

3042 Ms. Dwyer - Mr. Tyler, I think I would differ with you on your statement, as I  
3043 understood it, that a house facing the side of another house isn't desirable. I find that to be as  
3044 problematic, almost as problematic as having the front of one house facing the rear of another  
3045 house. There is an example that I'm thinking of, a specific example, where a large house on a  
3046 small lot is facing directly beside rear, side and rear portion of another lot. It is very awkward  
3047 and very peculiar looking and has caused a lot of consternation among the neighbors. Maybe  
3048 you can clarify that point, but I think that's a problem.

3049

3050 Mr. Tyler - I find your comment complexing and the reason I say that is because at  
3051 the intersection of every street we had a house, at a tee intersection, we have two houses that  
3052 are facing either one street or another street. And they are sometimes referred to as reverse  
3053 corner lots. But, if we have a through street and a cul-de-sac street off of that and the house  
3054 on the corner, the cul-de-sac and the through street faces the cul-de-sac, then the houses at the  
3055 through street look at the side of that house. If we reverse, we say the houses on the cul-de-  
3056 sac street at the intersection face the through street, then the house rear is abutting a side on  
3057 the cul-de-sac. So, at every intersection we have to make a choice whether or not the house  
3058 fronts the side street or the main street. So, a front to a side is not an unusual condition. A  
3059 rear to a front is a very offensive condition.

3060

3061 Ms. Dwyer - I understand what you are saying and I think I would still differ in the  
3062 cul-de-sac situation. I'm thinking about this particular house, the side of it faces the rear of  
3063 one house and the front of it faces the rear and the side of another house. So, that's a much  
3064 different, it's squeezed in between two lots and the cul-de-sac whereas in a reverse corner you  
3065 wouldn't have that odd shaped house facing front to side is not surrounded in a reverse corner  
3066 situation. You do have the streets to ..... And, also, you don't necessarily have that at a tee  
3067 intersection. In the example that I am thinking about, which is front to side, I think it is  
3068 substantially different from a reverse corner situation. It is a problem. I can give you the site  
3069 if you would like to go look at it.

3070

3071 Mr. Tyler - I would like to see that.

3072

3073 Ms. Dwyer - It's lower Ralston Court.

3074

3075 Mr. Archer - Mr. Tyler, I would also like to refer to the middle exhibit, Maplewood  
3076 Farms. And you talked about the desirability of maintaining those wedge shaped lots. I came  
3077 awfully close to buying lot 32 on this exhibit. And, I just happened to ask the question where

3078 is the next house going to be. I found out that there was going to be lots Nos. 31 through 36 I  
3079 quickly bowed out. The problem with that configuration with that property that's left in the  
3080 front of the houses is so tightly precise there is no space for anybody to park. If you had a  
3081 birthday party for your child you can't find a place to park. I'm like you. I like cul-de-sacs.  
3082 I have lived on a cul-de-sac prior to moving to this area. The cul-de-sac had three houses on  
3083 it. Everybody had sizable yard space, sizable front yards, and we didn't have that very tight  
3084 wedge shape that's here. In this particular configuration right here, I know one house over  
3085 here, I think it's lot 36, that's been on the market now for almost four years. I don't know  
3086 that once these lots are established that people do not find them all that desirable. I think what  
3087 happens is that when people initially buy they don't ask enough questions to find out how  
3088 many houses are going to be located in the cul-de-sac. And, I'm just real glad that I did  
3089 because I would probably be on lot 30 right now and very unhappy about it. I support cul-de-  
3090 sacs but I do believe we have gone a little bit too far in this particular type of cul-de-sac, with  
3091 too many houses. By doing that, we cut the front part of the lot so small that it's almost like  
3092 apartment living and people don't like them after the buy them.

3093

3094 Mr. Tyler - I can only respond to you by telling you that it has been my experience  
3095 that the houses on cul-de-sacs are the first lots to sell. They sell at premium prices, above  
3096 those on a through street and these are stem, or what I call the cheesecake size, or the middle  
3097 example size.

3098

3099 Mr. Vanarsdall - I think before we go any further we ought to make it plain that  
3100 we are not trying.... The subject is not to do away with cul-de-sacs, the subject is to put the  
3101 proper number of houses in a cul-de-sac, according to what staff is recommending. So, I think  
3102 anybody would buy on a cul-de-sac before they would a through street, if they had a choice or  
3103 if they like that.

3104

3105 Mrs. Wade - I'm not sure the planners would all say they prefer cul-de-sac to through  
3106 streets, if we took a poll over there.

3107

3108 Ms. Dwyer - Thank you, Mr. Tyler. Is there anyone that would like to speak to the  
3109 subject? Good afternoon.

3110

3111 Mr. West - Madam Chairman, Planning Commission members. My name is Junie  
3112 West with TIMMONS representing many clients who have asked me to speak. Addressing the  
3113 of the flag lot proposal, I would hereby indicate that I am in support, again, of a modification  
3114 of the flag lot ordinance but not an elimination. I think the problems that we continue to hear  
3115 regarding flag lot ordinance and the amendments, and the problems that we are having with  
3116 the flag lot are obvious situations that whether it's a front to a rear or a front to a side or  
3117 whatever that situation happens to be, it stems from, one, as Mr. Archer has indicated, the  
3118 inability to use the lot in a fashion that you feel like you can use it once you buy the lot. Two,  
3119 the unsightly view that you have in the lot once the home that isn't built when you buy the lot  
3120 is built and you think my goodness I knew that lot was there but I didn't realize it was going to  
3121 look like that. And I am all in favor of eliminating what I think has been an abused policy or  
3122 abused requirement or allowance in the County ordinance, I am all for the amendment of that.

3123 I have several examples of what I deem good examples of flag lots and I've got an example of  
3124 what I think is a poor example. Specifically, addressing, obviously one and three (referring to  
3125 screen) and looking at one, two, three across the border. I don't know the details of one, so I  
3126 better not comment on that, but obviously No. 3 is an example of one that's not particularly  
3127 good. The Maplewood Farm subdivision is one that I would suggest, I can't recall the zoning,  
3128 but I'm going to guess R-4 out there.

3129

3130 Mr. Archer - It's R-3A.

3131

3132 Mr. West - R-3A, okay. Smaller lots than some of the examples that I have. I think  
3133 that when you take a look at some of the R-2, R-2A, even R-3 lots and you start looking at  
3134 cul-de-sacs and flag lots at the end of those tight zoning lots, you are going to look at a lot that  
3135 is pretty massive in comparison to the lots that surround it. There is a definite concern, I  
3136 would echo Mr. Tyler's concerns regarding grid pattern subdivisions and the elimination of  
3137 flag lots is going to promote the attempt to have more grid subdivisions simply because of the  
3138 inefficiency with the end of your cul-de-sac. Total elimination is going to promote that and  
3139 how far that goes is a function of traffic as well. And I might add that Hanover's situation is  
3140 probably a little different in the sense that they have larger lot subdivisions across the board. I  
3141 just think that they have subdivisions that, what I'm seeing with some of their subdivisions is  
3142 you get these large lot subdivisions and the cul-de-sacs at the rear are the... they are a lot of  
3143 times the first lots to go regardless of the subdivision. It's just human nature to flock there.  
3144 The concern, and I've seen this happen, in a specific instance in Hanover, and I'm afraid it  
3145 could happen here. If you have three developers with equal products, if there can be three  
3146 equal products in a given area. There is no question that the developers have a concern that  
3147 people are going to flock to the cul-de-sacs in those areas. They are going to have 13,500  
3148 square foot lots or there may be the case of 18,000 square foot lots and instead of having  
3149 27,000 square foot cul-de-sac lots there are going to be 35,000 or twice the size and  
3150 disproportion due to the size of the lots that are in the subdivision. Now, the specifics or  
3151 generalities that I am giving you are not specific numbers but examples. And, I would echo  
3152 the request to defer this request or in an attempt to revise the language to find out how we  
3153 accomplish the goal. The goal is to eliminate the problems that are being created by the flag  
3154 lot, no question. How do we accomplish that goal but yet allow the buying public a quality  
3155 product that they can buy on a cul-de-sac. That's the attempt and I'll be happy to leave the  
3156 examples. I have some that I would be happy to put on the screen, but I'll just leave them for  
3157 exhibits. I think they demonstrate some good examples and some things we need to get away  
3158 from.

3159

3160 Ms. Dwyer - Are there any questions of Mr. West?

3161

3162 Mr. Vanarsdall - One of the things you touched on, Junie, is that Hanover has larger lots  
3163 so maybe we are having the most trouble with smaller lots, R-4A for example.

3164

3165 Mr. West - Yes. I think that's where my examples..... R-4, R-4A, yes. I went  
3166 back in our files and I researched our subdivisions. I wanted some good examples and poor  
3167 examples. It was 20 to 40 to 1 of good examples versus poor example, quite frankly. And

3168 every one of the poor examples were in small lot subdivisions, that I had. There are  
3169 situations, and I hear the beeper, I'll end with this. There are situations that you can actually  
3170 have a pipe stem that may overlook a swamp, or whatever you want to call it, that people  
3171 really go out there and say, "Well, yes, I'll take that pipe stem because I'm really secluded  
3172 back here.

3173 Mrs. Wade - Waterfront property.

3174

3175 Mr. West - Well, that's probably what it is marketed as, but the fact is it is a  
3176 swamp. But, some people encourage it. So, I would say we have a problem, we have to  
3177 address, we need to understand the objective and figure out how to do that. I don't think total  
3178 elimination is.... That's an answer to the problem but I think we can still accomplish that in a  
3179 different way. I will leave these examples with you.

3180

3181 Mr. Archer - Mr. West, before you leave, I can't speak for my other colleagues, but I  
3182 don't think it's unreasonable to assume that the public should have an opportunity to respond  
3183 before we make a decision. And I think it would be reasonable for us to do that. But, you  
3184 know, again, I guess one of the disconcerting features of having lots like the example that I  
3185 mentioned, it's a little bit disconcerting when you are standing in front of your house but you  
3186 are in your neighbor's yard. This is one of the biggest problems that I see with that type of  
3187 lot.

3188

3189 Mr. West - Well, again, I think what we have to understand is the objectives and the  
3190 problems and present solutions that accomplishes solving the problems and understanding the  
3191 objectives. And if one of the objectives is, as you indicated, or maybe, for instance a solution  
3192 might be, well, we will permit flag lots but instead of having 20-foot road frontage we need  
3193 30-foot road frontage or something like that. But, we need to understand the problems and the  
3194 objectives in order to offer solutions and I think that's what we would like to have time to  
3195 understand. I think there is a solution out there and whether it applies to the R-4 or whether  
3196 elimination in the R-4 is.... I don't know that answer right now.

3197

3198 Mr. Vanarsdall - Well, as you know, it's been in the paper that we are trying to... in the  
3199 long run we are going to do away with a lot of those small lots.

3200

3201 Mr. West - I understand it's been in the paper and I think the lack of response is  
3202 because, to be honest with you, we all have a lot to do and we haven't focused on that as  
3203 maybe we should have. It's not an excuse, it's probably a fact.

3204

3205 Ms. Dwyer - Mr. West, I'm assuming from your discussion that the middle example  
3206 that we are looking at here, the cheesecake, as Mr. Tyler called it. Presumably in this case, if  
3207 we did away with flag lot ordinance than three lots instead of four would be permitted in this  
3208 scenario, is that right?

3209

3210 Mr. West - I would think so.

3211

3212 Ms. Dwyer - And so would the three lots be.... It seems to me that three lots instead

3213 of four would not be creating an enormous lot as oppose to....

3214

3215 Mr. West - No. Not in that case.

3216

3217 Ms. Dwyer - It doesn't seem to me that the disparity between existing lots and the  
3218 three lots....

3219

3220 Mr. West - And you make a great point because in that case that's probably  
3221 accurate. And that's why we need to understand the objectives. But, when you take a look at  
3222 an R-2 lot, and what a cul-de-sac looks like in an R-2 lot, then the disproportionation, and we  
3223 are tending to see more R-3, R-2, R-2A rezonings and more trend to that type of lot.

3224

3225 Ms. Dwyer - R-2 is very rare, at least they have been in the last three years.

3226 Mr. West - But, they are becoming more popular. Let's say R-2A or R-3, but you  
3227 are right, the smaller the lot probably the less disproportionate it becomes. Maybe there is a  
3228 solution there that says we have a certain guideline for this zoning classification, but I think we  
3229 need to sit down and look at the examples. But, I think you are accurate in saying that three  
3230 lots there wouldn't be significantly disproportionate because of the size of the lot. It would  
3231 encourage folks to try to run the streets to the property lines and have four lots on that cul-de-  
3232 sac, or not cul-de-sac that but try to stub road that and try to get the extra lot back. Do you  
3233 follow what I am saying? Again, that goes to the grid pattern interconnect because if you ran  
3234 the road straight through the property line, say you would get three on that cul-de-sac if you  
3235 ran it straight through the property line you might get two facing the road either side because  
3236 you have so much lot area.

3237

3238 Ms. Dwyer - Do you mean, you run it to the rear property line?

3239

3240 Mr. West - In this case it may not be practical because I don't think you would want  
3241 to connect that where that one is headed. But, yes, if that is an undeveloped piece of property  
3242 you would be more encouraged to say "well if I can't get four lots in that cul-de-sac, I can  
3243 only get three, I can get four on it if I run the road straight through the property line. That's  
3244 where the interconnection is going to be promoted.

3245

3246 Ms. Dwyer - But, you would only.... Maybe I'm wrong about this, but you would  
3247 only be permitted to stub the street if there was a potential to connect it at a future time, is that  
3248 correct?

3249

3250 Mr. West - That's correct but we wouldn't have the.... and that's not a major  
3251 problem I don't think countywide but I think it is definitely going to eliminate some cul-de-sac  
3252 designs in the County, probably not enough to be a huge problem but I think we need to look  
3253 at it. The large lots really are a concern that I can see and I don't know how you define large,  
3254 but....

3255

3256 Mr. Vanarsdall - I don't think the County would mind if you put more through streets  
3257 through. They have never been that much of a shine of all the cul-de-sacs anyway.

3258

3259 Mr. West - Well, traffic engineering may differ but... They get all the phone calls  
3260 when the people start cutting through.

3261

3262 Mr. Vanarsdall - So, we are going to put you down for modification just like Mr. Tyler.

3263

3264 Mr. West - I think something needs to be done because there has definitely been  
3265 abuse of the ordinance and some amendment of that is necessary or I think well in line.

3266

3267 Mr. Vanarsdall - Okay.

3268

3269 Mr. West - We are challenged by the development community sometimes to find  
3270 lots, so we need to look at that.

3271 Ms. Dwyer - Are there any other questions of Mr. West? Next.

3272

3273 Mr. Dixon - Good afternoon. My name is Gordon Dixon and I'm Government  
3274 affairs liaison for the Homebuilders Association of Richmond and I'm here to echo the  
3275 comments of Mr. West and Mr. Tyler as well from our members and the ones who were here  
3276 to speak had to leave. But, basically, I'm not an expert on this but just wanted to let you  
3277 know that we would like to ask you to defer this so that we have an opportunity to discuss this  
3278 with the Planning Department in further detail and come up with some kind of solution. In the  
3279 past we have had opportunities to work with Henrico County. We have been very appreciative  
3280 of that. And have had a excellent working relationship with Henrico County. I think it's one  
3281 of the leading relationships we have in the community at this point and one that we like to use  
3282 as an example with other communities as well. We hope that it can continue on as an example  
3283 of some of our experiences in the past of working with other communities. Chesterfield has  
3284 been willing to work with us on some issues regarding, issues they consider flag lots. They  
3285 don't believe, and I could be wrong here, but I don't believe in their Code they have any  
3286 wording that explicitly prohibits flag lots. They don't appreciate them that much but, Mr.  
3287 O'Kelly could probably confer that better than I could, but they don't appreciate that as much  
3288 but they are willing to work with that. I have worked with their planning department before  
3289 on some issues in creating issues on that. That's all I have. Thank you.

3290

3291 Ms. Dwyer - Are there any questions of Mr. Dixon?

3292

3293 Mr. Vanarsdall - I don't think they call them flag lots in Chesterfield, I think they make  
3294 work it out and it may look like a flag lot but I don't think they call it that, and I don't think  
3295 they have an ordinance on that.

3296

3297 Mr. Dixon - I haven't seen anything. There is no definition that specifically flag lots  
3298 are prohibited and from what I understand from time to time, they have allowed flag and stem  
3299 lots where there's reasonable justification.

3300

3301 Mr. Vanarsdall - So, you are in favor of them, right?

3302

3303 Mr. Dixon - Yes, sir.

3304

3305 Ms. Dwyer - You are interested in having the Commission defer a decision.

3306

3307 Mr. Dixon - Correct because we understand that there are some problems and I think  
3308 we probably can find a solution if we all put our heads together and work it out.

3309

3310 Ms. Dwyer - Thank you, Mr. Dixon. Is there anyone else? Good afternoon.

3311

3312 Mr. Gunst - Good afternoon, Madam Chairman, members of the Planning  
3313 Commission. I'm Sidney Gunst president of the Innsbrook Corporation. I was actually here  
3314 on another matter and thought I'd stick around and started writing notes out, of course, I  
3315 forgot my glasses so I'm even having difficulty doing that. Flag lots have been effective and  
3316 efficient planning tool over the years. There are obviously a lot of abusiveness of it too, but it  
3317 also in certain cases solved problems, been an efficient use of land. Cul-de-sacs I believe are  
3318 preferred by customers. I remember a case in Mr. Vanarsdall's district of 391 lots, I did back  
3319 in Charles Johnson administration, but we master planned a community with existing  
3320 residences, added on to Duncroft and surrounding neighborhoods, Civic Associations over a  
3321 period of ten meetings with engineers and land planners. And the absolute preference was cul-  
3322 de-sacs or with less through streets as a place to raise children. The incentive to really go with  
3323 the cul-de-sacs is enhanced if you can modify the flag lots to work where they are appropriate  
3324 and eliminate them where they are not. I think that ability to do that reflects favorably on  
3325 Henrico because candidly I think they are smarter than some of the surrounding counties in  
3326 doing these types. They have the professional staff and wherewithal to make these  
3327 modifications. And I think earlier somebody said don't throw the baby out with the bath water  
3328 I would also agree. I really think we are capable of addressing this thing. There are a lot of  
3329 good examples and uses of flag lots, particularly in the larger lots, otherwise you really get out  
3330 of scale. Most everything else I have on this sheet has been covered here. I have one last  
3331 comment. These decisions about flag lots or for that matter zoning, in total the article in the  
3332 paper about the County's, desire to, was it, slow growth or change the size of lots. Remember  
3333 there is a little bit of a contradiction going on. The County of Henrico has one of the best  
3334 known industrial development authorities that advertises throughout the nation attracting more  
3335 jobs and advertises Henrico County is a great place to educate and raise your children. Elected  
3336 officials show up at all of the ribbon cuttings. So, the growth is a function somewhat of the  
3337 County's attempt to attract it. I'm not so much speaking to the Planning Commission but it is  
3338 an overall issue. On one hand the County is going after residence and on the other hand we  
3339 are saying we can't keep up with the schools or we don't have enough lots or we need to slow  
3340 the growth of lots. I think that is a fundamental issue that needs to be resolved. If you want  
3341 to cure all of these subdivision problems quit advertising and say no more jobs and no more  
3342 corporate relocation and your wish will come true. Thank you.

3343

3344 Ms. Dwyer - Are there any questions of Mr. Gunst?

3345

3346 Mr. Vanarsdall - Yes. Sidney, the only thing I have to answer that. We have an  
3347 excellent industrial development authority in the county, and we do go everywhere and so does

3348 the Governor. I see where that may indirectly have effect on what we are talking about. But,  
3349 I don't think we would say we don't want anymore growth because we don't want flag lots.  
3350 All we are talking about and, again, I'll say we are not talking about doing away with cul-de-  
3351 sacs. We are talking about trying to do a better job on cul-de-sacs. We are not talking today  
3352 for or against. We are trying to get the information just like you all are giving it. We all  
3353 know that we have zoning categories that should be done away with. We know we shouldn't  
3354 continue, we are not trying to stop growth or slow growth, we are trying to give the citizens  
3355 who come here, in answer to industrial development authority, a better house, a better yard  
3356 and a better way of living rather than jamming them on top of each other. That's all we are  
3357 trying to do.

3358

3359 Mr. Gunst - I appreciate those comments. I guess I was at a Planning Commission  
3360 meeting about a week ago regarding schools and how, so it was really more in context to that,  
3361 but I do think that, for example, flag lots are an incentive to build more cul-de-sacs. I do  
3362 agree with you that they have got to be done right. I do think we have the capability to do  
3363 them right, and I think our 70/30 tax ratio and residential to commercial is the envy of the  
3364 entire community in to somewhat a recognition of your ability to implement on that scale.

3365

3366 Mrs. Wade - I think the term is we are trying to encourage balance growth. You  
3367 never hear anybody saying stop growth, oh well, yes you do, but not from the officials in the  
3368 County.

3369

3370 Mr. Gunst - Desirable and balanced growth and, hopefully, you will defer and work  
3371 out the specifics and that's what I would encourage you to do, and, again, thank you for your  
3372 time.

3373

3374 Ms. Dwyer - Thank you. Is there anyone that would like to speak?

3375

3376 Mr. Grattan - Good afternoon. My name is Stuart Grattan with Grattan Associates  
3377 with several clients with interest here. I would like to echo a lot of what's said. I think there  
3378 are some problems with flag lots, but there are more beneficial uses of them. I think as far as  
3379 other localities, I have designed subdivisions in Chesterfield County, similar to Maplewood  
3380 Farms. At one point, I owned a lot in Chesterfield County with a very narrow neck. It was a  
3381 cheesecake lot and I enjoyed it. One of the nice things about it was a front yard that was  
3382 small, so I didn't have a lot to maintain. The backyard was tremendous. So there are  
3383 problems on one side but there are benefits as well. One of the major problems I see and  
3384 probably the reason we are all here is that Henrico County has a very broad-brush definition of  
3385 a flag lot. I believe if you ask most people in most localities what is a flag lot, they think of  
3386 something similar to lot No. 6 on the right hand (referring to picture on the screen) example  
3387 up there. They would not consider, in my opinion, the four lots in Maplewood Farms, nor  
3388 would they consider, I believe, it's lot three on the right example, which more than likely  
3389 would meet County's definition of a flag lot. If you do not meet the building width at the  
3390 front yard setback it's a flag lot. Not having a scale, it appears that lot 3 might meet the  
3391 definition of a flag lot. And, I don't know if we are really here trying to eliminate that tool.  
3392 Lot 6, personally, I would have a problem with, but I think if you could adjust the regulations



3393 to require a larger front yard setback on a pipe stem lot so that the front to rear and front to  
3394 side impacts are mediated, then maybe that too could be acceptable. But, in my opinion, I'm  
3395 in favor of deferring this decision for more study and discussion.

3396

3397 Ms. Dwyer - What kind of study and discussion do you have in mind?

3398

3399 Mr. Grattan - I think a good, as Mr. West pointed out, a good pooling of all the  
3400 problems and a good assessment for what other problems that we are trying to avoid. And  
3401 from the other side, what are we trying to gain. I think if you pooled them all together and  
3402 looked at them, if the problem is the front to rear and the front to side scenario, then that's  
3403 what needs to be addressed. If the problem is the cheesecake lot, in addition to that, then that  
3404 would need to be addressed. But, in my opinion, the cheesecake lots I think are marketable.  
3405 Lot 3, on the right-hand scenario, is definitely marketable. You are going to have that  
3406 situation wherever you have a lot on the outside of a curb and a road. More than likely the  
3407 frontage is going to be narrower than the rear. And if you get to the point that that frontage is  
3408 actually less than the minimum building width, at the building line, it's considered a flag lot  
3409 and would be eliminated.

3410

3411 Ms. Dwyer - I'm not asking this question necessarily of you, individually, but maybe  
3412 addressing it to all of the speakers here today, particular the Homebuilders Association who  
3413 represents many builders in Henrico County. We have received staff's input and staff has  
3414 proposed a piece of legislation they would like for us to look at and make a decision on. I'm  
3415 not sure whether the suggestion is being made that we have more public hearings, do we hash  
3416 out the details in a public hearing, which is usually not very efficient. Or, maybe the  
3417 development community could get together and reach a consensus about what they would like  
3418 to see, draft some legislation and present that to the Commission and we could certainly look  
3419 at that as an alternative to staff's proposal that represents the development community's  
3420 interest as I understand you saying, let's fine tune the ordinance, let's not eliminate flag lots all  
3421 together, which you are suggesting.

3422

3423 Mr. Grattan - I think one key point to that is that if the private sector is going to  
3424 generate a recommendation, it would be very helpful and very efficient to have input from the  
3425 Board and all of those who have received complaints so we know what the problems are. That  
3426 would go along way toward coming to the solution more quickly.

3427

3428 Ms. Dwyer - So you would be interested in contacting Board members perhaps and  
3429 getting their views?

3430

3431 Mr. Grattan - I would think maybe have the Board submit a list of problems that they  
3432 have with flag lots and then....

3433

3434 Ms. Dwyer - The Board of Supervisors?

3435

3436 Mr. Grattan - Yes.

3437

3438 Ms. Dwyer - And then would the development community be prepared to make a  
3439 specific submittal of an alternative legislative proposal, is that okay?

3440

3441 Mr. Grattan - I can't speak for the entire development community but I for one would  
3442 be willing to contribute time to such an effort.

3443

3444 Ms. Dwyer - I'm just trying to focus on how we are going to get to an alternative  
3445 proposal. How do we get there?

3446

3447 Mr. Grattan - I think the development community could probably come together and  
3448 submit a proposal based on their own input. I don't think that that would, well it could, but I  
3449 would expect that there are problems that the Board of Supervisors and the County is hearing,  
3450 which we may not, one, consider a problem or, two, even know about.

3451 Ms. Dwyer - And the Board members are certainly there to speak to anyone who  
3452 would like to consult with them, I think, on that issue.

3453

3454 Mrs. Wade - Did we not get a directive from the Board to do this in the first place?

3455

3456 Ms. Dwyer - Was the directive to eliminate flag lots, Mr. O'Kelly, or to examine the  
3457 issue?

3458

3459 Mr. Vanarsdall - Let me finish with Stuart. So you are for modifying it?

3460

3461 Mr. Grattan - Yes, sir. I am.

3462

3463 Mr. Vanarsdall - Thank you.

3464

3465 Mr. O'Kelly - The staff's mission as I understand it, Madam Chairman, was to bring  
3466 you an ordinance for public hearing that prohibited flag lots. And, the staff is steadfast in that  
3467 recommendation. And, in all fairness to my friends out here, and I've been here for 30 years,  
3468 this is something that they have to solve on their own. Don't look for the staff to be an ally in  
3469 this particular situation.

3470

3471 Ms. Dwyer - I guess that may be underlying my question about where we proceed  
3472 from here. If the Commission is of a mind to not act on this legislation and approve it today  
3473 but would rather opt to give the development community a chance to come up what they view  
3474 as an appropriate fine tuning of the ordinance, I think that's one option. I'm not sure, as you  
3475 say, it's appropriate to ask staff to come up with that alternative. I think we should be looking  
3476 for some input specifically from the development community, what is it you want, and how do  
3477 you think this problem can be solved. Would you like to come up and speak, Mr. Tyler?

3478

3479 Mr. Vanarsdall - I want to ask Mr. O'Kelly something. Isn't this a directive, aren't you  
3480 acting on a directive from the Board of Supervisors?

3481

3482 Mr. O'Kelly - We are responding to the County's administration and the policy makers.

3483

3484 Ms. Dwyer - The directive was to come up with a proposal to eliminate flag lots.

3485

3486 Mr. O'Kelly - Exactly.

3487

3488 Ms. Dwyer - Okay. Not to study and.... Okay. Mr. Tyler.

3489

3490 Mr. Tyler - My name is Webb Tyler with Youngblood Tyler. As a suggestion if you  
3491 could give us 30 days, those of us that are here today could work through the Homebuilders  
3492 Association, which most of us are members of it, so that we could offer you an alternative  
3493 piece of legislative ordinance amendments. Then, you could compare between what staff  
3494 wants versus what the development community wants. That would at least give us 30 days. I  
3495 know, for example, myself, I only got a fax yesterday or the day before yesterday on this  
3496 issue. Although, I had heard something discussed in a conversation maybe last week, I really  
3497 didn't know we were going for the elimination. In fact, in my discussions last week I thought  
3498 we were going to go for a modification this week. Yesterday I read the proposed ordinance  
3499 and it was total elimination. After waiting here for three and a half hours, you can tell how  
3500 important that is for us to at least have the opportunity to put an alternative proposal before  
3501 you. And, if staff does not want to support our alternative proposal, then so be it. Maybe  
3502 they could at least take a neutral stand on our proposal.

3503

3504 Mr. Vanarsdall - Madam Chairman, I received a call yesterday, when I wasn't in, and  
3505 didn't have a chance to return it from one of the leading developers. It echoed what Mr. Tyler  
3506 echoed. He just found out about this day before yesterday, I believe he said, and would like to  
3507 have a chance for rebuttal. I want to take this opportunity to read this to you. This past year  
3508 the Board of Supervisors have spent time focusing on issues of balance growth and housing  
3509 density. Issues surrounding flag lots have been thoroughly considered by the Board of  
3510 Supervisors. That's the letter that we have. So, we are not trying to shove something down  
3511 your throats, we are trying to get to the bottom of it for the good of everybody.

3512

3513 Mr. West - Hi, again. Junie West with TIMMONS. My recommendation of where  
3514 do we go from here would simply be I would respectfully like to request a 60-day deferral and  
3515 here is my logic of what I think needs to happen. First, I think we need to, it takes some  
3516 time, although we can attend to it quickly, to generate, one, I would say the fact finding, the  
3517 data. It will take a couple of weeks, two or three weeks to pull everyone together, obtain the  
3518 data of what the concerns are and without rushing into the requests from the development  
3519 community of what the terminology would be, in a quick fashion, I think.... The problem I  
3520 see with coming up with a change in the position is there is almost infinitesimal amount of,  
3521 and that's a little high, but there are just numerous amount of individual, different  
3522 combinations of what's good, what's bad, what zoning and I think we need think through that  
3523 and give that some thought R-4, R-3, R-2, facing front to side, front to rear. My concern is  
3524 that 30 days, we could have a better product I think if we had 60 days to talk to folks and  
3525 absorb the data and present the data. Thirty, can it be done? Sure it can be done. Can it be  
3526 done better in 60? I believe so. I think we can access more information and more data and  
3527 come up with more specific verbiage. That would be my recommendation and that's the

3528 reason for that.

3529

3530 Ms. Dwyer - Thank you, Mr. West. What does the Commission want to do?

3531

3532 Mrs. Quesinberry - If you are taking a poll, I would be willing to concede 30 days, but no  
3533 more than that.

3534

3535 Mr. Vanarsdall - If we do anything in 30 days (unintelligible).

3536

3537 Ms. Dwyer - Mr. Archer.

3538

3539 Mr. Archer - Well, I kind of have to defer to what Mr. Vanarsdall read in the letter.  
3540 It says, as he stated, issues surrounding flag lots have been thoroughly considered by the Board  
3541 of Supervisors. It almost tells me that they have kind of decided they want to take action on  
3542 it. I wouldn't (unintelligible).

3543

3544 Ms. Dwyer - I allow to let Mr. Gunst make a brief comment.

3545

3546 Mr. Gunst - Thank you, Sidney Gunst, again. I think you should do what is in your  
3547 best interest, but I have also worked for 20 some years with Henrico County on many common  
3548 points of interest. Take the Chesapeake Bay Act. We worked together for one year to come  
3549 up with common bonds to deal with the new State regulations. If I have a zoning case and one  
3550 resident stands up with a legitimate concern, the County will automatically, the Planning  
3551 Commission almost inevitably, will defer the case. In this particular case, I find it interesting  
3552 that there have been some legitimate points brought up that should be considered. I just want  
3553 to express my concerns. If the Planning Commission doesn't grant a 30-day study period or a  
3554 60-day study period, when there obviously are some very valid points to be put up, when if it  
3555 were the other way of a citizens opposition to a case, they would grant it. I think they can  
3556 issue what they want to do but I think this is cause for concern. Thank you.

3557

3558 Ms. Dwyer - Thank you, Mr. Gunst. All right. I think there are two timetables we  
3559 need to consider. One is the time period during which we would ask the development  
3560 community to come up with exactly what it is about the flag lots that they think should be  
3561 preserved and to memorialize that in some form of an ordinance amendment so that we could  
3562 look at that and try to analyze ourselves and staff could look at it also to look at the  
3563 consequences of that language and how that might apply to the real world. Secondly, we  
3564 would need time to read that and staff would need time to look at that and perhaps advise us  
3565 on the affects on any propose change to the ordinance amendment and how, basically, for staff  
3566 to analyze it as they analyze many issues for us. So, we might give 30 or 60 days to the  
3567 development community to ask them to produce a document for us to review, but then we  
3568 would need time to review that and perhaps hold another public hearing I assume on those  
3569 issues raised. So, with that, do we have a motion or proposal by the Commission on how to  
3570 handle this?

3571

3572

3573 Mr. Archer - Well, Madam Chairman, you just made a very good point. One being  
3574 that the developers needs time to formulate whatever it is they are going to present to us and  
3575 then, again, we need time to study it. So, I take it that they are asking for 30 days to be able  
3576 to present something. Then, of course, we would need time to study it and make some kind of  
3577 decision on it. I think we are talking about two things, actually. The point is to grant them 30  
3578 days to implement a plan and then we would have to set another public work session I  
3579 suppose.

3580

3581 Ms. Dwyer - So, we could establish within 30 days some written proposal by the  
3582 development community, copying staff and the Commission with that and then some point  
3583 later, that would put us around February 24. Then we have a zoning hearing on March 11 and  
3584 then we have a plan of development meeting on March 23, in which we could hold a public  
3585 hearing again on this issue and look at the two options that, one presented by staff and one  
3586 presented by the development community and make a decision, I presume, at that time.

3587

3588 Mr. Vanarsdall - I might add that maybe we should check with Mr. Marles to see what  
3589 the schedule is for the 23rd of February.

3590

3591 Ms. Dwyer - Well, I was thinking we would need a time beyond the 23rd of February  
3592 in order to give us a chance to look at the proposals.

3593

3594 Mr. Vanarsdall - I thought you said 30 days for them to present it and then 30 days for us  
3595 to....

3596

3597 Mr. Archer - Well, whatever time period after the 30 days that they have compared it,  
3598 we would need to study it.

3599

3600 Ms. Dwyer - Right. They will prepare something and deliver it to us within 30 days,  
3601 but then we would need some time to look at it, I would think. I don't like getting documents  
3602 on the night of the hearing and trying to digest all of that. So, what do our agenda look like  
3603 on March 11 and 23?

3604

3605 Mr. Marles - Madam Chairman, I am not sure but I would ask Mr. O'Kelly if he  
3606 could tell us what he anticipates the agenda to be on the 23rd, if he can at this point.

3607

3608 Mr. O'Kelly - Yes, Mr. Secretary, we are going to have a heavy agenda on February  
3609 23 based on some recommendations by the Commission today.

3610

3611 Ms. Dwyer - What about having a public hearing on March 11, which would be our  
3612 zoning meeting.

3613 Mr. O'Kelly - Well, most of your zoning agendas recently, you have been meeting  
3614 until two o'clock in the morning. The other option, Madam Chairman, is for the Commission  
3615 to approve this ordinance as recommended by the staff today and send it on to the Board of  
3616 Supervisors and they can have work sessions and public hearings.

3617

3618 Ms. Dwyer - That is certainly an option, Mr. O'Kelly. I think the Board tends to rely  
3619 on us to do a lot of the preliminary work and a lot of the research and discussions and public  
3620 hearings. That's the way I assume we are suppose to operate. And, I'm sure with something  
3621 as controversial as this, they may end up having some lengthy public hearings as well. But, I  
3622 believe it is the consensus of the Commission that we would like to give the development  
3623 community 30 days to comment and come up with their own ideas about how this problem  
3624 should be handled. I'm I interpreting that correctly?

3625

3626 Mr. Vanarsdall - Yes, to me you are.

3627

3628 Ms. Dwyer - All right. Let's do that. When will we hold another public hearing on  
3629 this issue to make a decision? This would be a public hearing and then a decision. We don't  
3630 know what the schedule is going to be for the zoning meeting, is that right?

3631

3632 Mr. Silber - Right. If I understand what you are saying, you would like to give them  
3633 approximately 30 days for them to submit some information, in time for staff to evaluate it,  
3634 present some comments to the Planning Commission and then have Planning Commission  
3635 considerations.

3636

3637 Ms. Dwyer - Right.

3638

3639 Mr. Silber - I would think that, if the Commission wants to take that approach, I  
3640 would suggest that it be put off until the March POD meeting.

3641

3642 Ms. Dwyer - Do I have a motion?

3643

3644 Mr. Archer - Madam Chairman, again, I think first of all we should not totally  
3645 disregard Mr. O'Kelly's remark. I think he is right in what he was saying they've been told  
3646 today. Mr. O'Kelly, I just want to make sure you understand. On they other hand, I think the  
3647 development community has presented a significant argument and the fact that they are here in  
3648 large numbers to discuss this issue, indicates that they feel strongly about it. And, perhaps, in  
3649 fairness I think we should give them an opportunity to present something that we could study  
3650 and make a decision.

3651

3652 Mr. Vanarsdall - And the other thing is, Madam Chairman, it's not up to the Board to  
3653 take this over and research it, it's up to us.

3654

3655 Mr. Archer - Contrary to public opinion, (unintelligible). I would move then that we  
3656 allow the development community 30 days to bring in a presentation and that we have a public  
3657 hearing, again, on this at our POD meeting in March.

3658

3659 Ms. Dwyer - With the expectation that on March 23 that we would make a decision.

3660

3661 Mr. Archer- That we would make a decision at that time.

3662

3663 Mr. Vanarsdall - And let's do it in the afternoon.  
3664  
3665 Ms. Dwyer - All right. Is that in form of a motion, Mr. Archer?  
3666  
3667 Mr. Archer - That's my motion.  
3668  
3669 Mr. Vanarsdall - And I second.  
3670  
3671 Ms. Dwyer - The motion has been made by Mr. Archer and seconded by Mr.  
3672 Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.  
3673  
3674 Mr. Silber - Did I hear correctly? The development community will be making a  
3675 presentation at the February meeting?  
3676  
3677 Ms. Dwyer - No. Well, it will be something submitted in writing, was my  
3678 assumption.  
3679  
3680 Mr. Archer - And we would need to have it by the 23.  
3681  
3682 Ms. Dwyer - Within 30 days. A proposal in writing and then there would be a, if  
3683 they want to make additional comments, then those comments will be made at a public hearing  
3684 on March 23 and the Commission will make a decision on March 23. So, we have until  
3685 February 24 for a recommendation from the development community.  
3686  
3687 Mr. Silber - The Planning Commission's POD meeting is the 23rd.  
3688  
3689 Ms. Dwyer - But, 30 days from today is....  
3690  
3691 Mr. Silber - Today is the 26th.  
3692  
3693 Ms. Dwyer - February 26, then. We don't need to tie it to our POD meeting in  
3694 February. Okay. That's a Friday.  
3695  
3696 The Planning Commission motioned to have the development community present them a  
3697 presentation 30 days from today's meeting and then on March 23, 1999, bring the flag lots  
3698 issue back for decision. Mr. Donati and Mrs. Wade were absent.  
3699  
3700 Ms. Dwyer - Since the cafeteria will be closing in about ten minutes, I suggest we  
3701 recess for 30 minutes and return to complete the remainder of the agenda.  
3702  
3703 At this time the Commission took a lunch break.  
3704  
3705 Ms. Dwyer - The Planning Commission is reconvening after lunch. Next on the  
3706 agenda we have the readopting of the 1999 Planning Commission calendar, is that right?  
3707

3708 Mr. Marlles - That's right.

3709

**3710 READOPTION OF 1999 PLANNING COMMISSION CALENDAR**

3711

3712 Mr. Marlles - Madam Chairman, at our work session last week I think Mr. Silber had  
3713 an opportunity to briefly discuss that because of the change in the day of the Board of  
3714 Supervisors meeting that staff was making a recommendation that the Commission consider  
3715 changing the day of the Planning Commission to consider PODs. That is a major change to  
3716 the Commission's proposed agenda. There were several changes, maybe one change to the  
3717 Thursday night meeting's schedule as of a result, I believe, it was a holiday on November 10.  
3718 So, staff is recommending that the Commission adopt the revised calendar. Is there anything  
3719 you would like to add to that?

3720

3721 Mr. Silber - That covers it. What, again, just insure that the dates May through  
3722 December POD meetings would put your meetings on Wednesday instead of Tuesday.

3723

3724 Ms. Dwyer - Do I have a motion on the calendar?

3725

3726 Mr. Vanarsdall - On the November 10 we originally had it on the 9th so we are just  
3727 moving it to that Wednesday, is that right?

3728

3729 Mr. Silber - That's correct. We had moved it from Thursday to Tuesday and then  
3730 the Board moved their meeting to Tuesday, so now we are moving it to Wednesday.

3731

3732 Mr. Vanarsdall - Okay. And, then, starting in May is when the Wednesday meetings will  
3733 start.

3734

3735 Mr. Silber - Yes, sir.

3736

3737 Mr. Vanarsdall - So, Madam Chairman, I make a motion that we adopt the Planning  
3738 Commission schedule that is revised on January 26, 1999, as presented by the Director and  
3739 Assistant Director.

3740

3741 Mrs. Quesinberry - Second.

3742

3743 Ms. Dwyer - The motion was made by Mr. Vanarsdall and seconded by Mrs.  
3744 Quesinberry. All in favor say aye...all opposed say nay. The motion carries.

3745

3746 Mr. Archer - Madam Chairman, before we go further, and I don't have any problem  
3747 with passing the motion on the revised schedule, but you may recall I mentioned one time late  
3748 last year that I had initiated a conversation about us having a day off, which would in essence  
3749 give us a week off. I don't think any action has been taking on that yet, but I did plan to press  
3750 it little further. We were thinking about the POD meeting in August. But, we can't do that  
3751 unless the Board actually allows us to do.

3752



3753 Ms. Dwyer- I guess if the Board decides to, we could revise the calendar at that  
3754 point.  
3755

3756 Mr. Archer- Oh, I'm sure we could. I just thought I would mentioned that.  
3757

3758 Mr. Vanarsdall - What would take the place of that meeting?  
3759

3760 Mr. Archer - I don't know. You know the Board is off on a day in August and also  
3761 one in December. They seem to function quite well.  
3762

3763 Mrs. Quesinberry - I like the way you are thinking.  
3764

3765 Ms. Dwyer - It would be nice to get a two-week vacation.  
3766

3767 Mr. Archer- I just feel like it's something that is necessary, not only for the  
3768 Commission but also for the staff because you can't really plan a vacation, unless you try to  
3769 plan it around our meetings.  
3770

3771 Mr. Vanarsdall - You almost have to miss one. Maybe Randy, being in the business for  
3772 so long, here in Henrico, maybe he could come up with a suggestion on how we could do that.  
3773

3774 Mr. Silber - I'd be glad too. Not to sound like a slave driver or a workaholic, but by  
3775 eliminating a meeting we would have to keep in mind what that means to the development  
3776 community. If you eliminate a POD meeting, then more than likely you are going to load up a  
3777 zoning meeting or else you are going to create a two-month situation for PODs. I would  
3778 suggest you talk to your Board representatives and see what they think of this before we move  
3779 forward. I certainly think if a Commission member wants a two-week vacation, they certainly  
3780 should have an opportunity to miss at least one meeting out of the year to be able to take those  
3781 vacations and public hearings could still go on without that member.  
3782

3783 Mr. Archer - I guess an alternative to that would be, and we do this sometimes, near  
3784 holidays, would just to move it to another week, if that could be done, which would still give  
3785 you a long week or a long break in between and not really miss a meeting.  
3786

3787 Mr. Silber - That's a good idea.  
3788

3789 Mr. Archer - Maybe have it the third week instead of the fourth or whatever. But,  
3790 whatever, I just thought I just mention it.  
3791

3792 Mr. Vanarsdall - I'm glad you did.  
3793

3794 The Planning Commission approved the revised 1999 Planning Commission calendar. Mr.  
3795 Donati and Mrs. Wade were absent.  
3796

3797 Ms. Dwyer - Would it be acceptable to move on to the Work Session and then

3798 approve the minutes as our last agenda item? All right. Mr. Webb has been here for many  
3799 hours to make his presentation.

3800

3801

3802 **WORK SESSION: AMENDMENT TO CHAPTER 24 (ZONING) OF THE CODE OF**  
3803 **THE COUNTY OF HENRICO: An ordinance to Amend and Reordain Article II**  
3804 **entitled "Definitions" to add "Outside Storage" in the definitions enumerated in**  
3805 **Section 24-3.**

3806

3807 Mr. Webb - Good afternoon, Madam Chairman, ladies and gentlemen. For the  
3808 record, my name is Allen Webb and I'm with the Planning Office. The matter we have here  
3809 next on the agenda pertains to outside storage in an Office/Service District. As a refresher, let  
3810 me give you a brief rundown of the history of this subject, so that we all are singing from the  
3811 same sheet of music, if you will.

3812

3813 It began back in April when Boise Cascade, a company that was looking to lease a property in  
3814 one of our office/service districts. They filed a request with the Planning Office asking if their  
3815 operation was permitted in that district, which was Villa Park. We replied, "Yes, it is; but  
3816 there's a section of the Code which says that you can't store your vehicles outside. So you  
3817 have to move them in the evening or make provisions to put them in the buildings, because  
3818 you can't keep them outside." Well, as it were, I believe that the company chose other  
3819 quarters. They did not want to deal with that.

3820

3821 On July 23, the Board of Zoning Appeals had an item on its docket which challenged that  
3822 administrative decision of the staff. The Board of Zoning Appeals, after listening to arguments  
3823 from both sides, felt that staff's administrative interpretation of that statement in the Code was  
3824 incorrect and that it was wrong to equate the parking of vehicles overnight with storing them.  
3825 Staff had argued that they were no longer being used they were being stored for use on the  
3826 following day. The Board of Zoning Appeals did not agree with that, the staff's interpretation  
3827 of the Code, and agreed instead with the owner of the property, the applicant. Moreover, the  
3828 Board in looking at the matter said, "You should go back and investigate and amend the Code  
3829 to clarify this situation so that it doesn't come up again."

3830

3831 On August 12, the Board of Supervisors had a special meeting and discussed the outcome of  
3832 that case. The Board felt that it would probably be a good idea to follow the recommendation  
3833 of the Board of Zoning Appeals and to amend the Code to clarify the issue.

3834

3835 On September 9, the Board adopted a resolution which brought the Code amendment to the  
3836 Commission. On October 15 and on November 17, the Commission held advertised public  
3837 hearings on drafts of the Code. On the last draft, the Commission heard input from six  
3838 speakers who all described the unintended results of the proposal and felt that as proposed at  
3839 that time, it would be detrimental to a great number of interests. Those criticizing the proposal  
3840 said it would resolve the problem in office/service but it threw out the baby with the bathwater  
3841 because it affected everybody in office districts, it affected everybody in business districts, it  
3842 affected everybody from the florist that has a vehicle he parks behind the store overnight, to

3843 the office folks out in Innsbrook that keep a real estate company vehicle there overnight. And,  
3844 rightfully, the Commission said, "Well, staff go back and see if there is another alternative,  
3845 see what other way you can find to do it." So, since November 17, we have been discussing  
3846 this with a number of people. Staff has discussed this amongst itself. It discussed it with  
3847 outside folks, it discussed it with the legal staff, and has developed an alternative proposal. I  
3848 apologize for the lateness of this delivery, but it was not worked out until yesterday, Monday  
3849 morning.

3850

3851 The proposal before you would insert the proper definition, but it takes a different perspective  
3852 than did the previous definition. By that, I mean this proposed definition focuses entirely on  
3853 the offending section of the O/S District which prohibits outside parking of vehicles and  
3854 storage. Outside storage, defines outside storage of vehicles, which was the primary interest.  
3855 It says, basically, that in an office/service district you may store or park your vehicle outside  
3856 overnight provided it's done so within the courtyard that an office/service district development  
3857 standards require. So, it puts it back to allowing the folks to continue to park their vehicles  
3858 within the courtyard, as many of them have been doing, but does not touch the other areas of  
3859 the County development, such as the office areas or the business areas that were affected by a  
3860 more blanket approach that covered all such overnight parking. So, that is, in a very short  
3861 statement, Ms. Dwyer, the proposal that you have before you, and which has been passed out  
3862 to your members. I presume everyone who wants a copy, has a copy. There were copies  
3863 outside. I have extra copies if anyone wants one.

3864

3865 To summarize this proposal, it could define the outside storage of vehicles as it relates to that  
3866 one section in the office/service district and allow the parking of vehicles within an approved  
3867 courtyard or a courtyard developed in accordance with the applicable section of the Code. I've  
3868 tried to be very brief, Madam Secretary. Are there any questions or comments that anyone  
3869 may have that I could try to answer?

3870

3871 Ms. Dwyer- Thank you, Mr. Webb. Are there any questions of Mr. Webb by  
3872 Commission members? Then the definition of outside storage of vehicles would be in the  
3873 definition section.

3874

3875 Mr. Webb - It would be in the definition section, yes, ma'am.

3876

3877 Ms. Dwyer - Okay. Where the Chapter specifically prohibits outside storage of  
3878 vehicles.

3879

3880 Mr. Webb - And as a reference to the section in the chapter.

3881

3882 Ms. Dwyer - The only place that outside storage of vehicles is specifically prohibited  
3883 is in O/S?

3884

3885 Mr. Webb - In that one section of the code, yes. I would stand here and admit that,  
3886 perhaps, the proposal is not the most elegant way to deal with the matter, but the Board's  
3887 directive was to deal with it within the definition section; whereas, it would be better if we

3888 could go to that particular section in the office/service district and accomplish the same  
3889 purpose. That's the reason for the somewhat awkward wording of this proposal to accomplish  
3890 the goal.

3891

3892 Ms. Dwyer - Okay. Are there any questions by Commission members?

3893

3894 Mr. Webb - Before closing, I notice that this matter is listed on the agenda as a work  
3895 session which relates to the comments made at the Commission in November. However, the  
3896 matter has been fully advertised and it meets the stand, the test of the Code, as far as the  
3897 advertisement. I believe, because of the way its been handled and advertised, that the  
3898 Commission is free to act, including a final recommendation, this afternoon should it find it  
3899 appropriate to do that.

3900

3901 Ms. Dwyer - Is there any reason why we couldn't take similar language that is  
3902 proposed for Section 24-3 and put in Section 24-50.22(e), since that's the only provision that  
3903 specifically permits outside storage of vehicles?

3904

3905 Mr. Webb - Well, this then comes back to the elegance issue. I've talked with  
3906 various people, including the patron of the Board paper that put this entire action into motion.  
3907 The preference is that it simply be done.... finished the way it was started. At another time  
3908 would be preferable to deal with it in the O/S District in Section 24-50.

3909

3910 Ms. Dwyer - Well, is there an intent to make this apply to other zoning district?

3911

3912 Mr. Webb - No. The way it's been framed, it just applies to this one district.  
3913 Basically, as you correctly pointed out, that it isn't the best of Code draftsmanship by placing  
3914 a regulation in the definition section. But, the way this has been approached, we simply have  
3915 no alternative at this time.

3916

3917 Ms. Dwyer - Could the Commission make a different recommendation, now? I know  
3918 what your direction was, in light of all of our many discussions about this, you know, limiting  
3919 it to whatever the issue was.

3920

3921 Mr. Webb - I think the Commission could, if it wished to do that, and certainly the  
3922 Board of Supervisors would be free to accept or reject or to deal with it in its preferred  
3923 manner.

3924

3925 Mr. Archer - Do you have something in mind, Madam Chairman?

3926

3927 Ms. Dwyer - Well, if the intent is to clarify some confusion about what is and what is  
3928 not allowed for storing vehicles in the O/S District, it makes sense to me that that clarification  
3929 be in the O/S District, in the section that discusses that issue. So, O/S district states that there  
3930 is no outside storage of vehicles. Right?

3931

3932 Mr. Archer - Do you mean the way it stands now?

3933

3934 Ms. Dwyer - Right. And, then, what we are clarifying is that, the term means not  
3935 leaving a vehicle used in the business outside of a fully enclosed building or courtyard, unless  
3936 the business operates 24 hours a day. So, now what we are saying, or so of adjusting, that  
3937 vehicles can be stored in an O/S district if they are within the enclosed courtyard...

3938

3939 Mr. Webb - Yes.

3940

3941 Ms. Dwyer - ...or in an enclosed building, or if the business is open 24 hours a day.

3942 Is that correct?

3943

3944 Mr. Webb - Yes, that is correct.

3945

3946 Ms. Dwyer - So, we are really making some exceptions to that general prohibition of  
3947 permitting vehicles to be parked overnight or stored in the O/S district. It just makes sense to  
3948 me to have that language all in one spot, where it's relevant.

3949

3950 Mr. Webb - It does. If we were to be able to start over again today, I would  
3951 wholeheartedly agree-- let's do it that way.

3952

3953 Ms. Dwyer- Well, let's hear from those who have come to speak to this matter.

3954 Thank you, Mr. Webb.

3955

3956 Mr. Redd - Ms. Chairman, and members of the Commission. For the record, my  
3957 name is Bill Redd. I'm a partner with Childress Klein Properties and we own several  
3958 properties that are within the office/service zoning and therefore impacted by this proposal.  
3959 We received this proposal last evening and was unable to really get it distributed to the group  
3960 of people we have been trying to keep informed about this. But, there are obviously a lot of  
3961 them here today and they have the definition in front of them. The proposed definition today  
3962 solves some of our problems that we had in the last meeting. In that, we, in each of our  
3963 properties have what, hopefully, the County considers an enclosed courtyard so that vehicles  
3964 could be parked there. There is an issue for us in that it makes the project and the buildings in  
3965 the area less functional and that if all the vehicles that might be at a particular project or  
3966 parked in the back service area, and then their deliveries are at five in the morning, there  
3967 could be issues like that that we have to deal with. But, in addressing our most serious  
3968 concern, the undermining of the value of the properties, it helps there somewhat. Although, I  
3969 should mention that I do not think there are projects within office/service that do not have the  
3970 enclosed courtyard that I think is envisioned by this definition and I think that will be spoken  
3971 to later. Again, I would also offer that this proposal in this effort to apply a definition here,  
3972 penalizes office/service zoning and it, certainly compared to any other zoning classification,  
3973 really penalizes it by disallowing the parking of business vehicles overnight. Whereas,  
3974 throughout Henrico County, by way of one example, you can park your vehicle overnight in  
3975 an office zoning situation, which is a far more, presumably, far more stringent zoning  
3976 classification. The exception it makes for operations that are 24 hours a day is really  
3977 rewarding the most intense use of property which one would suppose would be one of the

3978 underlining reasons for having or trying to come up with a definition like this in the first  
3979 place, to lessen kind of the intensity of the use within the zoning classification.

3980

3981 We still think it's a dangerous precedent to equate parking business vehicles overnight to  
3982 outside storage. I think it's a dangerous precedent to start here. I think it is unfair to apply to  
3983 just office/service but I do think it is a precedent for future and other zoning classifications. It  
3984 just simply doesn't make any sense, that equation. Just to address Mr. Webb's comment about  
3985 whether about this is a work session, I hope it is a work session because we just got a copy of  
3986 this definition. A lot of the people that need to be informed about how this proposed  
3987 definition will impact them, at least see a copy of it, are not here and have not received it, so I  
3988 would hope you could recommend that this still be considered a work session and we can get  
3989 something properly drafted, distributed and properly advertised.

3990

3991 We respectfully request that we not go this way as we did last time. Again, it does not, some  
3992 of our problems are addressed but not all of them. We would respectfully submit that we  
3993 rather not see the definition at all.

3994

3995 Ms. Dwyer - Are there any questions of Mr. Redd by Commission members? I have  
3996 a question. How would you define the intent of the provision in the office/service district that  
3997 prohibits outside storage of vehicles? What was that trying to accomplish?

3998

3999 Mr. Redd - Madam Chairman, I was not one of the drafters but one of those is here  
4000 today. My understanding, historically of that, is that it was intended to address situations  
4001 where, for example, trailers that were left there and extra or over supply of inventory in a  
4002 building, you used a trailer to store it in the courtyard. So, that in essence it really is an  
4003 outside storage situation. You are storing goods that should be inside that outside in a trailer.  
4004 I think that was the targeted vehicle.

4005

4006 Ms. Dwyer- So vehicles were intended to mean trailers for storing some sort or  
4007 supplies or equipment.

4008

4009 Mr. Redd - And I think another fair way to do it would be to say, you know, for  
4010 example, if there are vehicles up on blocks or broken down vehicles or vehicles that have there  
4011 engines pulled or some sort of repair going on in an office/service setting, I don't think that is  
4012 appropriate either. I certainly don't think it was the intent to preclude what are business  
4013 vehicles from being able to be parked overnight. The whole purpose behind creating the  
4014 office/service zoning in the first place was to be able to attract to Henrico County users that  
4015 needed office space tied together with a service capacity. That was the entire point of it. It  
4016 wouldn't seem that you would be trying to create that and at the same time precluding the use  
4017 of service vehicles, which so many of these companies need and use today.

4018

4019 Ms. Dwyer - So, it was not intended, for example, if you had, what's an example of a  
4020 use in an office/service where you might need to park a number of vehicles, not just an  
4021 occasional number of vehicles?

4022

4023 Mr. Redd - Well, in our situation, there are panel trucks, service vans, or probably  
4024 the most, I would think, the greatest majority, to some extent, delivery cars. Cars that make  
4025 runs. For example, Roache Biomedical, which is now Lab Corp., uses station wagons to do  
4026 ASAP or stat, I guess is the correct term, stat deliveries of testing results back to hospitals, as  
4027 one example.

4028

4029 Ms. Dwyer - And as you point out, if a service van, panel truck or delivery car were  
4030 used incident to a business in an office district, they would be permitted to park those in the  
4031 parking lot.

4032

4033 Mr. Redd - That's correct. They are permitted under the ordinance, as we read it,  
4034 and also in reality it's everywhere in this County.

4035

4036 Ms. Dwyer - Would it be appropriate to limit the type or size of the vehicle?

4037

4038 Mr. Redd - I think you can do that, I think that's an area you can work on because  
4039 there are certain types of vehicles that one could argue might not be an acceptable situation in  
4040 office/service area. Certain lengths of tractor trailers, for example, can get to be difficult.  
4041 But, in my experience the way office/service buildings are laid out, and the ones I am most  
4042 familiar with, in most situations those are not very intensive long, double, tandem, trailers  
4043 going into there because they just don't fit. It's not a bulk warehouse. So, if length would  
4044 help you some; but, for example, we have buildings where we have one tractor trailer comes  
4045 in once a week and I would not want that precluded because it is a very minimal use and it's  
4046 critical to that particular operation. So, I don't know, maybe double, tandem, trailers or I  
4047 don't think it would be appropriate to have wrecker trucks, that type of thing, you know very  
4048 heavy duty equipment or, for example, earth moving equipment. I think that sort of becomes  
4049 closer to outside storage to me.

4050

4051 Ms. Dwyer - Do you have a proposal for how we could distinguish between vehicles  
4052 that are acceptable and vehicles that are not acceptable to be parked overnight in an O/S site?

4053

4054 Mr. Redd - Not at this moment, but we would be happy to draft something if that's  
4055 appropriate.

4056

4057 Ms. Dwyer - Your general concept is that the parking of the vehicles used in a  
4058 business should not even be considered outside storage of a vehicle.

4059

4060 Mr. Redd - Yes, ma'am.

4061

4062 Mr. Vanarsdall - Bill, let's say Bell Atlantic is in an O/S. They have a fleet of trucks that  
4063 come in at night and then they have vans. They are not prohibited, are they?

4064

4065 Mr. Redd - Well, under the original definition, we had, I believe, we had about a  
4066 month or so ago, they would have been. Under this definition, if they are parked in an  
4067 enclosed courtyard, they would not be.

4068

4069 Mr. Vanarsdall - If they could get them in a courtyard.

4070

4071 Mr. Redd - That's correct.

4072

4073 Mr. Vanarsdall - That's what I thought.

4074

4075 Ms. Dwyer - Are there any other questions of Mr. Redd? Thank you.

4076

4077 Mr. Redd - Thank you.

4078

4079 Mr. Vanarsdall - Mr. Webb, would we run into a problem trying to restrict weights and  
4080 sizes and fourteen wheelers and....

4081

4082 Mr. Webb - I think we would have to be quite careful as to what weights we pick or  
4083 how we describe the type of vehicle. For example, in the present Code, there is a restriction  
4084 against parking of a truck in excess of 5000 pounds in a residential district. But, some very  
4085 large trucks with light-weight aluminum bodies won't be caught by that prohibition so they  
4086 could be parked in a residential district. These are the types of things we would have to deal  
4087 with and very carefully define what characteristics of a vehicle would cause it to be excluded  
4088 or included. It's a matter of nomenclature and how the vehicle is defined. That's not really  
4089 clear.

4090

4091 Mr. Vanarsdall - Are we trying to do this in O/S because that was what it was all about, it  
4092 was always backed up to a residential area and it had to be handled with kid gloves?

4093

4094 Mr. Webb - Yes.

4095

4096 Ms. Dwyer - Mr. Webb, what was originally intended, in your mind, for the language  
4097 in the existing O/S ordinance where it says: There shall be no outside storage of vehicles.  
4098 What was intended there originally?

4099

4100 Mr. Webb - I'm inclined to think that Mr. Redd's proposal, when we are talking  
4101 about vehicles, was probably oriented more to unused vehicles and vehicles just plain being  
4102 stored, inoperative vehicles, perhaps, because of the way the language is used. I guess, in  
4103 retrospect, we can say it wasn't carefully done because it didn't define the situation properly.

4104

4105 Ms. Dwyer - Well, he gave two examples of two types of vehicles that this was  
4106 intended to prohibit. One was inoperative vehicles and the other was trailers used for storage,  
4107 not that the vehicle was being stored, but vehicles used for storage as in a trailer where excess  
4108 materials or supplies were kept. Maybe the tractor was removed and the trailer was just sitting  
4109 in the parking lot or whatever. Are there any other types of vehicles that you can think of,  
4110 based on your experience with this code that were intended to be excluded?

4111

4112 Mr. Webb - I think those would probably be large vehicles that could conceivably not



4113 be screened properly. We don't now have businesses in office/service districts that rely on  
4114 refrigeration to a great extent, not like the food industry for example. In the past we have had  
4115 many complaints about refrigeration trucks moving in and parking in an area with refrigerator  
4116 equipment operating through the night. But, we don't experience those types of operations in  
4117 office/service districts. They are too intense, I guess, or I can't think of a better term other  
4118 than a higher type of industrial activity and application. It just doesn't warrant those, it's the  
4119 lesser or the more heavier districts where you would find those types of operations.

4120

4121 Ms. Dwyer - Let me just throw this out and you tell me what you think about it.  
4122 What if this was revised, and I'm looking at 24-50.22(e), the outside storage in the O/S.  
4123 What if we said, "There shall be no outside storage of any equipment, vehicles, inoperative  
4124 vehicles, or vehicles used for the purpose of storing materials." We could certainly clean up  
4125 that language, and just leave it at that since those are the two that we wanted to prohibit to  
4126 begin with, unless someone else knows something different. Then, maybe, we could also have  
4127 that keyed to the size or type of vehicle, so that if there is a storage or if there is a parking of a  
4128 large tractor trailer overnight that that would have to be within a courtyard. Do you think that  
4129 would satisfy all of the purposes of the original statute.

4130

4131 Mr. Webb - I think it would. And it certainly goes beyond what we have here and I  
4132 think that would clarify the types of prohibitions we are talking about.

4133

4134 Ms. Dwyer - Okay. Thank you.

4135

4136 Mr. Archer - Madam Chairman, I think somewhere along the line, here, we had some  
4137 kind of a way included parking to mean storage. I think the term storage is a little too broad  
4138 for what I think we are trying to accomplish. I think Mr. Redd's assessment was probably  
4139 correct. I think we were trying to do something else and we used the word storage and it  
4140 became all to encompassing, and because of it we now have this problem. So, I guess from  
4141 here we need to be very careful how we forward so that we don't create another problem  
4142 trying to solve this one. But I certainly think we could probably tie this restriction down to the  
4143 weight of a vehicle, and if we didn't use the actual weight of the vehicle itself, we could use  
4144 the intended gross weight to restrict the size. We wouldn't get above anything larger than a  
4145 van or a panel truck or whatever, or a private passenger vehicle.

4146

4147 Ms. Dwyer - Or, if we did allow that, the parking of that, that would be something  
4148 that they would be required to do. That we would require to occur within a courtyard.

4149

4150 Mr. Archer - Right. That fits essentially what I'm saying, or restricted by the number  
4151 of axles.

4152

4153 Ms. Dwyer - So, the panel truck and the delivery car and the service van then could  
4154 be parked in the parking lot overnight, under that proposal I just through out.

4155

4156 Mr. Archer - Provided that they are not there for any long term. To be storage means  
4157 something that you put away for awhile. Whereas, if you are talking about vehicles that are

4158 used everyday and you park them, you just put them there for the night and then the next day  
4159 you use them again.

4160

4161 Ms. Dwyer - Well, according to what Mr. Redd and Mr. Webb said, if we define  
4162 outside storage of vehicles to mean two things, inoperative vehicles or vehicles used for the  
4163 propose of storing materials, then we are really limited the respect of the statute.

4164

4165 Mr. Archer - I understand what you are saying.

4166

4167 Mr. Webb - And your question about the size, could I guess also be worked into that  
4168 and as well as, such as the code now uses, for better or worse, it uses the 5000 pound size.  
4169 My choice would be to stay with that until a change is made and then get all of the changes, of  
4170 similar type, at one time. And, again, it could be 5000 pounds and 3 or more axles would be  
4171 prohibited.

4172

4173 Mr. Archer - Right. Above 5000 pounds and 3 or more axles.

4174

4175 Mr. Webb - Anything exceeding 5000 pounds or 2 axles.

4176

4177 Mr. Archer - That would eliminate the big aluminum vehicle that might squeeze under  
4178 5000 pounds.

4179

4180 Ms. Dwyer - Is that gross vehicle weight?

4181

4182 Mr. Archer - This would probably be empty weight of the vehicle itself, is what you  
4183 are referring to, correct, Mr. Webb?

4184

4185 Mr. Webb - Yes. Well, we have always used the titled vehicle weight. And, there,  
4186 again, is one of the problems because many times the tractor is titled before the box is put on.  
4187 So, there are a variety of ways to do that. But, as imperfect as the code is, it does mention  
4188 5000 pound vehicle weight, and my preference would be to stay with that and not have two  
4189 standards anywhere, should weight be used.

4190

4191 Ms. Dwyer - Thank you. Are there any other questions of Mr. Webb at this point?  
4192 Thank you. All right. Is there anyone else that would like to speak to this? Please come  
4193 forward.

4194

4195 Mr. Matherson - Good afternoon. I'm Kevin Matherson. I represent Nabisco and I work  
4196 over at the bakery on Laburnum. I was sitting next to James there, who works at our  
4197 operation and sales branch off of Parham Road. I believe our sales branch operation is located  
4198 in an O/S-2 district, I'm not positive of that. Our trucks are easily over 5000 pounds net  
4199 empty. I've never seen the site where James works, but I believe we have a parking area  
4200 behind the building. I don't if it is fully screened that it would meet with the provisions of  
4201 this. We are already in there. We will have to modify our property or move to be in  
4202 compliance with this ordinance. As I understand it, and I was at the last meeting when this

4203 came up, no one has complained about anything and we are acting on a problem that doesn't  
4204 exist. If we have to relocate, that is not going to be a good situation for Nabisco.

4205

4206 Ms. Dwyer - So, you park vehicles, in your business, in the parking lot, that are over  
4207 5000 pounds.

4208

4209 Mr. Matherson - And they are routinely loaded in the morning or they are loaded during  
4210 the evening shift and shipped out in the morning. Then they go out to the Ukrop's and the  
4211 Safeway's and they make their deliveries.

4212

4213 Ms. Dwyer - And there is no courtyard or screened area?

4214

4215 Mr. Matherson - I have never seen the property so I don't know.

4216

4217 Mr. Archer - How many axles, Mr. Matherson?

4218

4219 Mr. Matherson - They are two drive axles and one steering axle, so there are three.

4220

4221 Mr. Woody - Excuse me. I'm James Woody with Nabisco. There are eight trucks  
4222 and we have a brick wall that we were asked to put on when we built the building in Park  
4223 Central to kind of hide where we park. We do park up against the building. But, I don't  
4224 think that is considered a courtyard, per se. It is still our parking lot and that would become a  
4225 conflict with the compliance of the ordinance if we define the truck size. We do allow trucks  
4226 that are a gross weight of 13,000 and up. We do have a couple of double axle trucks.

4227

4228 Mr. Vanarsdall - You said it is not a courtyard, what is screening it?

4229

4230 Mr. Woody - We have, like I said, a brick wall. We are in an industrial park. It's a  
4231 brick wall about 8 to 10 feet that goes down the side of the building. It blocks what goes on to  
4232 the side of the building. It's not considered a courtyard, I don't think. It's just a parking lot.

4233

4234 Ms. Dwyer - So, if we said that the trucks needed to be parked within a courtyard or a  
4235 screened area, that would seem to take of your problem?

4236

4237 Mr. Woody - Definitely.

4238

4239 Ms. Dwyer - And every O/S district should have a courtyard or screened area if they  
4240 are, is that correct?

4241

4242 Mr. Woody - I think so. That's why we built the brick wall. We added the brick at  
4243 the end once we finished the building. I thought that was in compliance with Henrico as a  
4244 screen to screen the loading area.

4245

4246 Ms. Dwyer - Is that correct, Mr. Webb? I guess the question was raised earlier that  
4247 some tenants may have access to that screened or courtyard area and other tenants may not.

4248

4249 Mr. Webb - I'm trying to recall the Nabisco plan and I'm drawing a blank at this  
4250 point. But, the Code does say that an appropriate interior courtyard so that the loading  
4251 operations are not visible from any other project, perimeters adjoining any A or R districts,  
4252 and are shielded from the roadway within the development. They must have met that  
4253 requirement when they were approved.

4254

4255 Ms. Dwyer - As with every O/S?

4256

4257 Mr. Webb - Yes. So, that at the time of approval, they met what was considered  
4258 reasonable in light of this section, the Code I just read.

4259

4260 Ms. Dwyer - Is there anyone else that would like to speak to this issue?

4261

4262 Mr. Peyton - Hello. My name is George Peyton with the Retail Merchants  
4263 Association of Greater Richmond. I received this proposal today. It was faxed to me earlier  
4264 and I was out of the office, but I got a copy when I came here. I did have time to contact one  
4265 of our members located in Villa Park. By telephone, we sort of come to grips it may settle  
4266 some of their problems that they anticipate having over there. But, I didn't have time to talk  
4267 to Heilig-Myers. I don't know if there is any one here from Heilig-Myers or not, they were  
4268 here last time and expressed their concern with using the drop of tractor trailers at night to be  
4269 unloaded and distributed during the day. But, presuming, you are on a thought in looking at  
4270 the problem of inoperative vehicles and vehicles used for storage, if we could come in those  
4271 lines and have some time to pass it out to our members and have them review it, I think we  
4272 could come up with selling the issue at hand.

4273

4274 Ms. Dwyer - What about requiring larger vehicles or vehicles over 5000 pounds to be  
4275 parked overnight, and we could use the word parking to distinguish it from outside storage.  
4276 Larger vehicles would have to be parked either within a courtyard area or a screened area.

4277

4278 Mr. Peyton - And I would like to pursue that with Heilig-Myers because they were the  
4279 ones to bring the issue to the meeting, I guess, in October....

4280

4281 In an office park and he has just one van, and it a delivery van, for a card shop around town,  
4282 and he said now, "If I leave it outside my building, I don't feel I will be in compliance with  
4283 the original." So that was a concern. That is a van that is used day in and day out in the  
4284 operation. It is not for storage and it is not inoperable, so we'd like to see that be permitted in  
4285 parking. I think your line of thought is that would be permitted, so I'll be glad to follow  
4286 through with Heilig-Myers and see if that large vehicle acceptance would be OK.

4287

4288 Ms. Dwyer - I follow the logic that we shouldn't be more restrictive in O/S than we  
4289 are in Office, although we may have more industrial type uses than we have in Office. So, it  
4290 makes sense to me that maybe we would try to limit the large tractor-trailers from being in  
4291 plain view. That might be something that we can present in a timely way so that you'd have  
4292 time to let it pass through your constituents.

4293

4294 Mr. Lindsay Thomas - Madam Chairwoman and fellow members of the Commission,  
4295 my name is Lindsay Thomas. I am with Worth-Higgins and Associates, and I would like to  
4296 report something that might help resolve some of this in the O/S. I know the O/S has been  
4297 through a lot of changes, not all, hardly any of them good for the people who are in O/S. If  
4298 you remember, we went back about two years ago and the percentages that you could have of  
4299 office versus warehouse, if you will, those percentages were changed from a development as a  
4300 whole to each individual building. And, I don't know how it affected Nabisco and some of  
4301 those others, but it affected us to a large extent in our expansion plan. So, that was one  
4302 change that was made, after the fact, after we had moved in and built, that had a significant  
4303 negative impact on our ability to expand.

4304

4305 This courtyard situation is similar. It doesn't affect our individual business as dramatically  
4306 right now. It has a nice courtyard setup, but it does affect other people in there, and maybe  
4307 the courtyard scenario is on the right track, but what if we, instead of thinking of the courtyard  
4308 as connected to the building, what about maybe the use of some evergreens and some berms.  
4309 The Nabisco Building uses that very effectively. They have a nice wall in the front and on the  
4310 side they've got a nice berm and evergreens that pretty well shields it. I would really sort of  
4311 like to level that and then I'd have a straight shot at the warehouse full of Oreos. But, I don't  
4312 think they are going to do that. I think that situation, though, should be looked at. If there is  
4313 some concern, and like we heard earlier, I am not aware of any complaints regarding anything  
4314 with the O/S, so I am not really sure why all of this concern is being generated; but if it is,  
4315 maybe we can work something out where we are using some effective screening measures  
4316 other than a courtyard or something actually attached to the building. The berms, the  
4317 evergreens, I think, would be a good way to go and that could help solve a lot of concerns.  
4318 You could screen the big trucks, the big trucks in there, and also help with the expansion. We  
4319 don't have to worry about putting a 20-foot wall all of the way around our building to secure  
4320 it. So, I thank you for your time, and I hope you all consider it.

4321

4322 Ms. Dwyer - Thank you, Mr. Thomas. Would anyone else like to speak to this issue?  
4323 It appears that no one else has a point to make, I would like to hear from the Commission  
4324 members how you would like to proceed with this situation.

4325

4326 Mr. Vanarsdall - Mr. Webb, what did you want from us after this today? Did you  
4327 want a what?

4328

4329 Mr. Webb - I don't wish to sound flippant, but let me answer by saying, "Direction,  
4330 sir."

4331

4332 Ms. Dwyer - I have a proposal to make and let me just lay that out. If anyone else  
4333 has a proposal, then we can lay that out too. My thought is to not have this definition in the  
4334 definition section, but rather to focus on the meaning of "outside storage of vehicles" as that  
4335 phrase is used in the O/S District. I think that we have figured out now that this is the only  
4336 outside storage area that was ever of concern as this issue was raised by the Board.

4337

4338 So my thought would be to limit the reference to outside storage of vehicles to mean two  
4339 things: #1 – Inoperable vehicles, and #2 – Vehicles used for the purpose of storing materials,  
4340 supplies or whatever, of goods, and then to consider for the purposes, perhaps, of discussion  
4341 again, limiting the parking of larger vehicles within an O/S District to areas within a courtyard  
4342 or a screened area. And, then staff could look at this idea of screening, I know it has been an  
4343 issue in many Office/Service cases, but what might we want to be screening from? “R”  
4344 District roadways? We could define what that screened area is and leave it at that, and that  
4345 seems to me, from what I have heard, maybe that addresses the specific concerns that were  
4346 raised with this. We could get a draft of that out to the community of O/S District users, and  
4347 have them look at that before we consider it as a Commission. They can look at it and look at  
4348 their specific district and ask, “Is this going to be a problem, or is this going to be acceptable”  
4349 and suggest what changes they might want to make.

4350

4351 Mr. Webb - All right. We could certainly do that. Should there be a target date to  
4352 bring it back to the Commission for its consideration?

4353

4354 Ms. Dwyer - Is that agreeable to the Commission members or do you have any  
4355 changes you would like to make to that suggestion?

4356

4357 Mr. Vanarsdall - I don't have any other suggestions.

4358

4359 Mr. Archer - Madam Chairman, I don't think I could add very much to what you said.

4360

4361 Ms. Dwyer - All right, let's get our calendars out, our new ones. We're going to look  
4362 at some times. That might be fairly simple to draft, Mr. Webb. When are you retiring?

4363

4364 Mr. Webb - Not until I finish this one. The boss said, “You can't go until you get  
4365 this done.”

4366

4367 Ms. Dwyer - When is your last day, seriously?

4368

4369 Mr. Silber - It has just been extended.

4370

4371 Ms. Dwyer - OK, from what has been suggested it doesn't sound like it would be that  
4372 complex to draft.

4373

4374 Mr. Webb - No, particularly if we limit it to inoperable vehicles and to vehicles used  
4375 for storage purposes.

4376

4377 Ms. Dwyer - And there needs to be some staff involvement to determine how to define  
4378 the second part about parking in a screened area. But, I think that is something that we are  
4379 familiar with. So, when can you have that draft ready?

4380

4381 Mr. Webb - Oh, we can get that out, I am hoping, next week.

4382

4383 Ms. Dwyer - OK, let's say by February 5 possibly and mail that out - do we have a  
4384 mailing list of people who...

4385

4386 Mr. Webb - We certainly have a list of all of those who have been here today and  
4387 those sick folks, a couple of them weren't here today.

4388

4389 Ms. Dwyer - OK. We can mail that out to everyone by the 5<sup>th</sup>, and then have another,  
4390 another work session, or should we have a public hearing at which time we could make a  
4391 decision on this?

4392

4393 Mr. Silber - One question I have, Mr. Webb, based on this change that is proposed,  
4394 do we have to re-advertise this?

4395

4396 Mr. Webb - I think if we stay within the same section of the Code we are all set.

4397

4398 Mr. Silber - What has been advertised? Section 24-3, the definition portion?

4399

4400 Mr. Webb - Correct.

4401

4402 Mr. Silber - And also advertised the Office/Service portion?

4403

4404 Mr. Webb - If we go into the Office/Service portion, we will have to initiate that  
4405 over again.

4406

4407 Mr. Silber - That is what I hear Ms. Dwyer saying.

4408

4409 Ms. Dwyer - Well, as soon as we could hear it would be when?

4410

4411 Mr. Silber - We would have to advertise...

4412

4413 Mr. Webb - I think we could get it on the March Zoning meeting, but I don't think  
4414 there is time to get it legally advertised before the February Zoning meeting.

4415

4416 Ms. Dwyer - So, the March Zoning meeting...

4417

4418 Mr. Silber - I would think either the March Zoning meeting or the March POD  
4419 meeting.

4420

4421 Ms. Dwyer - Now, we already have something in March -- flag lots. I'd rather not do  
4422 it at zoning. What do you all think? POD on March 23<sup>rd</sup>? Now, would that be a public  
4423 hearing or a work session?

4424

4425 Mr. Archer - If we take action on it, then it will have to be a public hearing.

4426

4427 Mr. Webb - I would suggest making it a public hearing, and then if you are not

4428 comfortable with it, you could still defer it, but if you set it for a work session, and you are  
4429 comfortable, you still have to defer it to get it out.

4430

4431 Ms. Dwyer - So, we will have the draft out and mailed on the 5<sup>th</sup> of February and then  
4432 on March 23 we will have a public hearing on the draft amendment. We will allow people a  
4433 chance to comment on that draft and perhaps make a decision on this at that time, if we are  
4434 lucky. Is that agreeable? All right, I would like to take everything I have said as far as the  
4435 date and the recommendation for the language changes and put them in the form of a motion.

4436

4437 Mr. Vanarsdall - Second.

4438

4439 Ms. Dwyer - Do you want me to restate it? OK, the dates are February 5 for draft of  
4440 the ordinance change to be mailed out, and then on March 23 the Commission will hold a  
4441 public hearing on that draft amendment with the intent of being able to make a decision that  
4442 day. OK. We have a motion by Ms. Dwyer, seconded by Mr. Vanarsdall. All in favor say  
4443 aye. All opposed say no. The motion carried. Thank you very much.

4444

4445 The Planning Commission voted to have a draft of the ordinance change in the O/S District  
4446 mailed out by February 5, and to hold a public hearing on March 23 to discuss the  
4447 amendment.

4448

4449 Ms. Dwyer - Thanks to everyone who came out again. The last item on the agenda, I  
4450 believe, is the approval of minutes for November 17, 1998 meeting. I believe Mrs. Wade and  
4451 Ms. Dwyer called in their corrections.

4452

4453 Mr. Archer - I think that I did, too.

4454

4455 Ms. Dwyer - Any corrections to the mentioned minutes? Mr. Archer or Ms.  
4456 Quisenberry? Do I have a motion on the November 17 minutes?

4457

4458 Mr. Archer - I move that the minutes be accepted as amended.

4459

4460 Mr. Vanarsdall - Second.

4461

4462 Ms. Dwyer - We have a motion by Mr. Archer and a second by Mr. Vanarsdall. All  
4463 in favor say aye. All opposed say no. The motion carries. Is there anything else that we need  
4464 to discuss or go over this afternoon?

4465

4466 Mr. Vanarsdall - I make a motion that we adjourn.

4467

4468 Mr. Archer - I second that motion.

4469

4470 Ms. Dwyer - All in favor say aye. All opposed say no. The motion passes.

4471

4472 The Planning Commission voted to adjourn the meeting at 3:15 p.m.



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**Elizabeth G. Dwyer, C. P. C. Chairman**

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**John R. Marles, AICP, Secretary**