

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.  
4 Tuesday, March 23, 1999.

5  
6 Members Present: Ms. Elizabeth G. Dwyer, C.P.C., Chairman (Tuckahoe)  
7 Mr. Ernest B. Vanarsdall, C.P.C., Vice-Chairman,  
8 (Brookland)  
9 Mr. C. W. Archer, C.P.C., (Fairfield)  
10 Mrs. Debra Quesinberry, (Varina)  
11 Mrs. Mary L. Wade (Three Chopt)  
12 Mr. James B. Donati, Jr., Board of Supervisors  
13 Representative (Varina)

14  
15 Others Present: Mr. John R. Marlles, AICP, Director of Planning,  
16 Secretary  
17 Mr. Randall R. Silber, Assistant Director of Planning  
18 Mr. David D. O'Kelly, Jr., Principal Planner,  
19 Mr. Jim P. Strauss, CLA, County Planner  
20 Mr. E. J. (Ted) McGarry, III, County Planner  
21 Mr. Kevin D. Wilhite, County Planner  
22 Mr. Mikel C. Whitney, County Planner  
23 Ms. Leslie A. News, CLA, County Planner  
24 Mr. J. T. Tokarz, Assistant County Attorney  
25 Mr. Todd Eure, Assistant Traffic Engineer  
26 Mr. Sam Amos, Chief Design Engineer  
27 Ms. Diana B. Carver, Recording Secretary  
28 Ms. Ann B. Cleary, Office Assistant IV

29  
30 Ms. Dwyer - Good morning. The Planning Commission will now come  
31 to order. I would like to welcome everyone who has come out this morning to our  
32 traditional POD meeting as opposed to our zoning meeting, which we normally hold in  
33 the evenings on Thursdays. I'd like to welcome you here. What we will do first of all  
34 is call the roll, and it looks like all of our Commissioners are present today, alive and  
35 alert. Mr. Secretary, let's start with the request for withdrawals and deferrals unless  
36 you have any other business on the agenda you'd like to start with.

37  
38 Mr. Marlles - No, ma'am. This morning Mr. Kevin Wilhite will present  
39 the requests for deferrals and withdrawals.

40  
41 Ms. Dwyer - Good morning, Mr. Wilhite.

42  
43 Mr. Wilhite - Good morning, Madam Chairman, and members of the  
44 Commission and ladies and gentlemen. Staff is aware of three requests for deferrals  
45 withdrawals at this time. The first appears on page 7 of your agenda, POD-17-99. The  
46 applicant is requesting deferral to April 20, 1999.

47  
48  
49

## PLAN OF DEVELOPMENT

POD-17-99  
Eubank Center

**Engineering Design Associates for John A. & W. L. Heisler, IV:** 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, 12,040 square foot office/warehouse. The .71-acre site is located on the north line of Eubank Road, 250 feet east of Klockner Drive on parcel 172-3-C-5. The zoning is M-1, Light Industrial District. County water and sewer. (Varina)

50

51 Ms. Dwyer - Is there any opposition in the audience to the deferral of  
52 POD-17-99, Eubank Center? No opposition to the deferral.

53

54 Ms. Quisenberry - I would like to make a motion that case POD-17-99,  
55 Eubank Center, be deferred at the applicant's request.

56

57 Mr. Vanarsdall - Second.

58

59 Ms. Dwyer - We have a motion by Ms. Quisenberry and a second by  
60 Mr. Vanarsdall. All in favor say aye. All opposed say no. The motion carries.

61

62 The Planning Commission voted to defer, at the applicant's request, Plan of  
63 Development, POD-17-99, Eubank Center, to its meeting on April 20, 1999.

64

## LANDSCAPE & LIGHTING PLAN

65  
66

LP/POD-51-98  
Virginia Credit Union  
Wellesley

**Dayton Thompson, P.C.:** 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 2.16-acre site is located on the northeast corner of Three Chopt Road and Lauderdale Drive on parcel 46-A-1CN. The zoning is O-3C, Office District (Conditional) and West Broad Street Overlay District (WBSO). (Three Chopt)

67

68 Mr. Wilhite - The next deferral is on Page 15, a landscape and lighting  
69 plan, POD-51-98, Virginia Credit Union. The applicant is also requesting a deferral to  
70 April 20, 1999.

71

72 Mr. Vanarsdall - I'm sorry. What page was that?

73

74 Mr. Wilhite - Page 15.

75

76 Ms. Dwyer - Is there anyone in the audience in opposition to the  
77 deferral of LP/POD-51-98, Virginia Credit Union Wellesley? No opposition to the  
78 deferral. Mrs. Wade.

79

80 Mrs. Wade - I move that LP/POD-51-98, Virginia Credit Union  
81 Wellesley, be deferred until the 20<sup>th</sup> of April at the applicant's request.

82

83 Mr. Vanarsdall - Second.

84

85 Ms. Dwyer - We have a motion by Mrs. Wade and a second by Mr.  
86 Vanarsdall to defer LP/POD-51-98, to April 20, 1998, at the applicant's request. All  
87 in favor say aye. All opposed say no. The motion carries.

88

89 The Planning Commission voted to defer, at the applicant's request, Landscape and  
90 Lighting Plan, LP/POD-51-98, Virginia Credit Union Wellesley, to its meeting on  
91 April 20, 1999.

92

93 **PLAN OF DEVELOPMENT (Deferred from the February 23, 1999, Meeting)**

94

POD-13-99  
Banks Brothers First  
Health II – Innsbrook  
(POD-18-89 Revised)

**TIMMONS for Banks Richmond Ltd. Partnership and  
DPR Construction Services: Request for approval of a  
plan of development as required by Chapter 24, Section  
24-106 of the Henrico County Code to construct a three-  
story, 54,750 square foot office building and a two-story,  
26,854 square foot parking deck addition to an existing  
office site. The 7.881-acre site is located on the west line  
of Cox Road, 900 feet ± south of Waterfront Place, 4300  
Cox Road on parcel 38-3-B-7. The zoning is O-3C,  
Office District (Conditional) and C-1, Conservation  
District. County water and sewer (Three Chopt)**

95

96 Mr. Wilhite - On Page 19 we have POD-13-99, Banks Brothers First  
97 Health II – Innsbrook. The applicant is also requesting a deferral to April 20, 1999.

98

99 Ms. Dwyer - Is there anyone in the audience in opposition to the  
100 deferral of POD-13-99, Banks Brothers First Health II – Innsbrook (POD-18-89  
101 Revised)? No opposition to the deferral. Mrs. Wade.

102

103 Mrs. Wade - I move that Plan of Development POD-13-99, Banks  
104 Brothers First Health II – Innsbrook (POD-18-89 Revised), be deferred to the 20<sup>th</sup> of  
105 April at the applicant's request.

106

107 Mr. Vanarsdall - We have a motion by Mrs. Wade and a second by Mr.  
108 Vanarsdall. All in favor say aye. All opposed say no. The motion for deferral carries.

109  
110 At the applicant's request, the Planning Commission voted to defer Plan of  
111 Development, POD-13-99, Banks Brothers First Health II – Innsbrook (POD-18-89  
112 Revised), to its meeting on April 20, 1999.

113  
114 Mr. Marlles - The next item on our agenda is the Expedited Agenda and  
115 that will be handled by Mr. Wilhite.

116  
117 Ms. Dwyer - Mr. Wilhite.

118  
119 **LANDSCAPE PLAN**

120  
LP/POD-4-96  
Our Lady of Lourdes  
Church – Sanctuary  
Addition  
**Hulcher & 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  
19.8-acre site is located at 8200 Woodman Road on  
parcels 62-A-36 and 37. The zoning is R-3, One-Family  
District. (Brookland)**

121  
122 Mr. Wilhite - The first item appears on Page 3, Landscape Plan  
123 LP/POD-4-96, Our Lady of Lourdes Church – Sanctuary Addition. There is also an  
124 Addendum item addressing this on Page 1 of your Addendum. Staff is recommending  
125 approval.

126  
127 Ms. Dwyer - And is the revised plan attached? OK. Is there anyone in  
128 the audience who would wish to speak to or is opposition to LP/POD-4-96, Landscape  
129 Plan for Our Lady of Lourdes Church? No one in opposition. Are we ready for a  
130 motion?

131  
132 Mr. Vanarsdall - I move that Landscape Plan, LP/POD-4-96, Our Lady of  
133 Lourdes Church – Sanctuary Addition, be approved subject to the annotations on the  
134 plans and standard conditions for landscape plans, and I'd like to compliment Leslie  
135 News on how well she did this landscaping and thank Bruce Hulcher for helping, also.

136  
137 Mrs. Wade - Is there something on the Addendum on this one?

138  
139 Ms. Dwyer - There is a revised plan attached to our Addendum.

140  
141 Mr. Archer - Was that your motion, Mr. Vanarsdall?

142  
143 Mr. Vanarsdall - Yes, sir.

144  
145 Mr. Archer - I second it then.

146  
147 Ms. Dwyer - Motion by Mr. Vanarsdall and second by Mr. Archer.  
148 All in favor say aye. All opposed say no. The motion carries.

149  
150 The Planning Commission approved Landscape Plan, LP/POD-4-96, Our Lady of  
151 Lourdes Church – Sanctuary Addition, subject to the annotations on the plans the  
152 standard conditions for landscape plans.

153  
154 **LANDSCAPE PLAN**

155  
LP/POD-52-98  
Bank of Essex –  
Brook Road  
**Architects Dayton & Thompson:** 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 3.2-  
acre site is located along the east line of Brook Road  
(U.S. Route 1), approximately 200 feet south of J.E.B.  
Stuart Parkway on parcel 33-A-3B and part of 3C. The  
zoning is B-3C, Business District (Conditional).  
(Fairfield)

156  
157 Mr. Wilhite - Also, on Page 3, Landscape Plan, LP/POD-52-98, Bank  
158 of Essex – Brook Road. Staff recommends approval.

159  
160 Ms. Dwyer - There is nothing in the Addendum relating to this case?

161  
162 Mr. Wilhite - No.

163  
164 Ms. Dwyer - Is there anyone in the audience who is in opposition to  
165 LP/POD-52-98, Bank of Essex – Brook Road? No opposition. Any questions by  
166 Commission members about this case? OK. Ready for a motion.

167  
168 Mr. Archer - All right. I move approval of LP/POD-52-98, Bank of  
169 Essex – Brook Road, subject to the annotations on the plan and the standard conditions  
170 for landscape plans.

171  
172 Mrs. Wade - Second.

173  
174 Ms. Dwyer - Motion by Mr. Archer and second by Mrs. Wade. All in  
175 favor say aye. All opposed say no. The motion carries.

176  
177 The Planning Commission voted to approve Landscape Plan LP/POD-52-98, Bank of  
178 Essex- Brook Road, subject to the annotations on the plans and the standard conditions  
179 for landscape plans.

180  
181 **SUBDIVISION (Deferred from the February 23, 1999, Meeting)**

182

Scandia Lake  
(January 1999 Plan)

**Wingate & Kestner for Rogers – Chenault, Inc. and Wingate & Kestner:** The 45.5-acre site is located at the eastern terminus of Scandia Road approximately one mile east of White Oak Road on part of parcel 20-A-7B and part of 7C. The zoning is A-1, Agricultural District. County water and septic tank/drainfield. (Varina) 32 Lots

183

184 Mr. Wilhite -  
185 recommends approval.

The next item is Scandia Lake (January 1999 Plan). Staff

186

187 Ms. Dwyer -  
188 Scandia Lake (January 1999 Plan)?

Is anyone in the audience in opposition to Subdivision

189

190 Ms. Quisenberry -

I would like to hear the case, Madam Chairman.

191

192 Ms. Dwyer -  
193 Agenda? All right. We will move that case, Subdivision Scandia Lake, off of the  
194 Expedited Agenda, and hear it in the normal course of cases.

You would like to take the case off of the Expedited

195

196 Mr. Vanarsdall -

You don't need a motion to do that, do you?

197

198 Ms. Dwyer -

No, I don't think so.

199

200 **SUBDIVISION**

201

Rock Spring Estates  
(March 1999 Plan)

**Grattan Associates, P.C. for Rock Spring Estates, Inc.:** The 105.1-acre site is located along the south line of Long Meadow Road approximately 550 feet north of Mill Road on parcels 13-A-1, 2, 3, and 20A. The zoning is A-1, Agricultural District. County water and Septic Tank/Drainfield. (Brookland) 43 Lots

202

203 Mr. Wilhite -  
204 1999 Plan). There is an Addendum item that appears on Page 2 of your Addendum.  
205 We are changing conditions.

The next case is Subdivision Rock Spring Estates (March

206

207 Ms. Dwyer -  
208 we are looking at the Rock Spring Estates case and there is an item on the Addendum,  
209 Page 2 of the Addendum, which deletes Condition No.11 and adds Condition No. 4.  
210 Any opposition in the audience to Subdivision Rock Spring Estates (March 1999 Plan)?  
211 No opposition.

We have to shuffle about six different sets of papers. So

212

213 Mr. Vanarsdall -

I move that Subdivision Rock Spring Estates (March 1999  
Plan) be approved, on the Expedited Agenda, with the annotations on the plan and

214

215 standard conditions for subdivisions and added Conditions Nos. 11 Amended, 12, 13,  
216 and then on Page 2 of the Addendum, a new condition, and I'll have to go back and  
217 delete No. 11 and add a new condition which is stated here as Condition No. 4. That is  
218 it.

219

220 Mr. Archer - Second.

221

222 Ms. Dwyer - Motion by Mr. Vanarsdall and seconded by Mr. Archer.  
223 All in favor say aye. All opposed say no. The motion carries.

224

225 The Planning Commission voted to approve Subdivision Rock Spring Estates (March  
226 1999 Plan), subject to the annotations on the plan, the standard conditions for  
227 subdivisions and the following additional conditions:

228

229 4. **NEW ADDITION** – The owner shall enter into the necessary contracts with the  
230 Department of Public Utilities for water.

231 12. The limits and elevation of the 100-year frequency flood shall be conspicuously  
232 noted on the plat and construction plans and labeled "Limits of 100 Year  
233 Floodplain." Dedicate floodplain as a "Variable Width Drainage & Utility  
234 Easement."

235 13. The roads in Rock Spring Estates Sections 1 and 2 shall have the paving  
236 completed and accepted by the County before June 30, 1999 or before final  
237 approval can be granted, whichever comes first.

238

#### 239 **LANDSCAPE PLAN**

240

LP/POD-12-98  
The Greens at  
Wyndham

HHHunt: 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 12.87-acre site is located on the east side of Wyndham Lake Drive, 1,200 feet south of Old Wyndham Drive on part of parcel 4-A-7B. The zoning is R-5C, General Residence District (Conditional). **(Three Chopt)**

241

242 Mr. Wilhite - The next case is on Page 13, Landscape Plan POD-12-98,  
243 The Greens at Wyndham. Staff recommends approval of this plan.

244

245 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-  
246 12-98, The Greens at Wyndham? We do have opposition. Just a moment, sir. Mrs.  
247 Wade, would you like to move this off of the Expedited Agenda since we have  
248 opposition?

249

250 Mrs. Wade - Is it opposition?

251

252 Ms. Dwyer - We will move this off of the Expedited Agenda, sir, and  
253 we will hear it in the normal course of business.

254  
255 Mrs. Wade - In the meantime, if the applicant with his plan would like  
256 to meet with you outside, they can inform you earlier what it is.

257  
258 Ms. Dwyer - Is there a representative here for this case who can speak  
259 to the citizen who has a question? No one. The Greens at Wyndham, LP/POD-12-98,  
260 H. H. Hunt? Thank you. We don't have anyone to connect you with at this point. All  
261 right.

262  
263 Mrs. Wade - Since they think they are expedited, they may not be  
264 coming.

265  
266 Ms. Dwyer - There is no assurance that the case will be, in fact,  
267 expedited if we place it on the agenda. OK. We will see how things develop then.

268  
269 Mrs. Wade - Mr. Strauss, where did he go?

270  
271 Ms. Dwyer - Next case, Mr. Wilhite.

272  
273 **LANDSCAPE & LIGHTING PLAN**  
274

LP/POD-17-98 Church Road Dental Office	<b>Balzer &amp; Associates:</b> 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 .62-acre site is located on the corner of Church Road and Barony Crescent Drive on parcel 57-A-74 NA. The zoning is O-2C, Office District (Conditional). <b>(Three Chopt)</b>
--	---

275  
276 Mr. Wilhite - The next item appears on Page 14 and is a Landscape  
277 Plan, POD-17-98, Church Road Dental Office. Staff recommends approval of this  
278 landscape plan.

279  
280 Ms. Dwyer - This is in the Three Chopt District. Is there anyone in the  
281 audience in opposition to LP/POD-17-98, Church Road Dental Office? No opposition.  
282 Are there any questions by Commission members on this case?

283  
284 Mr. Vanarsdall - Madam Chairman, we do have another one on the Revised  
285 Addendum on this case.

286  
287 Ms. Dwyer - On Page 4. Mr. Strauss. Is he available? What is the  
288 nature of the Addendum? I don't see any conditional conditions.

289



290 Mr. Strauss - There is an attached sketch which shows additional  
291 evergreen planting behind the building, in front of the fence, and there was a change in  
292 the lighting plan to wall packs. Staff requested the wall packs be removed. The  
293 applicant complied and has provided us with a lighting plan.

294  
295 Ms. Dwyer - Were you aware of that, Mrs. Wade?

296  
297 Mrs. Wade - Yes.

298  
299 Ms. Dwyer - OK. Any questions by Commission members? Ready for  
300 a motion.

301  
302 Mrs. Wade - I move that LP/POD-17-98, Landscape and Lighting Plan  
303 Revised, be approved, subject to annotations on the plans and standard conditions for  
304 landscape and lighting plans.

305  
306 Mr. Archer - Second.

307  
308 Mrs. Dwyer - We have a motion by Mrs. Wade, seconded by Mr.  
309 Archer. All in favor say aye. All opposed say no. The motion carries.

310  
311 The Planning Commission voted to approve Landscape Plan LP/POD-17-98, Landscape  
312 and Lighting Plan Revised, Church Road Dental Office, subject to the annotations on  
313 the plans and the standard conditions for landscape and lighting plans.

314  
315 **PLAN OF DEVELOPMENT**

316  
POD-19-99  
Stillman Place II –  
Mayland Drive  
**Engineering Design Associates for The Harvard  
Company L.L.C. and R & M, L.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, 13,350 square foot office building.  
The 1.422-acre site is located along the north line of  
Mayland Drive, approximately 260 feet west of  
Pemberton Road (State Route 157) on part of parcels 58-  
A-21C and 21. The zoning is O-2C, Office District  
(Conditional). County water and sewer. **(Three Chopt)**

317  
318 Mr. Wilhite - Staff would add one annotation to this plan. The applicant  
319 is wishing to use PVC type material in place of wood for the dumpster screen gates.  
320 Staff is OK with this. This would be similar to what has been used at Libbie Place  
321 Shopping Center for a buffer fence. With that change as an annotation to the plans,  
322 staff could recommend approval.

323

324 Ms. Dwyer - Is there anyone in the audience in opposition to POD-19-  
325 99, Stillman Place II – Mayland Drive? No opposition. Any questions by Commission  
326 members on this case?  
327

328 Mrs. Wade - Were all of your questions and comments responded to  
329 satisfactorily, Mr. Wilhite?  
330

331 Mr. Wilhite - Yes, ma'am.  
332

333 Mrs. Wade - The buffers and everything?  
334

335 Mr. Wilhite - Yes.  
336

337 Ms. Dwyer - And there is nothing on the Addendum about this case?  
338

339 Mr. Wilhite - No, just the one annotation.  
340

341 Mrs. Wade - There was some questions about building materials, about  
342 trees, and they have answered, all of those, to your satisfaction?  
343

344 Mr. Wilhite - Yes, ma'am, they have. The building materials will be  
345 the same color and type to match Stillman Place I approved a couple of months ago,  
346 and there is a storm sewer and easement in the buffer, however, it is supposed to be a  
347 private easement and the line will be deep enough to add additional planting, and if  
348 there is a problem, there is some additional compensating area that will allow additional  
349 screening material.  
350

351 Mrs. Wade - All right, thank you.  
352

353 Ms. Dwyer - Any other questions from Commission members on this  
354 case? Ready for a motion.  
355

356 Mrs. Wade - I move that POD-19-99, Stillman Place II – Mayland  
357 Drive, be approved. That is not a revised plan, is it?  
358

359 Mr. Wilhite - No, ma'am.  
360

361 Mrs. Wade - They just responded to your annotations?  
362

363 Mr. Wilhite - Yes.  
364

365 Mrs. Wade - Subject to the annotations, standard conditions, and added  
366 conditions Nos. 9 and 11 Amended and conditions Nos. 23 through 29, be approved,  
367 and it is on the Expedited Agenda.  
368

369 Mr. Vanarsdall - Second.

370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406

Ms. Dwyer - We have a motion by Mrs. Wade and a second by Mr. Vanarsdall. All in favor say aye. All opposed say no. The motion carries.

The Planning Commission voted to approve Plan of Development POD-19-99, Stillman Place II – Mayland Drive, subject to the annotations on the plans, the standard conditions for developments of this type and the following additional conditions:

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the issuance of any occupancy permits.
11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
25. Outside storage shall not be permitted.
26. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
27. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
28. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
29. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.

#### PLAN OF DEVELOPMENT

POD-20-99  
Glen Eagle Medical  
Building @ Glen  
Eagles Shopping  
Center – Ridgefield  
Parkway

Grattan Associates, P.C. for ITW Mortgage Investments III, Inc. and Eagles Pediatric Associates, L.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, 7,644 square foot medical office building in an existing shopping center. The 0.98-acre site is located along the north line of Ridgefield Parkway, approximately 200 feet east of Glen Eagles Drive on part

of parcel 66-A-11F. The zoning is B-2C, Business District (Conditional). County water and sewer.(Tuckahoe)

407

408 Mr. Wilhite - Finally, on Page 22, POD-20-99, Glen Eagle Medical  
409 Building. An additional annotation would need to be made to this plan, and the  
410 applicant has offered to move the location of the dumpster from the front of the  
411 building to the rear to the northwest corner of the site where there are some parking  
412 spaces right now. Also, they have offered that the dumpster screen material be the same  
413 type of material as the building, brick to match. With those changes and annotations,  
414 staff can recommend approval of this POD.

415

416 Ms. Dwyer - Is there any opposition to approval of POD-20-99, Glen  
417 Eagle Medical Building at the Glen Eagles Shopping Center on Ridgefield Parkway?  
418 No opposition. Mr. Wilhite, that change, those changes you mentioned will be  
419 annotations on the plan, then?

420

421 Mr. Wilhite - Yes, that is correct.

422

423 Ms. Dwyer - Any questions by Commission members on this case? I  
424 move that POD-20-99, Glen Eagle Medical Building @ Glen Eagles Shopping Center –  
425 Ridgefield Parkway be approved, subject to the annotations on the plan, including the  
426 new annotations we mentioned this morning and standard conditions for development of  
427 this type and additional conditions Nos. 23 through 29 on the Expedited Agenda.

428

429 Mr. Vanarsdall - Second.

430

431 Ms. Dwyer - Motion by Ms. Dwyer and second by Mr. Vanarsdall. All  
432 in favor say aye. All opposed say no. The motion carries.

433

434 The Planning Commission voted to approve Plan of Development POD-20-99, Glen  
435 Eagle Medical Building @ Glen Eagles Shopping Center – Ridgefield Parkway, subject  
436 to the annotations on the plan, the standard conditions for developments of this type and  
437 the following additional conditions:

438

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

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

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

- 447 26. Insurance Services Office (ISO) calculations must be included with the utilities  
 448 plans and contracts and must be approved by the Department of Public Utilities  
 449 prior to the issuance of a building permit.  
 450 27. No merchandise shall be displayed or stored outside of the building(s) or on  
 451 sidewalk(s).  
 452 28. The ground area covered by all the buildings shall not exceed in the aggregate  
 453 25 percent of the total site area.  
 454 29. An irrigation system must be provided in all landscape areas.

455  
 456 Ms. Dwyer - Thank you, Mr. Wilhite. Is there anything else on the  
 457 Expedited Agenda?

458  
 459 Mr. Wilhite - No, ma'am. Not that staff is aware of.

460  
 461 Mr. Vanarsdall - Madam Chairman, I don't believe, on the one we had at  
 462 Our Lady of Lourdes Church, I don't believe I picked up the Addendum. Yes, I think I  
 463 did. I don't see what it changes.

464  
 465 Ms. Dwyer - It is just a revised plan on that one.

466  
 467 Mr. Archer - Yes, I think you made that insertion.

468  
 469 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**

470

Subdivision	Magisterial District	Original No. of Lots	No. Remaining Lots	Previous Extensions
Darbytown Meadows Cluster Lot (March 1994 Plan)	Varina	218	63	4
Harvest Crest (March 1996 Plan)	Fairfield	99	53	2

471  
 472 Mr. Wilhite - Staff can recommend one-year extensions for both of these  
 473 subdivisions appearing on the agenda.

474  
 475 Ms. Dwyer - Is there anyone in the audience in opposition to  
 476 Subdivisions Extensions of Conditional Approval for Darbytown Meadows or Harvest  
 477 Crest? No one to speak to those subdivisions? Do I have a motion?

478  
 479 Mr. Vanarsdall - I move that Subdivision Extensions of Conditional  
 480 Approval be approved as recommended by staff.

481  
 482 Mr. Archer - Second.

483

484 Ms. Dwyer - We have a motion by Mr. Vanarsdall and a second by Mr.  
485 Archer. All in favor say aye. All opposed say no. The motion carries.

486  
487 The Planning Commission voted to approve Subdivisions Extensions of Conditional  
488 Approval for Darbytown Meadows Cluster Lot (March 1994 Plan) and Harvest Crest  
489 (March 1996 Plan) for 12 months until March 22, 2000.

490  
491 Ms. Dwyer - Now we begin the regular portion of our agenda, Mr.  
492 Secretary.

493  
494 **PLAN OF DEVELOPMENT (Deferred from the February 23, 1999, Meeting)**

**POD 9-99** Draper Aden Associates for The Collegiate School:  
Collegiate Upper School – Request for approval of a plan of development as  
Science Building required by Chapter 24, Section 24-106 of the Henrico  
County Code to construct a two-story, 23,500 square  
foot science classroom building. The 1.19-acre portion  
of the site is located on the southeast corner of  
Mooreland Road and Tarrytown Drive on part of  
parcels 112-A-1 and 112-A-2. The zoning is R-2, One-  
Family Residence District. County water and sewer.

495  
496 Ms. Dwyer - Is there anyone in the audience in opposition to POD-9-  
497 99, Collegiate Upper School Science Building? There is opposition. We will get to the  
498 opposition in a moment. First we will go ahead and hear from staff.

499  
500 Mr. Wilhite - This POD was deferred from the February 23, 1999  
501 meeting and since that time staff has received a number of letters from the  
502 neighborhood concerned about issues related to Collegiate School. Staff has also  
503 attended a number of meetings with Collegiate, the neighborhood, and other County  
504 staff and officials, including last night. The concerns addressed by the neighborhood  
505 deal with traffic, the use of the entrance off of Sierra Road, questions about drainage  
506 and flood plain impacts along the eastern property line of Collegiate and the adjacent  
507 neighborhood, the issue of buffers between the school and the neighborhood and, also,  
508 what plans Collegiate has in the future for any development and the need for a Master  
509 Plan. Staff has reviewed the proposal submitted as to the Science Building and has  
510 considered its impact on these issues, as well as what the Code and regulations call for  
511 in Henrico County. It is staff's determination that the proposal meets all County Codes  
512 and policies and, therefore, staff would recommend approval of this POD. There is an  
513 Addendum item on Page 1 with an updated recommendation. I will be happy to answer  
514 any questions I can. We also have other staff members here from Traffic Engineering  
515 and Design from Public Works. They can address in more detail some of the issues  
516 that you may have questions on.

517  
518 Ms. Dwyer - Thank you, Mr. Wilhite. So, the Addendum simply states  
519 that staff recommends approval of the case.

520

521 Mr. Wilhite - That is correct.  
522  
523 Ms. Dwyer - Because, on the regular agenda you had said that you  
524 hadn't had time to complete your review of the plan.  
525  
526 Mr. Wilhite - We were still looking at some of the issues.  
527  
528 Ms. Dwyer - So, there are no changes then on the agenda?  
529  
530 Mr. Wilhite - No, and no changes to the annotations on the plan either.  
531  
532 Ms. Dwyer - So, you are recommending approval and this case then has  
533 been reviewed by the various departments within the County who review plans of  
534 development?  
535  
536 Mr. Wilhite - That is correct.  
537  
538 Ms. Dwyer - Including the drainage engineers, traffic engineers and  
539 others? And none of those departments have had any concerns about the case to the  
540 extent that they think this case should be denied?  
541  
542 Mr. Wilhite - That is correct. All of the other agencies can recommend  
543 approval based on the annotations and conditions.  
544  
545 Ms. Dwyer - OK. Thank you, Mr. Wilhite. Before we get started with  
546 the presentation by the applicant and then the presentation by those who are in  
547 opposition to the case, I would like to ask Mr. Secretary to review the Planning  
548 Commission's policy regarding time limits for cases in which we have opposition.  
549  
550 Mr. Marllles - Thank you, Madam Chairman. The Commission's policy  
551 on cases where there is opposition is to allow ten minutes for the presentation by the  
552 applicant and his representatives and ten minutes for the opposition. That is a total of  
553 ten minutes. During the period of time that questions are asked by Planning  
554 Commission members, the timer, which I monitor, is stopped, so that period is not  
555 included within that ten minutes. Often when the applicant is making his presentation,  
556 it is advisable to leave a few minutes for rebuttal, but that is his/her option.  
557  
558 Ms. Dwyer - Thank you, Mr. Secretary. As part of the staff  
559 presentation I would like for Mr. Tokarz, who is with the County Attorney's office, to  
560 come forward please, and answer a few questions and clarify a few procedural points  
561 for us. Good morning, Mr. Tokarz.  
562  
563 Mr. Tokarz - Good morning.  
564  
565 Ms. Dwyer - Thank you for being here. Mr. Tokarz, the reason we  
566 have asked you to come here today is because we often hear concerns by neighborhoods

567 about Plan of Development cases, particularly where there is controversy, and one of  
568 the concerns expressed is a concern that the County should be able to enforce the will  
569 of the neighbors or those in opposition, and should be able to exercise judgment or  
570 leverage or control over the case. One of the things, I believe that is partly due to the  
571 fact that citizens are accustomed to the Planning Commission's authority in zoning  
572 cases, and there is an assumption that appears logical on the surface, is that what the  
573 Planning Commission can do in a zoning case, the Planning Commission can also do in  
574 a plan of development case. So, if you would, just so that we are reading from the  
575 same page, would you explain for my benefit again as well as those in the audience  
576 what the difference is between a zoning case and a POD case?  
577

578 Mr. Tokarz - I would be glad to. As members of the Planning  
579 Commission know, this issue has been litigated on two occasions in the past three years  
580 in the Circuit Court of Henrico County. The matter has gone up to the Supreme Court  
581 of Virginia and the law on this is fairly clear. Unlike a zoning case where the Planning  
582 Commission makes a recommendation to the Board of Supervisors on the use of the  
583 property, whether it is used for commercial use or residential use or office use, the plan  
584 of development is a much different type of a review. Under the Code of Virginia, the  
585 authority of the Planning Commission is simply to review a plan of development prior  
586 to the issuance of building permits to assure compliance with regulations contained in  
587 the Zoning Ordinance, and so. The Supreme Court of Virginia has held that in  
588 reviewing a plan of development the review is what is called ministerial. That is as  
589 soon as the plan meets all of the requirements of the Zoning Ordinance with respect to  
590 traffic, drainage, erosion and sediment control, those types of issues, approval is  
591 required. And, so there is not the ability of the Planning Commission to impose  
592 additional conditions upon the use of the property, to accept proffers on the property,  
593 for example, or to impose conditions on the development of the property that are in  
594 excess of what is contained in the Zoning Ordinance. In this particular case, and I  
595 attended the meeting last night, as well, there are a number of concerns raised about a  
596 number of issues involving the entire Collegiate site. All of those are important  
597 concerns and are concerns that have been the subject of discussion between Collegiate  
598 and the neighborhood. I would simply say, at this particular point, given the  
599 restrictions on your authority, imposed by the State Code, your ability today is limited  
600 to reviewing the site plan that is before you, the impacts that are caused by the plan  
601 before you to address traffic and drainage, and other issues that are related to the  
602 development. I think it is a Science Building, in this particular case, but the authority  
603 does not, in this particular case, in my view, allow you to look at the broader issues  
604 that were raised last night with respect to the flood plain, with respect to traffic, with  
605 respect to other types of issues unless they are directly and approximately related to the  
606 development of the Science Building. That is a long way of saying that I think your  
607 authority, in this particular matter, is limited to the site plan before you, and you do not  
608 have the authority under the Code of Virginia and the case law that is involved to  
609 expand your authority beyond the scope of the site plan that is actually before you. If  
610 there were a Master Plan being presented for the entire development of the site, I think  
611 you could address all of those issues, but the site plan before you is a very limited one,  
612 and I think you are confined to those.



613

614 Ms. Dwyer - Since you mentioned the Master Plan, is there any  
615 requirement that the developer of say a large tract of land, although it is the school,  
616 although it is primarily fully developed, is there any requirement that a Master Plan be  
617 produced for the benefit of the County or anyone else?

618

619 Mr. Tokarz - No. In fact, there has been in the past six months an  
620 effort on the part of the staff and the Planning Commission and the Board of  
621 Supervisors to look at a proposal in which developers would proffer master plans as  
622 part of the plan of development process in order to give neighboring landowners the  
623 opportunity to have an idea of how a whole site would be developed. That is an option,  
624 though, because under Virginia law proffers are voluntary, and it was designed to give  
625 developers a chance to do fast track development. However, it is not a requirement of  
626 the County Code. It is not a requirement of the State Code, and in this particular case,  
627 a master plan has not been submitted, which the Planning Commission can hold  
628 Collegiate Schools to. Had there been such a master plan, then obviously, in the  
629 review of the site plan that is before the Planning Commission today, you would be  
630 able to relate that site plan to the master plan.

631

632 Ms. Dwyer - You mentioned that the County, including this  
633 Commission, is encouraging master plans as part of the zoning process, and a master  
634 plan could be presented as a proffer or a promise, that is, promised by the developer, in  
635 effect, that sticks with the land and runs with the land no matter who owns it. So, in a  
636 sense, a proffer is etched in stone much more than a POD is, but that is a different, that  
637 is one example of a master plan in which it would be a part of a proffer, and in which  
638 maybe the developer would promise as part of the master plan to have a certain buffer,  
639 for instance. But, you could also submit a plan, a master plan, could you not, that is  
640 more akin to a plan of development, that is, it expresses the intention of the land owner  
641 but is not a part of the zoning, is not a proffer, and is not a promise but is more a  
642 statement of intention that is designed to give everyone the benefit of the current  
643 thinking of the land owner, or, you know, the future intentions of the land owner but is  
644 not as binding as a proffer would be.

645

646 Mr. Tokarz - That is correct. At this point, and let me back up one  
647 step, the only way for the County, and I need to separate the distinction between what  
648 the County's role in the development process is and the process of negotiation between  
649 a landowner and the neighbors surrounding the landowner. The County's authority is  
650 to determine what use is to be made of the property. That is done through the zoning  
651 process. During the zoning process, proffers, including a master plan may be  
652 submitted and made binding on that property and that becomes, in effect, a part of the  
653 Ordinance with respect to that land. That is not the situation we have here. We have  
654 zoning already in place. There is not a proffered master plan in place, and, therefore,  
655 we come to the second step in the process; the step where the plan of development is  
656 submitted. You are not operating under a master plan and you are not operating under  
657 proffers, which control the development of the land. In this particular situation, there  
658 was discussion last night about a master plan being developed. Collegiate has discussed

659 developing a master plan for its own internal purposes and sharing that plan with the  
660 neighbors, and that certainly is something that people do all of the time in the plan of  
661 development process and that the County encourages, but it is not within our authority  
662 as the County at this stage of the process to require the master plan or to give it any  
663 enforcement. It does not preclude Collegiate or any other landowner in the future from  
664 binding itself and committing to developing in conjunction with that master plan, but  
665 because it is not required now and is not a part of the proffers of the case, we, the  
666 County, have no authority to enforce any such requirement.

667  
668 Ms. Dwyer - I am glad you clarified that because some of the  
669 discussion last night seemed to indicate that only if we had a master plan, then a lot of  
670 these problems would be solved and issues would be addressed, but that is not  
671 necessarily the case here, particularly since this is not a zoning case.

672  
673 Mr. Tokarz - That is correct. If Collegiate completes its master plan,  
674 and I think the time they were talking about last night, was about a year in the  
675 development of a master plan, if Collegiate completes their master plan, shares it with  
676 the neighborhood associations that are surrounding them, and there is agreement on it  
677 or agreement on most of the details, it will still not be something that is enforced by the  
678 County unless Collegiate comes in and tries to rezone the property and proffers the  
679 master plan as a part of the rezoning process.

680  
681 Ms. Dwyer - Well, in this situation, a master plan would be like a  
682 POD. It would be, it certainly would be no more than a POD. It would be a statement  
683 of intention that could be changed in the future.

684  
685 Mr. Tokarz - Well, actually it is less than a POD, because once the plan  
686 of development, and I'm talking about in general terms now, once the plan of  
687 development is approved by the Planning Commission, that has the force of the law.  
688 Collegiate Schools will have to develop the property in accordance with the POD. On  
689 the other hand, if Collegiate, without proffering it as a part of the rezoning process,  
690 developed its master plan and commits informally with the neighborhood associations to  
691 continue with that, we still would not have the authority to enforce that in the future  
692 unless it is made part of a rezoning case.

693  
694 Ms. Dwyer - Thank you.

695  
696 Mr. Vanarsdall - Well, we would have better guidelines, wouldn't we?

697  
698 Mr. Tokarz - Well, you certainly would have a better idea of what the  
699 future development is going to be, and I think the point last night, which was well taken  
700 from the neighborhood, I think which the school acknowledges, is future development  
701 of the property would be along the lines that had been discussed and negotiated with  
702 respect to buffers and traffic patterns and that type of thing. It certainly is a preferable  
703 thing to the neighborhood and apparently to Collegiate as well, because they have  
704 engaged in the process of developing it.

705

706 Ms. Dwyer -  
707 using?

Would it be a good planning tool for the County to be

708

709 Mr. Tokarz -

Absolutely, because one of the things that the traffic folks look at and the drainage people look at are the patterns of development, not only what are on the ground right now, but what is planned to be in the future.

712

713 Ms. Dwyer -

My next question, I hope it does not throw you for a loop, but it is kind of a difficult question to answer, I think, but I think it goes to the heart of the matter. We have spent some time last night and some of the meetings, and we have obviously spent some time this morning explaining the difference between a POD and a zoning case, and some of the comments last night were kind of to the effect that they felt that perhaps the County or perhaps some of the developers were relying too heavily on legalism, and my understanding of the reasons for the way the law is written to define zoning and that government's authority in a zoning case is to define a POD and to define the government's authority differently in that case, but there is an underlying theory, legal theory for that. Could you briefly enlighten us about that?

723

724 Mr. Tokarz -

I think you stated it quite well last night. The rationale for all of the zoning laws, which include the plan of development process, is to reflect that there is a tension between a right of a property owner, who has paid money for property, and plans to develop it for their own use, and the interests of those who are surrounding the property to make sure that it is developed in a way that is hopefully compatible with the use to which the landowner wishes to place it. Because of that tension, not only the federal Constitution, but the State Constitution try to assure that government's role in regulating the development of property does not amount to what is called "a taking," depriving the landowner of the rights to develop the property in a way that is in accordance with law. That ability to regulate to avoid "a taking" allows the government to prevent public nuisances, to protect the health, safety and welfare, but does not allow the government to simply describe each and every way in which the land is used. And, so the zoning laws which have been placed into effect by the General Assembly reflect a compromise between a desire to protect the public interest while still assuring private property owners the right to develop their property. I think probably the greatest protection for all of us is the fact that government authority is limited. You said last night, "The same rules that someone may wish to impose on one landowner may, in turn, be imposed upon you." And, as many of us who are property owners want to make sure that we know what the scope and reach of government authority is, and that is why there are a number of regulations and restrictions that limit the Planning Commission in this process and in this particular case. Where you have a plan of development on a piece of land that is already zoned, the government authority is strictly limited to ministerial review. It does not mean, it does not mean in any way, that the concerns that were expressed last night are not important or that the concerns are not ones that should be properly the subject of discussion between Collegiate and the neighborhood associations. It simply means that government's role in trying to help

749

750 address those concerns is limited to what is before the Planning Commission in the  
751 POD, or in a zoning case, for the use of the property.

752

753 Ms. Dwyer - Now, when you use a technical term such as “ministerial  
754 authority” which is what the Commission has in a POD case, is that like saying the  
755 Commission has the authority to perform a technical review of the plan for developing  
756 the property but cannot go beyond those technical issues as defined by the Ordinance?

757

758 Mr. Tokarz - That is correct. The formula that the Supreme Court has  
759 used is that if the landowner is ready, willing and able to meet all of the requirements  
760 of the zoning ordinance, the Planning Commission must approve the plan of  
761 development. It is a mandatory requirement. It is not a discretionary decision. And,  
762 there has been a case just in the last year which has reaffirmed the fact that plan of  
763 development approval is ministerial as opposed to discretionary. If Collegiate Schools  
764 were trying to come in and rezone, for example, land that was agricultural to  
765 residential, and to place a school upon it, the Planning Commission would be entitled to  
766 recommend and the Board of Supervisors would be entitled to deny that application if it  
767 felt that a school was incompatible with the zoning in a residential neighborhood. That  
768 is a discretionary decision when a change in the use is proposed. Here, however, the  
769 use is established. It has been zoned for over 45 years, so the only question is whether  
770 the site plan for a single building on this site can be approved because it meets the  
771 requirements of the ordinance.

772

773 Ms. Dwyer - And that was a State Supreme Court decision?

774

775 Mr. Tokarz - State Supreme Court and, in fact, there is line of cases  
776 going all the way back to 1976 coming out of James City County, and it is a precedent  
777 that has stood for over 30 years on that.

778

779 Ms. Dwyer - Any questions of Mr. Tokarz?

780

781 Mr. Donati - Yes, I have one. Mr. Tokarz, does the State Code allow  
782 for any appeal process of the POD decision?

783

784 Mr. Tokarz - The State Code does not. The County Code, I believe,  
785 has an appeal process, but the State Code does not specify it. And the reason for that is  
786 what the State Code provides is that a zoning ordinance may include general provisions  
787 governing certain enumerated topics. One of the enumerated topics is directly on the  
788 plan of development process. There are a number of areas where the Board of  
789 Supervisors in enacting a zoning ordinance has discrimination to include or not include,  
790 and as long as they are reasonable, as long as they are related to the zoning ordinance,  
791 or the zoning process, they tend to be upheld.

792

793 Mr. Donati - Thank you.

794

795 Ms. Dwyer - Any other questions of Mr. Tokarz?

796

797 Mr. Vanarsdall - I have a question. When was the property rezoned to  
798 what it is now?

799

800 Mr. Tokarz - I don't know the answer to that question. What I heard  
801 last night was that the school has been there since 1953, so my assumption is that it was  
802 zoned at least in 1953 or before, but I can't tell you.

803

804 Mr. Vanarsdall - Before conditioned zoning came into being?

805

806 Mr. Tokarz - Yes, sir.

807

808 Mrs. Wade - Long before.

809

810 Mr. Tokarz - That is true of a lot of land in the County that was zoned  
811 long before there was development around it. There are not proffered conditions to  
812 deal with the typical type of concerns that we see now in new zoning cases, such as  
813 buffers, such as traffic, such as drainage. All of those have to be addressed in new  
814 zoning cases. In cases that have been on the books and zoned in a way that allows the  
815 desired use, we do not have any leverage or ability to control those uses when there are  
816 not proffers in place.

817

818 Mrs. Wade - I think a lot of neighborhoods are finding that churches,  
819 schools and hospitals all are growing, along with the County, and so, conflicts are not  
820 unusual. Did I hear you say that an approved POD has the force of law, all aspects of  
821 the POD?

822

823 Mr. Tokarz - I believe that when the POD is approved by the Planning  
824 Commission that the applicant is bound to at least substantially conform. When I say  
825 substantially, there is some room for minor variations for field conditions. If they do  
826 not, the County has a couple of options. One, we can use any bond that has been  
827 supplied to make sure that the POD conditions have been complied with. For example,  
828 landscaping has to be provided. We have the ability to get an injunction in the Circuit  
829 Court to enforce that. And, I think we would argue that it does have the force of law if  
830 we have the ability to get an injunction. I would also point out that we have on  
831 occasion, very rarely, but on occasion, gotten a summons and initiated misdemeanor  
832 prosecution for failure to comply with the POD.

833

834 Ms. Dwyer - Any other questions?

835

836 Ms. Quesinberry - I would just like to follow up on a question concerning the  
837 State Code not allowing for an appeal of a POD but the County does allow for the  
838 appeal of a POD. How does that take place?

839

840 Mr. Tokarz - What I said was that the State Code is permissive. It  
841 allows the County to enact reasonable regulations regarding zoning, and what I meant

842 to say and what I intended to say was it does not mandate the appeal process in the  
843 State Code. But it does not prohibit an appeal process in the State Code.

844

845 Ms. Quesinberry - Therefore, the County does allow for an appeal?

846

847 Mr. Tokarz - The County does allow for an appeal.

848

849 Ms. Quesinberry - How does that happen? Is that something that a citizen  
850 initiates?

851

852 Mr. Tokarz - A citizen initiates it. I think the time period is 30 days. I  
853 have not looked at it this morning, but I think that it is 30 days. It is something that is  
854 contained in the County Code, and anyone wishing to appeal could certainly review the  
855 County Code in the Municipal Library and it is also on the Internet.

856

857 Mr. Marlles - Mr. Tokarz, just for anyone who would like additional  
858 information, an appeal must be filed by an affected property owner owning property  
859 immediately adjacent to the property subject to a plan of development. That appeal  
860 must be filed with the Secretary of the Planning Commission within 15 days of the  
861 decision and that request must be in writing. The appeal must specify the particular  
862 action or portion thereof which is being challenged and specify the basis for the appeal.  
863 I know that you don't have the Code right in front of you.

864

865 Mr. Tokarz - Thank you. I have not reviewed the appeal process this  
866 morning. I am glad you clarified it. I wouldn't want somebody to come out and think  
867 they had 30 days if they only have 15.

868

869 Mr. Vanarsdall - And I don't know whether he read this or not, but you  
870 have to be an adjoining property owner.

871

872 Mrs. Wade - An appeal goes first to the Board of Supervisors.

873

874 Mr. Tokarz - That is correct, and I would say this, the Board of  
875 Supervisors, in my view, and I think in the Supreme Court's view, is bound by the  
876 same ministerial review standard as the Planning Commission is. The Board of  
877 Supervisors does not have expanded ability to impose conditions or to do anything more  
878 than the Planning Commission does. So, any review at the Board of Supervisors' level  
879 would be subject to the same standard contained in the State Code, which would be to  
880 assure compliance with the regulations contained in the Zoning Ordinance.

881

882 Ms. Dwyer - Any other questions for Mr. Tokarz? Can we have that  
883 Code section, Mr. Secretary?

884

885 Mr. Marlles - It is Section 24-106.

886

887 Ms. Dwyer - Thank you, and thank you, Mr. Tokarz for giving us that  
888 explanation. We are going to hear from the applicant at this time, and after the  
889 applicant finishes their presentation, we will hear from the opposition, and let me just  
890 also say, I know there may be a lot of people anxious to speak. We are recording these  
891 meetings verbatim, and in order to have all of the words spoken recorded accurately,  
892 speakers need to be at the podium in front of the microphone. If you want to speak,  
893 please wait until I call on you when we get to the opposition and then you may come  
894 down and speak at the microphones.

895  
896 His name is Tom Tokarz. He is an Assistant County  
897 Attorney with the County Attorney's office. The question was "Who was the last  
898 speaker?" Mr. Axselle, would you like to reserve some time for rebuttal?

899  
900 Mr. Axselle - I would like to reserve four minutes, please.

901  
902 Mr. Vanarsdall - The General Assembly must be over.

903  
904 Mr. Axselle - Madam Chairman and ladies and gentlemen of the  
905 Planning Commission, I am Bill Axselle, and I am here on behalf of Collegiate Schools  
906 and with me is Dr. Beverly Sgro who is interim headmaster, Jeff Blanchard, who is a  
907 landscape planner and architect, who is working on the master plan, Chris Shust with  
908 Draper Aden, and other staff people. Chris is the engineer who is responsible for this  
909 work. I have come before you on a case that is both easy and hard. The easy part is  
910 that it is a fairly straightforward request with the proposal having been reviewed by all  
911 of the appropriate County agencies and with their reporting to you that it is in full  
912 compliance with all of your requirements. As Mr. Tokarz said, in your ministerial  
913 duty you must approve it. We think there is no reason for delay or denial. But, that is  
914 the easy part, if you will. The hard part is that we are also here with neighbors who we  
915 like and neighbors who we respect, but neighbors who we have some points of  
916 disagreement. Fortunately, our disagreements have been neighborly and I am sure we  
917 will continue that way. I think you will conclude after the hearing that while there are  
918 concerns that may be very sincere, they do not relate in fact to this POD. The proposal  
919 is the adding of a science building of the nature indicated, it adds no students, no  
920 employment, no traffic, and so forth. But the three concerns I believe you will hear,  
921 and these are based on a resolution we received yesterday from the Sleepy Hollow folks  
922 and things we knew from prior discussions are, 1) traffic, 2) a master plan, a need for  
923 buffering, and 3) flooding. The case was deferred at your last meeting to today. A  
924 number of meetings have taken place as reference has been made. The Sleepy Hollow  
925 Civic Association has appointed a five-person group to relay to Collegiate on the issues  
926 that have been raised. Collegiate has indicated that it will be appointing a five-person  
927 liaison group who will be working with the Sleepy Hollow folks on those issues.  
928 Collegiate has also indicated that it will have annual meetings with the Sleepy Hollow  
929 folks and semi-annual newsletters, but we do have in place, we think, the mechanism  
930 for resolving and addressing those three issues that I suggest are not related to this  
931 POD. But lets look at the first of those issues and that is traffic. The concern is that  
932 traffic on Sierra Road, and Santa Clara, but primarily Sierra Road is a problem for the

933 neighbors, both the volume and the timing and the speed of those vehicles that access  
934 Collegiate from Sierra Road. Sierra Road is a road that has been used to provide  
935 access to Collegiate since the 1950s. It is not on your map. In other words, the map  
936 that is before you shows the Science Building and Sierra would be far to the south, and  
937 the traffic problem that is there just does not relate to anything dealing with the Science  
938 Building.

939

940 Ms. Dwyer - Mr. Axselle, I wonder if we could get something on the  
941 screen which would show the larger campus so that when we refer to the Sierra  
942 entrance and cul-de-sacs and those kinds of things, we will have some reference points?

943

944 Mr. Axselle - Do you want me to pause while we do that?

945

946 Ms. Dwyer - We are pausing. You have about two more minutes  
947 before you get to the six-minute mark. We did stop the clock while we put up the map.  
948 Can everyone see that map? I know it is kind of small.

949

950 Mr. Vanarsdall - Can you show us where this road would be, Mr. Axselle?

951

952 Mr. Axselle - Yes. I am not very proficient at this. This is the science  
953 building that is under discussion. This road, Sierra Road, is still not on the map. If you  
954 will move it over further, it is still not on the map. This is Sierra Road here.

955

956 Ms. Dwyer - That is good. It shows both the Science Building and  
957 Sierra.

958

959 Mr. Axselle - The point, Madam Chairman, is that Sierra Road traffic is  
960 not related in any respect to this science building or POD. The science building will  
961 create no additional traffic and it is completely unrelated, so we suggest that it may be  
962 an issue of sincere concern, but it is not something related to this POD. The second is  
963 the master plan buffer issue. I think that concern has been expressed about the growth  
964 at Collegiate, where they are going to go, what buildings there are going to be, what  
965 the sight lines are going to be, what type of buffer there may be, and so forth, and what  
966 kind of green space there will be. Again, that is dealing with the future development,  
967 but does not relate to this particular POD. We do think that it is a very valid point,  
968 however. That is the reason that Collegiate has engaged Mr. Blanchard's firm. They  
969 are in fact preparing a POD and will be working with the neighbors to receive their  
970 input and so forth in that respect. Again, it is not related to this POD. The third is the  
971 problem of the expansion of the water in the tributary of George's Bluff, if I can go  
972 back. There is a tributary off George's Bluff that runs generally in this area behind  
973 Collegiate and behind the homes that front on Santa Clara. It drains about a 347 acre  
974 water drainage area and there are some floodings that have been occurring there, and  
975 the question is whether the flooding is because of upstream development, because there  
976 has been a lot of upstream development, or whether the problem is development taking  
977 place on the Collegiate property, or whether it is the adequacy of the County-  
978 maintained outfall facility. That is something we still need to all look at. But, the point



979 is, this POD has no impact on that particular existing problem. The County staff has  
980 reviewed the plan and has concluded, and I think they will state it to you that the water  
981 discharge from this development will not increase whatsoever. In fact, it is an  
982 improvement, but a marginal improvement. So, there is no increase in discharge. So,  
983 having said that, I may extend for another minute or two, this is the problem that needs  
984 to be addressed. The neighbors have hired an engineer. They have given us a report,  
985 and we are going to be meeting with them and trying to find a solution. Collegiate is  
986 committed to trying to find a solution consistent with what will improve it from an  
987 engineering standpoint and also consistent with their respective responsibility. I think  
988 you can see that the concerns you are going to hear are definitely sincere. They may be  
989 legitimate and we may vary a little bit in that respect, but most of them are things that  
990 we want to address and have in place a means of addressing , but they are not at all  
991 related to this POD. We hope you will follow the recommendation of your staff and  
992 approve this matter. Thank you very much.

993  
994 Ms. Dwyer - Thank you, Mr. Axselle. Any questions for Mr. Axselle  
995 by Commission members?  
996

997 Mr. Donati - Yes, I have one. Mr. Axselle, is there a BMP for this  
998 new square footage?  
999

1000 Mr. Axselle - Yes, sir.  
1001

1002 Mr. Donati - Could you tell me where it is?  
1003

1004 Mr. Axselle - I can show you. These lines are all moved, but generally,  
1005 I'll have Mr. Wilhite do it. (Mr. Wilhite erases lines on map.) This right here is the  
1006 science building, the BMP will be generally in that area. Is that correct, Chris? It is  
1007 the latter, this one here (pointing to map.)  
1008

1009 Ms. Dwyer - Behind the parking lot.  
1010

1011 Mrs. Wade - So the parking will remain?  
1012

1013 Mr. Axselle - That is a big BMP, isn't it? Yes, ma'am. I'm sorry, Mr.  
1014 Donati that I did not designate it better.  
1015

1016 Ms. Dwyer - What is the distance between the property line, the  
1017 Collegiate property line and the BMP?  
1018

1019 Mr. Axselle - I am going to have Chris address that.  
1020

1021 Mr. Chriss Shust - My name is Chris Shust and I am with Draper Aden  
1022 Associates, and I am Collegiate's engineer on this project.  
1023

1024 Ms. Dwyer - And the distance between the BMP and the property line  
1025 is what?  
1026

1027 Mr. Shust - It is approximately 180 feet.  
1028

1029 Ms. Dwyer - And the distance between the property line and the new  
1030 Science Building is what?  
1031

1032 Mr. Shust - I believe it is approximately 250 feet. That one we don't  
1033 have marked on the plans. We only have the distance for the BMP marked on the plans.  
1034

1035 Mr. Donati - Is this a wet BMP or a dry BMP?  
1036

1037 Mr. Shust - It is a design, 30-hour detention time.  
1038

1039 Ms. Dwyer - Any other questions of the applicant by Commission  
1040 members? I have a question for you, Mr. Axselle. You mentioned that while there are  
1041 issues relating to traffic that have been discussed already and which, I believe, the  
1042 neighborhood and the school has agreed to continue discussing, to continue their  
1043 dialogue, but the traffic issues are not a part of the POD. Can you explain specifically  
1044 why the traffic issues are not raised by this POD?  
1045

1046 Mr. Axselle - Because the new Science Building is being constructed  
1047 because the existing science laboratories in the building which are about 40 years old,  
1048 are of a size and a nature that is not in keeping with modern requirements and  
1049 standards. It is not to add room for additional students capacity. Collegiate has  
1050 granted their admissions for the coming year. They have taken no additional students.  
1051 There will be no more students, plus there will be no more traffic generated by this  
1052 science building. Secondly, the problems that have been brought to our attention on  
1053 traffic relate almost exclusively to the traffic coming down Sierra Road, which is at the  
1054 other end of the campus, and which, I think most everyone would say, would not in any  
1055 fact be related to the science building. It is an existing matter of concern.  
1056

1057 Ms. Dwyer - So, there will be no new students? There will be no more  
1058 capacity for additional students. Therefore, no more cars will be generated by this  
1059 proposal. The second point of contention regarding traffic is that it occurs at a different  
1060 part of the campus than this, and it is my understanding that Collegiate has closed  
1061 access between the lower school campus and the middle school campus, where this  
1062 particular POD is. Is that correct?  
1063

1064 Mr. Axselle - Yes, there was at one time a method where you come in  
1065 off of Sierra and come back to a service road, and sort of wander through the campus  
1066 to get to this area. That has, at the request of the neighbors, been taken away and is  
1067 not in place now. In fact, after the neighbors brought this concern to our attention, Dr.  
1068 Sgro mandated that all of the faculty at Collegiate were not to use Sierra Road for  
1069 access to Collegiate, with the exception being those faculty members who lived in

1070 Sleepy Hollow. A letter has also been sent to all of the patrons asking them to be  
1071 respectful of Sierra and hopefully to use River and Mooreland Road. We believe there  
1072 has been a lessening of traffic volume. Perhaps not to the satisfaction of the folks on  
1073 Sierra, but that effort has taken place.

1074

1075 Ms. Dwyer - I am looking at my file from 1997 when this Commission  
1076 approved what amounted to a master plan for the lower school. Part of that master plan  
1077 included a cul-de-sac. It is hard to show it on here since we don't have the full plan. If  
1078 you can move your dot. I am not talking about a turnaround, I am talking about a cul-  
1079 de-sac at the end of the roadway that would lead from the lower school to the middle  
1080 school. I believe that is farther to the left on the screen.

1081

1082 Mr. Axselle - OK. I really don't know where that is, so in addition to  
1083 my inability to work this thing, I don't even know where I am trying to put the dot.

1084

1085 Ms. Dwyer - We are working a bit blind here. Actually, I have my  
1086 plan from 1997 which maybe we could put on the projection table.

1087

1088 Mrs. Wade - While they do that, Mr. Axselle, is Collegiate operating to  
1089 full capacity now?

1090

1091 Mr. Axselle - Yes, ma'am.

1092

1093 Mr. Archer - Mr. Axselle, while they are focusing that, you did indicate  
1094 they are operating at full capacity now, would there be future construction required if  
1095 capacity were to be expanded?

1096

1097 Mr. Axselle - Yes, sir.

1098

1099 Mr. Archer - OK. Thank you.

1100

1101 Ms. Dwyer - I am talking about the little circular turnaround on the left  
1102 end of the screen. Now we are not working blind. My question is, when that is  
1103 constructed, would that open up a new opportunity for traffic to come into Collegiate at  
1104 the Sierra entrance and then come in to the middle school campus? What is  
1105 Collegiate's plan regarding that turnaround?

1106

1107 Mr. Jeff Blanchard - My name is Jeff Blanchard. I am with the Blanchard  
1108 Group and we have been retained by Collegiate to examine their campus plan. My  
1109 understanding of that traffic circle, that we have indicated on the left, is to facilitate  
1110 service traffic; hence the reason the circle is so large. The cafeteria is down in that  
1111 area as well as elements of the central utility plant for Collegiate, and that is to help  
1112 facilitate service traffic that would come back through there. The gate that you talked  
1113 about earlier, that has been closed, it keeps people from coming into Sierra Road and  
1114 then sneaking through the back of the campus to get to the upper and middle school side  
1115 of the campus. That has been closed. This circle would actually allow people that

1116 would try to do that to come in, turn around, and go back in the direction they are  
1117 supposed to go, and, hopefully, over time that that would discourage and diminish  
1118 people's desire to come in on Sierra Road, at least those people that are trying to sneak  
1119 through the back of the campus.

1120

1121 Ms. Dwyer - OK. Thank you. Any other questions by Commission  
1122 members of the applicant or the applicant's representative? No more questions. Thank  
1123 you, Mr. Axselle. You have approximately four minutes reserved for rebuttal. I would  
1124 like anyone who wishes to speak in opposition to this case to come forward. Everyone  
1125 who wants to speak might want to come forward and have a seat close to the podium so  
1126 that we can facilitate our speaker's movement to and from the microphone. We do  
1127 have the 10 minute rule, and I assume that there are approximately three people who  
1128 are interested in speaking and you might want to keep that in mind. Please let us know  
1129 if you would like us to give you a warning.

1130

1131 Mr. Steven Salomonsky - Yes, I apologize. I am going to talk quickly because I  
1132 feel like I am under pressure, so my friends can have adequate time. Am I on the  
1133 clock?

1134

1135 Ms. Dwyer - Not yet. Would you like us to let you know at a certain  
1136 time?

1137

1138 Mr. Salomonsky - I've got a written response, and hopefully, it won't take  
1139 more than two or three minutes. My name is Steven Salomonsky and I represent a  
1140 special committee of the Sleepy Hollow Civic Association. We have a limited  
1141 contingency of neighbors here this morning as it has been made clear to us that this  
1142 POD will be approved. We also recognize Collegiate can legally do just about anything  
1143 that they want, and we are at the mercy of their good will. Nonetheless, we would like  
1144 the record to show that well over 100 residents of Sleepy Hollow showed up at last  
1145 night's town meeting with Ms. Dwyer, Pat O'Bannon, and Collegiate, to voice their  
1146 concerns and outrage over Collegiate's unrestricted growth and the negative effects on  
1147 our neighborhood. These effects are recognized as three-fold: unsafe traffic,  
1148 inadequate buffering, and flooding. The traffic volumes on Sleepy Hollow's interior  
1149 streets are gigantic and they are the direct result of Collegiate's ingress and egress.  
1150 Cars speed at rates of up to 45 miles an hour or worse in 25 mile per hour zones. They  
1151 have been seen speeding by stopping school buses, they have narrowly missed hitting  
1152 small children. Elizabeth Dwyer has made it clear that this is not part of the POD. We  
1153 and the 56 households on this petition disagree. This traffic problem has worsened as a  
1154 result of Collegiate's ongoing construction. In fact, it was admitted last night that  
1155 Collegiate has suggested to their parents to use our internal streets in order not to  
1156 conflict with their construction on previous occasions. I think that it is naïve to think  
1157 that this POD and the associated construction in the middle of their ground will not  
1158 make a bad traffic situation worse. If you look at the plan and you see that the school  
1159 is next to a parking lot next to one of their main entrances off of Mooreland, to think  
1160 the traffic won't avoid that and won't start coming down our streets, coming in, going  
1161 down, and dropping off at that circle is just not real. I think I heard Collegiate say that

1162 they are not going to enroll anymore students as a result of this science building. I  
1163 would ask the Commission, as I am somewhat confused, is this now part of the POD  
1164 and is this now binding? I also heard that the gates will be closed? Is that now a part  
1165 of the POD and is that now binding? The buffer between Collegiate has been eroded.  
1166 We see lights at night. We hear their parties and their illegal renting of their facilities  
1167 all of the time. We see a hard hunt about 1,000 foot plus line of buildings, 30 plus feet  
1168 tall. We hear their AC equipment hum. The POD before you proposes the erosion of  
1169 a buffer by removal of an estimated 70 plus trees. The flooding of houses directly  
1170 adjacent to Collegiate is the result of Collegiate's earlier PODs and construction. There  
1171 is little doubt that the raising of their fields moved the center of the creek basin directly  
1172 to the center of the adjacent property and nearly into the ground floors. The County  
1173 records will show that they built these areas incorrectly and had to go back and remove  
1174 hundreds of cubic yards of soil to compensate. This area is believed to be filled since,  
1175 and we also believe the BMP now infringes on this area. Do your maps show that this  
1176 is not the case and has it been researched? In conclusion, we do not expect you to  
1177 enforce our will, even though it would be lovely. We would like you to recognize that  
1178 the County's zoning codes are woefully insufficient to protect single-families living in  
1179 residential areas from the growth of these supposed small schools. We beg you, the  
1180 County, to rework your Codes to afford us some protection, as Collegiate is no longer  
1181 compatible with our residential neighborhood. Thank you.

1182  
1183 Mr. Vanarsdall - I have a question for you. How long have you lived in  
1184 this neighborhood?

1185  
1186 Mr. Salomonsky - About three years.

1187  
1188 Ms. Dwyer - Is there anyone else who would like to ask a question of  
1189 Mr. Salomonsky?

1190  
1191 Mr. Archer - Mr. Salomonsky, one question, if I may. You have lived  
1192 in your house for three years, so your indication then is that this problem has arisen  
1193 within the three years that you have been in your house?

1194  
1195 Mr. Salomonsky - It has become significantly worse. I can tell you it is  
1196 paramount to a freeway coming down our street in the morning?

1197  
1198 Mr. Archer - To what do you attribute that to if it was not present when  
1199 you first moved?

1200  
1201 Mr. Salomonsky - I don't know. I would attribute it to construction and the  
1202 fact that Collegiate has made their parents aware that this rear gate exists. They have  
1203 found that they can come down Mooreland, duck down Tarrytown and come up to this  
1204 rear entrance and avoid having to get into the line for the drop-off at Mooreland. The  
1205 same problem exists on River Road where instead of going up to the traffic officer and  
1206 waiting to go in, they cut down Sleepy Hollow and come down the half a block of

1207 Sierra. I think it is fantastic to think that a half of a block street, in a dead end  
1208 residential zone, would house 600 cars a day or thereabouts.

1209  
1210 Mr. Vanarsdall - I can believe it.

1211  
1212 Ms. Dwyer - Let's see, you've asked a couple of questions. One, I  
1213 think there have been statements made about not increasing enrollment on the part of  
1214 Collegiate and the closing of the gate at that point, and if that is a part of this POD.  
1215 The answer is that it is not a part of the POD.

1216  
1217 Mr. Salomonsky - All right, could somebody just explain to me how they  
1218 just made that statement, and that appeared to me to be a promise to you as well as to  
1219 us, that this is something they were not going to do. Why is this not a part of the  
1220 POD?

1221  
1222 Ms. Dwyer - I think what I would like to do to is clarify that we are  
1223 here to review this POD and we have taken great pains to explain what the limits of that  
1224 are. I think you indicated that you understand what the limits are, although I would  
1225 disagree with you that the POD review means that Collegiate can, indeed, do anything  
1226 that they want. I don't think that is exactly the way that it is.

1227  
1228 Mr. Salomonsky - I stated that they can do essentially, essentially, what they  
1229 want to do.

1230  
1231 Ms. Dwyer - I believe Mr. Axselle in his presentation addressed the  
1232 POD initially and then addressed the other issues that we, I think, as a group, can  
1233 acknowledge are outside of the scope of the POD. So, again while we are all making  
1234 an effort to understand the problem, to get the issues on the table, and to seek some sort  
1235 of resolution, that is why we are being a little bit lenient.

1236  
1237 Mr. Salomonsky - What I was trying to get across was that we do feel like  
1238 the traffic is indeed, although not in the global picture related, it is in a finite picture  
1239 related. There will be more traffic as a result of this.

1240  
1241 Ms. Dwyer - Alright. Can you explain to me why you think that?

1242  
1243 Mr. Salomonsky - I am sorry I didn't get it across before. I don't know how  
1244 to use this thing either. I am not even going to try to. Their science building as  
1245 proposed right in the middle of their grounds, right off of one of their Mooreland  
1246 entrances also adjacent to a parking lot. To think that the parking lot and that entrance  
1247 won't be overwhelmed with construction vehicles and crews is just not real. I believe  
1248 the people that normally use the right entrances will avoid them like the plague and will  
1249 start to come in through other entrances, therefore putting more cars on our street. We  
1250 have seen this happen. It has been going on for years. Construction has been going on  
1251 at Collegiate continuously, and now we are looking at a couple of more years of  
1252 guaranteed volumes of traffic as a result.

1253

1254 Ms. Dwyer - OK, just to make sure that I understand your statement.  
1255 You are concerned that while the Science Building is being constructed there may be  
1256 some natural tendency for traffic, student traffic, to use other means of access to the  
1257 school.

1258

1259 Mr. Salomonsky - Student, parent and probably even construction traffic and  
1260 I haven't seen that Collegiate has made any allowances for this type of problem, other  
1261 than one statement which was the construction workers will park in the field across  
1262 their grounds. I am an architect and I do this for a living, and I can tell you, no  
1263 construction crew is going to park across their grounds and haul their materials back  
1264 over to the site. That is not going to happen.

1265

1266 Ms. Dwyer - Do you have any other statement that traffic is related to  
1267 the POD, any concern that beyond this construction phase, that this Science Building  
1268 would affect traffic on campus and the neighborhood?

1269

1270 Mr. Salomonsky - Yes, the neighborhood is just mortified that this is just the  
1271 beginning of continuous construction. They built a large lower school. They are very  
1272 careful in their statements to say we have no plans to increase our enrollment for three  
1273 years to five years. Just the amount of time that it takes for that lower school class,  
1274 which can potentially be increased, to move to the middle school. We don't know  
1275 where it is going to stop, which again goes back to the master plan issue. When does  
1276 all that stop and how big are they going to get? I mean, from what I understand about  
1277 the zoning code, they can essentially build from edge to edge. They can grow to 5,000  
1278 students if they want to and there is nothing that you or I can do about it. The  
1279 neighborhood is absolutely terrified of this.

1280

1281 Ms. Dwyer - You are concerned that in the future additional buildings,  
1282 additional students will be accepted into the school, and that that will cause traffic  
1283 problems?

1284

1285 Mr. Salomonsky - Absolutely. This is infrastructure. This is setting up the  
1286 school for more classrooms and more students. To us, it is obvious what is going on.

1287

1288 Ms. Dwyer - So, when the school states that this new science addition is  
1289 not going to create space for additional students, you disagree with that statement?

1290

1291 Mr. Salomonsky - I believe it will not create space for additional students  
1292 today, but I think that three years from now they will be in here to build a classroom  
1293 building on their Lacrosse Field, and their Lacrosse Field will go out to Goochland,  
1294 and then those extra students in that classroom building will then use this science  
1295 building. Otherwise, I can't explain the increase. Why the increase in classrooms?  
1296 Yes, they need to be bigger now, but you don't need more of them. It is just, their  
1297 words say one thing and their actions definitely dictate another.

1298

1299 Ms. Dwyer - Any more questions for Mr. Salomonsky?  
1300  
1301 Mrs. Wade - This isn't related exactly to the POD either, but we've  
1302 been talking about other things. You mentioned illegal renting of the facilities, and I  
1303 have heard that issue brought up in that area before. What, for instance?  
1304  
1305 Mr. Salomonsky - I believe it was mentioned last night that they have taken  
1306 out an ad in *Style Magazine* for the rental of their facilities. They have a rental phone  
1307 number in the phone book, and I don't believe, and I am not a lawyer by any means  
1308 and have not researched it in depth, but they are not to be renting their facilities other  
1309 than for uses for the benefit of the students. It is going on, and it is going on very  
1310 regularly, and I believe the proper authority at the County will be getting notices from  
1311 the civic association informing them of that. I want to paint the picture of the growth  
1312 problem, and the way this neighborhood has been pushed to the brink.  
1313  
1314 Mrs. Wade - Thank you.  
1315  
1316 Ms. Dwyer - Any more questions of Mr. Salomonsky?  
1317  
1318 Mrs. Wade - Is Mr. Tokarz prepared to respond to that today?  
1319  
1320 Mr. Tokarz - I first heard of this yesterday morning, and what I believe  
1321 would be helpful in resolving this question would be a list of the rentals that have been  
1322 conducted at the school over a period of time. I think there is at least a legitimate  
1323 question as to whether the use of the facilities out there are educational uses within the  
1324 meaning of the Code, or whether there is something more. I am not prepared to give  
1325 any type of opinion as to whether it is appropriate, because I don't know what the uses  
1326 are.  
1327  
1328 Mrs. Wade - Well, everything is educational nowadays.  
1329  
1330 Mr. Tokarz - Well, I am not sure that the Marilyn Manson concert  
1331 would be, but I don't think Collegiate would have Marilyn Manson anyway.  
1332  
1333 Ms. Dwyer - Next.  
1334  
1335 Mr. Anthony Juranis - My name is Anthony Juranis and I live at 204 Santa Clara  
1336 Drive and I would appreciate it if you would put the other mike back. With the OK of  
1337 the Chairlady, I would appreciate it if I could pass this to the other members, if  
1338 possible? It is an engineers study.  
1339  
1340 Ms. Dwyer - Certainly. Hand it to me and I will pass it around.  
1341  
1342 Mr. Juranis - The other mike, please. Well, anyhow, that study was  
1343 done by Resource International and we did it last week, a spur of the moment thing. I  
1344 want it to be part of the record. I am the lowest man on the block. The construction of



1345 1991, and you can see the picture over there where the creek used to be, moved it over  
1346 about 50 feet closer to my property. I am directly behind the tennis courts. It was set  
1347 in 1991, there was a 12 inch pipe constructed which drains all of the fields in the area.  
1348 Of course, with the construction of the arts building the creek was shifted over about 15  
1349 feet. I'm not going to say anymore, because Mr. Axselle said we might come to some  
1350 sort of compromise to solving the water problem. I will take the benefit of the 15-day  
1351 window that was explained by the lawyer.

1352  
1353 Ms. Dwyer - Thank you. Any questions by the Commission members?  
1354 Thank you so much. We do have a copy of the drainage study that you gave us, and  
1355 would you like to put that in the file?

1356  
1357 Mr. Juranis - I want it to be a part of the record for the benefit of the  
1358 15-day window.

1359  
1360 Ms. Dwyer - You have an extra copy then for the file? I have mine but  
1361 I wanted to keep it.

1362  
1363 Mr. Juranis - No, I don't. I gave them all out. I can get you one more.  
1364 You know, go ahead and put yours in there.

1365  
1366 Ms. Dwyer - And you can get me another copy? That would be great.  
1367 Thank you, sir. OK.

1368  
1369 Mr. Frank Alspaugh - Good morning, ladies and gentlemen. I am Frank  
1370 Alspaugh and I also live on Santa Clara. My property backs up to the Collegiate  
1371 School property or better said, the flood zone, the flood plain. Did I get that one in? I  
1372 think before I start on what I had to say I might answer the question that the  
1373 Chairperson had regarding how the science building impacts the traffic up at the lower  
1374 school. In their admission priorities, they give priorities to teachers that have children.  
1375 Say they are a teacher in the upper school. If she wants to drop her kid off in the lower  
1376 school, that would be an example of where that teacher would use the lower school  
1377 gate. Another example would be when a sibling, say like a senior wants to use that  
1378 lower school gate, the senior, a new senior, because they are planning in the POD  
1379 23,500 square feet of additional space, that senior would drive around and take the  
1380 sibling and drop the younger child off at the lower school before he moves on up to  
1381 park at the upper school. This is just a partial answer to the question asked of Mr.  
1382 Salomonsky. Now, I have made some notes, and I think it would be better if I run  
1383 through them. I have some questions, but we can get to the questions at the end. The  
1384 Science Building, POD-9-99, will drain directly into the flood plain channel with no  
1385 retention. In the vicinity of the building, a big 150 by 80-foot BMP basin will correct  
1386 the problem with over an acre of asphalt parking and a Lacrosse Field. Now here is  
1387 the question? Can additional paving of the Lacrosse Field be done and drained into the  
1388 same basin without creating another basin? The science building will require removal  
1389 of over 200 trees. The basin will take down more than 50 large trees. Now, that is not  
1390 shown on any of the plans. Should not this be a requirement when you are looking at

1391 the plans? There is an adjacent violation of the Lacrosse Field. In other words, the  
1392 Lacrosse Field, I don't know if I can work this thing either, but let me see. I think the  
1393 Lacrosse Field is about, I'm going to need some help. There is another map I think  
1394 that shows it and we had it on the screen a little while ago. Can we get the other map  
1395 that shows that basin?  
1396

1397 Ms. Dwyer - Everybody else has trouble with the new technology.

1398  
1399 Mr. Alspaugh - We need to move it back just a little bit to the right. OK.  
1400 That is good. Right here is the basin. That is where the 50 large trees would have to  
1401 be removed. Here is the 2-story, 23,500 square foot new science building. This is the  
1402 asphalt area, I think they refer to it as a playground. All of this will go down this ditch  
1403 and into Tony's backyard. This drainage here and this drainage here will go into the  
1404 basin, and if I am wrong, Mr. Axselle can correct me. I went down there yesterday  
1405 and I counted the trees and I saw the stakes that were put in. The stakes are three  
1406 colors; one is the boundary of construction, that is for the basin. The other which is  
1407 generally right to the east of it is the flood plain, and then a little bit to the east of that  
1408 you have wetlands. The edge, right there, not this, but right where that dot is there is  
1409 the edge of the basin, right on the edge of that Lacrosse Field. It is clearly about 40 feet  
1410 into the flood plain and is a violation. My question is not to Collegiate, it is to the  
1411 County. We are just looking for some comfort. Can the Lacrosse Field that is clearly  
1412 in the flood plain be removed? I think it will solve the problem, because it will give  
1413 additional area for the water to back up before it comes down and goes into our yards.  
1414

1415 Ms. Dwyer - For my information, could you point to which field you  
1416 are speaking of?  
1417

1418 Mr. Alspaugh - Wait a minute. Isn't this the Lacrosse Field right here? I  
1419 am not a lawyer or an engineer and I can't even work the ...it would be right here.  
1420

1421 Ms. Dwyer - OK. That is the field that you are talking about.  
1422

1423 Mr. Alspaugh - Right up here, right along that line. I think I can describe  
1424 it probably without using the red dot. You see the basin, and then just to the left of the  
1425 basin you see sort of a protrusion there. I see a dotted line. What is that dotted line?  
1426 Is that supposed to be the flood plain? Oh, the creek. OK. The flood plain cuts across  
1427 that embankment that goes down to the creek, or down to the ditch, from the Lacrosse  
1428 Field, so that embankment and maybe a part of the Lacrosse Field are clearly in the  
1429 flood plain. Can Collegiate be required to correct that violation? It would take care of  
1430 some of the fears we have that the basin itself is in the flood plain. OK. Right in here.  
1431 That is the area. If they could take that out. It is about 40 feet within the flood plain.  
1432 If they could take this area out along here, it would satisfy a lot of fears that we have  
1433 about the flooding into the backs of our houses. Now, I want to ask a question about  
1434 those trees. Fifty trees have an amazing absorption capacity, and they are going to be  
1435 taken out of the basin. That is directly related to the science building. I think maybe  
1436 there might be some other people who deserve a little time. I would just like to say

1437 this. I am a member of the Henrico County Industrial Development Authority. When  
1438 this was brought to us for the second time in December, this was a 15,000 square foot  
1439 Science Building. When the POD was filed in January, it had risen to 23,500, so I'd  
1440 like to know how that came about. That is all I have to say. But maybe somebody  
1441 could answer some of those questions.

1442

1443 Ms. Dwyer - OK. I think we will have to have some of the County  
1444 representatives who are experts in drainage come up, and I will ask them the questions.  
1445 Are there any questions of Mr. Alspaugh by Commission members?

1446

1447 Mrs. Wade - One of them might explain what is allowed in the flood  
1448 plains.

1449

1450 Ms. Dwyer - Last night, late, reviewing this engineering study that you  
1451 all have presented (tape changed over here and text is missing)

1452

1453 Mr. Alspaugh - ...employed by the Collegiate Schools. I'd like to see the  
1454 County engineers go out there and stake it out. You can superimpose a contour map  
1455 over one of these GIS maps, and it shows clearly that the end of the Lacrosse Field is in  
1456 the flood plain. That needs to be corrected, whether or not the basin is not in the flood  
1457 plain.

1458

1459 Ms. Dwyer - So you are still concerned about the flood plain even if it  
1460 is outside of the flood plain? OK.

1461

1462 Mr. Alspaugh - Yes, indeed. We want to find solutions to these things.  
1463 By far, the most important thing that has come out of all of this is what Steve  
1464 Salomonsky has addressed and that is the danger to the children and the traffic. I can  
1465 get along with a little bit more flooding, we can get along with their promise of more of  
1466 a buffer zone, but we can't get along with danger occurring to these children.

1467

1468 Ms. Dwyer - Thank you, Mr. Alspaugh. Any questions by  
1469 Commission members? Anyone else like to speak to the case? OK. I wonder if we  
1470 could have some statements, that these issues that were raised in the presentation by the  
1471 opposition relating to traffic and drainage are, in fact, related to the existing POD. So,  
1472 first I would like to ask our representative from the Traffic Engineer's office to come  
1473 forward and respond to my questions which are based on the presentations raised by the  
1474 opposition.

1475

1476 Mr. Todd Eure - Good morning. I am Todd Eure, Assistant Traffic  
1477 Engineer.

1478

1479 Mrs. Dwyer - OK. Mr. Eure, there was a concern that, well, I guess I  
1480 have to rephrase this question. I am not sure, this is not related to the POD. The POD  
1481 related concern involved increased traffic due to construction. There have been other  
1482 additional issues addressed about traffic that do not directly relate to the POD, but I am

1483 going to ask you to respond anyway, just so we have a base line of information. The  
1484 first statement had to do with traffic counts increasing in the past three years on Santa  
1485 Claire and Sierra Drive. Both of those roads serve the Sierra entrance into the  
1486 Collegiate School, which is one of three entrances. Could you review your records of  
1487 traffic counts with the Commission please?  
1488

1489 Mr. Eure - Yes, ma'am. We have historical counts for both Santa  
1490 Clara Drive and Sierra Drive, the oldest going back to 1974 on Santa Clara Drive.  
1491 What we found, and these were all 24 hours counts, was traffic going in both directions  
1492 over the course of a 24 hour period on an average weekday. These were all, to our  
1493 knowledge, done when school was in session. In 1974 there were 423 cars on the  
1494 portion of Santa Clara Drive in the vicinity of the school, in 1983, two-hundred and  
1495 twenty-five, in 1985, three hundred fifty-six, and in 1990, three hundred and fifty-  
1496 eight, and the most recent count, in 1998, was 279. That was a little bit up from the  
1497 intersection of Sierra Drive, and our base numbers are all relatively close. There could  
1498 be that much deviation within a day's period, so what that tells traffic engineers is that  
1499 the traffic volumes, at least over the past 25 years or so, has been fairly consistent on  
1500 Santa Clara Drive. As far as Sierra Drive historical count...  
1501

1502 Ms. Dwyer - I'd like to ask you a question. As I looked at the  
1503 numbers, in 1974 you clocked 423 cars and in 1998 you clocked 279, and you are  
1504 saying that those are still roughly equivalent?  
1505

1506 Mr. Eure - It is a small reduction. We may be able to get out there  
1507 tomorrow and count 400 cars. It is not inconsistent to find day to day variations. If  
1508 you had to pin me down, I would say yes. There was a decrease from 1974 to 1998,  
1509 but then if you back up several years to 1990, the number is 358, so there seems to be a  
1510 little bit of fluctuation over the years. Over time it is still looking relatively consistent.  
1511 For example, in 1983 it was 225, two years later it was up to 356, so there is some  
1512 natural fluctuations that seem to be going on, but there is not anything here telling us  
1513 that there has been a consistent and significant increase in traffic over the years.  
1514

1515 Ms. Dwyer - And in fact, as I look at your chart, of the four years prior  
1516 to 1998, it had higher traffic counts than in 1998.  
1517

1518 Mr. Eure - That is correct.  
1519

1520 Ms. Dwyer - And then your counts for Sierra Drive?  
1521

1522 Mr. Eure - Yes, ma'am. The oldest count we have on file for that  
1523 road is 1983. We had 417 vehicles a day in 1985. We had 489 in 1990. We had 524  
1524 in 1991. We had 540 for and the most recent count in 1998, and these were done in the  
1525 December time frame, we had 514.  
1526

1527 Ms. Dwyer - So, you would view those as roughly equivalent numbers  
1528 then, based on what you said about the Santa Clara numbers?

1529

1530 Mr. Eure - Roughly, yes, ma'am. There has been, with the exception  
1531 of the 1998 count, a small increase each of the years we have recorded counts, but not  
1532 a huge increase.

1533

1534 Ms. Dwyer - I know that I have heard Mr. Foster say this on many  
1535 occasions, and that is, traffic engineers don't render opinions on what is too much  
1536 traffic and what is not necessarily. When you report the numbers, they stand for  
1537 themselves, but I wonder if you could compare these numbers to other schools in  
1538 Henrico that generate traffic on residential streets. Now, you have cited some in the  
1539 past, particularly in the meeting last night, or I guess Mr. Foster cited comparative  
1540 numbers for Mayberry Elementary, Avalon and Mayberry Drive, which one of the  
1541 neighbors said was a very different street than Santa Clara. I think you have numbers  
1542 for other elementary schools that are more akin to Santa Clara and the Sierra situation  
1543 and that is almost exclusively residential streets located near a school. One of them was  
1544 Longan Elementary on Mapleview Avenue, and you had some numbers for that. What  
1545 were the numbers?

1546

1547 Mr. Eure - Longan Elementary at Mapleview Avenue would be a  
1548 residential street adjacent to a school and averages 702 vehicles per day the last count.

1549

1550 Ms. Dwyer - Longdale was another one.

1551

1552 Mr. Eure - Longdale was another one. The adjacent street there is  
1553 Cole Boulevard, which goes several blocks and pretty much dead ends. That is 792  
1554 vehicles per day.

1555

1556 Ms. Dwyer - Tuckahoe Elementary?

1557

1558 Mr. Eure - Tuckahoe Elementary, Lindsey Drive, which run  
1559 perpendicular off of Forest Avenue adjacent to the school has 1299 vehicles per day.

1560

1561 Ms. Dwyer - And Gayton I think was the last elementary school you  
1562 had on your list.

1563

1564 Mr. Eure - Yes, ma'am. To the rear of Gayton Elementary School is  
1565 Klinedale Drive, which is also residential, 25 miles an hour, that has 559 vehicles per  
1566 day.

1567

1568 Mrs. Wade - Those are all different situations.

1569

1570 Mr. Eure - We looked at pretty much all of the school in the west end  
1571 of the County and this was as close as we could get. We recognized there are some  
1572 physical differences, but this was the closest comparison.

1573

1574 Ms. Dwyer - Are there any questions of Mr. Eure by Commission  
1575 members?  
1576

1577 Mr. Vanarsdall - Yes, I have a question. When you take traffic counts, the  
1578 figures you have, are these reflected on the same days of the week and what days are  
1579 we talking about? I know you don't take them on Fridays.  
1580

1581 Mr. Eure - They are typically Tuesday, Wednesday or Thursdays,  
1582 and they are done, to our knowledge, when school is in session. For example, we were  
1583 looking to getting some additional counts out at the Collegiate area last week, but it was  
1584 Spring Break, so obviously those numbers would not be representative. On an average  
1585 weekday, which is considered Tuesday, Wednesday or Thursday, fluctuations are  
1586 minimal within those days. There are some fluctuations on Mondays and Fridays, so  
1587 we typically do not use those days.  
1588

1589 Mr. Vanarsdall - What time of the day were these taken?  
1590

1591 Mr. Eure - They are over a 24-hour period. So, they typically put the  
1592 counters out.  
1593

1594 Mr. Vanarsdall - This was not a sight count. This was the tubes.  
1595

1596 Mr. Eure - The tubes, yes, sir. They are put down probably midday  
1597 one day and picked up midday the next day, after 24 hours.  
1598

1599 Mr. Vanarsdall - So, you don't have a pattern of where the cars are going  
1600 or you don't know where they are coming from necessarily?  
1601

1602 Mr. Eure - With Collegiate, in December, we actually did do physical  
1603 observation at all of the entrance points for the school both on River Road, on  
1604 Mooreland and the rear of Sierra, and we did morning, peak and after-peak, and my  
1605 understanding out there is that the primary concern and the primary problem in the  
1606 neighborhood was with the morning peak, with the parents using the gate off of Sierra,  
1607 and we did do observations during those periods.  
1608

1609 Mr. Vanarsdall - That was what you call a short cut?  
1610

1611 Mr. Eure - Yes, sir. We did not do an origin and destination study.  
1612 We didn't trace back to when the cars were coming in the gate where they originated  
1613 from. We simply counted them as they went in the gate or as they went out of the gate.  
1614

1615 Ms. Dwyer - One final question, Mr. Eure, and this does relate to the  
1616 POD under consideration by the Commission today, and that is, how will the traffic,  
1617 internal and external, in your professional opinion, be affected by this POD, this  
1618 Science Building addition?  
1619

1620 Mr. Eure - With the review of this POD, we do not see anything that  
1621 would affect any internal changes in traffic. They are not changing any of their internal  
1622 driveways or parking lots. It is basically just an infill building, so we do not consider  
1623 that to be an issue for consideration from a traffic-engineering standpoint. Within the  
1624 greater Collegiate School area, again, because it is an internal infill building, we do not  
1625 see any long-term changes in traffic that would be a result of this POD. There is  
1626 always the possibility that construction traffic and avoidance of construction activities  
1627 may have some temporary impact. The construction people coming to and from the site  
1628 and possibly the circuitous route by parents and staff is certainly an issue that the  
1629 school, hopefully, can address. One thing they did say in the meeting last night was  
1630 that their goal was to do the bulk of the construction, the heaviest construction, in the  
1631 summer months when school is not in session. That would, at least at that point  
1632 address part of the issue.

1633

1634 Mrs. Dwyer - Would the temporary change in traffic patterns as the  
1635 result of construction be a basis for denial of the POD?

1636

1637 Mr. Eure - It has not been in the past. No, ma'am. With respect to  
1638 the gate off of Sierra, from a traffic-engineering standpoint, it seems to us that that gate  
1639 primarily serves, with the close off of the cut-through, the lower school. This is on the  
1640 upper school, a significant distance away. It does not seem that that would take a  
1641 majority of diverting traffic at that point, if there was, in fact.

1642

1643 Ms. Dwyer - Any other questions of Mr. Eure by Commission  
1644 members? Thank you, Mr. Eure. There were some questions that Mr. Alspaugh had  
1645 for or that Mr. Alspaugh posed, and I wonder if the drainage engineers could come  
1646 forward and respond to those, briefly.

1647

1648 Mr. Sam Amos - Good morning. I am Sam Amos with the Design  
1649 Division.

1650

1651 Ms. Dwyer - Mr. Amos, you are familiar with this case, and I know  
1652 you sat in on the meetings and I know you have been to meetings at night and have  
1653 reviewed the plans. I am just going to start with my notes that I made during the  
1654 presentation. And, we will go through these one by one. It is my understanding that  
1655 the basin, the BMP retention pond, is outside the flood plain. Is that correct or not?

1656

1657 Mr. Amos - That is my understanding. Yes.

1658

1659 Ms. Dwyer - Now, this is not related to the POD, but the Lacrosse  
1660 Field, is that in the flood plain?

1661

1662 Mr. Amos - In looking back through the file, I located a letter from  
1663 1983 that showed some additional fill and a letter from 1991 that talks about resolving  
1664 that additional field in the flood plain.

1665

1666 Ms. Dwyer - OK, so what that means is if I may paraphrase is certainly  
1667 there was a time in 1983 when additional fill for that field was placed in the flood plain  
1668 limits, but the County later required that to be removed, and then that was inspected to  
1669 the County's satisfaction and was corrected. Is that the way we talked about this with  
1670 the neighbors?

1671  
1672 Mr. Amos - That is the last thing that I see and it looks like it was  
1673 resolved in 1991 by this letter from the Director of Public Works.

1674  
1675 Ms. Dwyer - We are going to finish here first. OK. The next question  
1676 I heard mentioned was about the removal of trees and the consequences of that on the  
1677 drainage patterns within this area. Could you address that as it relates to this POD?

1678  
1679 Mr. Amos - Well, anytime you remove trees from an existing area,  
1680 you do have additional runoff. The trees have to be removed in order to build the basin  
1681 which is needed for water quality. So there won't be there to absorb the water that  
1682 would have been there previously, not unlike any development where you would build a  
1683 parking lot or any other improvement on the property.

1684  
1685 Ms. Dwyer - So, the addition of impervious surfaces, such as the  
1686 playground area, the building itself and the removal of trees, all of these things  
1687 contribute to an increase in runoff. How does the County handle that? If there is  
1688 increased drainage due to this development, this POD, how was that handled to the  
1689 County's satisfaction to assure that there will not be additional drainage problems  
1690 created by this development?

1691  
1692 Mr. Amos - What we look for is an adequate outfall. In this case we  
1693 have an existing creek and the hundred-year flood plain. There is no requirement that  
1694 there will be no increase from the runoff from the project. It is not a requirement that  
1695 the project store the additional water on site.

1696  
1697 Ms. Dwyer - What is the purpose then of the BMP retention pond that  
1698 is part of this POD?

1699  
1700 Mr. Amos - The POD is strictly a water quality requirement; it is not  
1701 quantity, it is based on Chesapeake Bay requirements and MPDES requirements.

1702  
1703 Ms. Dwyer - You can't hear in the back? OK. Shout. The question  
1704 was "What was the function of the BMP retention facility that is a part of this POD"?

1705  
1706 Mr. Amos - The BMP itself is a requirement for water quality, not  
1707 quantity.

1708  
1709 Mrs. Dwyer - OK, and it's retention function serves some purpose here?

1710



1711 Mr. Amos - The engineer has offered some additional detention in that  
1712 facility with his design. It is not a requirement, but he has offered it to incorporate it in  
1713 the basin itself.  
1714

1715 Mrs. Dwyer - As a result of the BMP retention basin and looking at the  
1716 impervious services and tree removal, is there going to be a net increase in the runoff  
1717 from the site?  
1718

1719 Mr. Amos - I am not sure what the final design was as far as whether  
1720 there was any increase or not. I would have to ask the consultant what his final routing  
1721 was.  
1722

1723 Ms. Dwyer - Could you come forward and identify yourself and answer  
1724 that question?  
1725

1726 Mr. Shust - I am Chris Shust with Draper Aden Associates. As Mr.  
1727 Amos stated, that basin does water quality and in addition to the water quality, we are  
1728 retaining the increase in runoff caused by the addition of the playground or the increase  
1729 in imperviousness, so the net effect to the tributary to George's Branch is a zero  
1730 increase in runoff from the existing addition.  
1731

1732 Ms. Dwyer - Thank you, sir. I think the last question I had on my list  
1733 was related to additional construction, and, again, it is not related to the POD, but  
1734 would be related to future construction, so we are speculating a bit, but the question  
1735 was, "Will additional construction be allowed to drain into this retention facility in the  
1736 future?" Maybe you can't answer that, but I expect that you can.  
1737

1738 Mr. Amos - It would certainly be possible if it were sized for that, and  
1739 the vertical elevations allowed the drainage to reach that facility, but I don't know if it  
1740 is designed for any future improvement or not.  
1741

1742 Ms. Dwyer - In your opinion, I think we have established it to the  
1743 extent that we know this facility, this BMP retention facility is not going to be in the  
1744 flood plain. Will it have an adverse effect on the flood plain?  
1745

1746 Mr. Amos - I don't anticipate an adverse effect. No.  
1747

1748 Ms. Dwyer - Would it create any other problems with the drainage  
1749 basin here that you are aware of?  
1750

1751 Mr. Amos - None that I am aware of. No.  
1752

1753 Ms. Dwyer - Is the location design and the design of this BMP adequate  
1754 and is it satisfactory to you as the County Drainage Engineer, that it meets all of the  
1755 requirements placed on this particular development?  
1756

1757 Mr. Amos - Yes it is.  
1758

1759 Ms. Dwyer - Any questions of Mr. Amos by Commission members?  
1760 Thank you sir. Mr. Axselle, I believe that you have some rebuttal time, and is that  
1761 three minutes?  
1762

1763 Mr. Axselle - Madam Chairman and members of the Commission, as  
1764 you obviously can recognize, the bulk of what we have talked about today had really no  
1765 relationship to this POD. But it is, in fact, things that we all collectively want to try to  
1766 address and so forth. A couple of points. One, I think, Frank Alspaugh made a slight  
1767 mis-statement, but I think it was an understandable one and I don't think it was  
1768 intentional when he was talking about the number of trees being taken down from the  
1769 science building. I think he said 200. I think it is 20. I think that is just a...  
1770

1771 Mr. Alspaugh - I didn't say that, and if I did, I didn't mean to. Did I say  
1772 200?  
1773

1774 Mr. Axselle - That is what I mean. That was unintentional and we  
1775 recognize that, because 200 got my attention, so I wanted to make sure that was right.  
1776 I do take, perhaps, a strong exception to some of the remarks that Mr. Salomonsky  
1777 made. I think they are factually incorrect and it needs to be so noted. Collegiate has  
1778 not identified and encouraged people to use Sierra Road. In fact, after this problem  
1779 came to their attention, they, in fact, directed their staff to not use that road. During  
1780 the time that the River Road entrance was being constructed, they did, in fact, say to  
1781 people, "You ought to use Sierra, so you don't come through the construction site."  
1782 But, that was the only time. But, to hear him tell it, we are directing people to use this  
1783 entrance. That is not the case at all, but it is the entrance that has been there since the  
1784 mid-50s and people who live in the area do, in fact, use it, and I think you have seen  
1785 from the numbers, the volumes of users have, in fact, probably declined, certainly not  
1786 increased. I made reference to the gates being closed. I want to make sure that we  
1787 know what gates we are talking about. I am talking about the gate that is internal to  
1788 Collegiate that many people use as a service road going to the middle school, going  
1789 from the lower school to the middle school. That has, in fact, been closed to try to  
1790 address some of the concerns. I was not talking about the gate on Sierra. The  
1791 neighbors have asked us to gate that and that was not referenced, and that has not been  
1792 done. We are of the opinion that the plans of development that have been approved by  
1793 the County, that our development is in full and complete compliance with those. And,  
1794 perhaps in closing, and most important than anything else, the evidence is  
1795 overwhelming that whatever concerns exist, this POD is in full compliance with your  
1796 County requirements and we would ask that you approve it. Thank you very much.  
1797

1798 Ms. Dwyer - Mr. Axselle, I do have one question. The statement was  
1799 made that the science building will be adding classrooms to the school and that it is  
1800 expected because additional classrooms are being created and room is being made for  
1801 additional students in the future. And, for that reason, the traffic concerns in the

1802 neighborhood are considered to be, or should be considered to be part of the POD. I  
1803 wondered if you could respond to that statement?

1804

1805 Mr. Axselle - I have asked Jeff Blanchard to respond to that.

1806

1807 Mr. Blanchard - Sure. The new Science Building is replacing classrooms  
1808 on the existing campus. They are in the existing science building. There are currently  
1809 four middle school classrooms and six upper school classrooms. The new science  
1810 building will provide for eight new upper school classrooms, two of which are  
1811 technology spaces. The middle schoolers which are occupying the four classrooms in  
1812 the front of the building are actually going to move back to occupy space that the upper  
1813 school vacates, allowing class size to reduce and be leveled off more to the 16-20 range  
1814 versus the 20-24 range they have now. The four classrooms that are in the front of the  
1815 existing facility will be used by other disciplines on the campus. Again, the class size  
1816 issue. So that we can manage the size of the classes, they will be more in the 16-20  
1817 range versus the 20-24 range, so there will be no increase in numbers of students as a  
1818 result of this building.

1819

1820 Ms. Dwyer - Any other questions that Commission members have of  
1821 speakers who have spoken today? Any questions by Commission members? All right.  
1822 We are ready for a motion, then on this case. I am sorry (talking to someone in the  
1823 audience – inaudible). Mr. Secretary explained to me that you have a minute and 30  
1824 seconds, so, although we don't usually have rebuttals by the opposition, we will go  
1825 ahead and make an exception at this point and allow you to use your minute and thirty  
1826 seconds if you'd like to come forward and speak only from the microphone.

1827

1828 Mr. Steve Salomonsky - I am Steve Salomonsky. I think what I just heard Dick  
1829 say on the classrooms is that there indeed will be more classrooms, even though it was  
1830 an explanation I found to be more complicated, that there will just be less students in  
1831 each classroom. My question is, late next year, or the year after that, can you add  
1832 more students back to those classrooms, and, therefore, increase your count? I  
1833 question the semantics of how this was explained. I counted more classrooms, just less  
1834 students in each one.

1835

1836 Ms. Dwyer - Thank you sir. Anyone else? You have a minute and 55  
1837 seconds.

1838

1839 Mr. Alspaugh - I am familiar with the first tradeoff of property, but how  
1840 can something that has been filled in be a tradeoff for anything? I thought you had to  
1841 take something out for it to be a trade off. So, that is the first question that I have.  
1842 Before we had the Lacrosse Field, and before the tennis courts moved down there,  
1843 there was a field there, and the P. D. Jacobs Athletic Center. P. D. is a friend of mine  
1844 and his wife, Scottie, is still a friend of mine. Part of that was taken off of that open  
1845 field to satisfy a violation of the athletic center, I believe. There have been violations  
1846 up and down those tubes. If you look at a topo map, it looks like a wall along there,

1847 they are so close together. But, they are still in violation on that Lacrosse Field and if  
1848 that could be corrected I think it would help the problem.

1849

1850 Ms. Dwyer - Mr. Alspaugh, that's OK. I have a question for someone  
1851 else, not you, that is related to that. (Someone else in the audience speaks up, voice  
1852 inaudible and not picked up.) You have five seconds, not really, but if you can make it  
1853 short. I've never known you to be short.

1854

1855 Mr. Alspaugh - In reference to Mr. Amos talking about quality control,  
1856 you are going to put more square footage, that means you are going to increase the flow  
1857 of the water into the creek. The question came up in 1991, and I pointed out to them  
1858 then that the construction was going to increase the flow of the water and change the  
1859 channel which it already has, and bring it within two inches of my front door when it  
1860 rains three inches, average. When that storage facility fills up and Mother Nature puts  
1861 in more water, that means that the water will run quick off the construction side and the  
1862 water is going to spread quickly and I want to know who is going to be responsible  
1863 when the water gets to my front door. Thank you very much.

1864

1865 Ms. Dwyer - I have a question, not for you. I am not sure who to ask.  
1866 You may sit down. The question relates to concerns the neighbors have about existing  
1867 violations on the property. If there was a concern about an existing violation, either fill  
1868 in a flood plain or whatever, failure to comply with the POD, or to comply with an  
1869 administrative requirement, what avenue is available to the neighbors to have that  
1870 investigated and then eventually corrected? Who would like to answer that question?  
1871 Mr. Wilhite. Thank you.

1872

1873 Mr. Wilhite - All of the approved items on your POD are enforceable.  
1874 The Planning Office has the responsibility of enforcing that, and we do accept  
1875 complaints and we will have inspectors go out and take a look at the situation.  
1876 Sometimes we have to get other agencies involved depending on what areas are being  
1877 checked out, but the Code does address that and the Planning Office is responsible for  
1878 enforcement.

1879

1880 Ms. Dwyer - So, the answer then is to call the Planning Office and...

1881

1882 Mr. Wilhite - Yes, call the Planning Office and our Zoning Inspectors  
1883 will go out and take a look at the site.

1884

1885 Ms. Dwyer - Because the POD as approved is enforceable? OK. Thank  
1886 you, sir. All right, I think we have finished with the speakers and it is time for a  
1887 motion on the case. I want to say to my fellow Commission members, we don't  
1888 normally spend over an hour and a half on POD cases, so I thank you for your  
1889 indulgence.

1890

1891 Mr. Archer - Could I extend it for just 10 more seconds? I would just  
1892 like to say that I think the preparation for this case has certainly been educational for all

1893 of us in this room. It probably will serve to have some information or impact or cases  
1894 that come up in the future, and I also think that there are some things that have surfaced  
1895 today by Mr. Alspaugh and some of the others who have spoken that indicate that there  
1896 may be some, maybe not intentional, violations of agreements or ordinances, that we  
1897 may be able to correct by virtue of the fact that you have expressed them. We  
1898 appreciate that.

1899  
1900 Mr. Donati - Madam Chairman, I would just like to make a comment.  
1901 I just hope that all of the drainage problems have been adequately addressed here,  
1902 because I can give you an example of a new elementary school that was built in my  
1903 district not too long ago, that all of the calculations were made, all of the design was  
1904 made and it was not supposed to affect the neighborhood, but it has, and people are  
1905 having to live with it. I just hope they are adequately addressed here. Sometimes their  
1906 intentions are really good and the design is supposed to be good, but it doesn't work all  
1907 of the time. I'd like to point that out.

1908  
1909 Ms. Dwyer- Any other comments by Commission members? As I  
1910 started to say, this is a complex case in some ways. I think it is a disservice to say that  
1911 there is a simple answer to many of the issues that were raised. For example, we have  
1912 talked about some long-standing traffic concerns that the neighbors have, but we must  
1913 understand that the simple solution of putting a gate at the Sierra entrance does not  
1914 remove traffic. We still are going to have the same amount of traffic that we always  
1915 had; that traffic will be dumped on other streets within the Sleepy Hollow neighborhood  
1916 on the streets of Tarrytown and Mooreland, as Mr. Foster mentioned yesterday, and I  
1917 think we can all understand that a solution such as closing the gate does not eliminate  
1918 the traffic. It only diverts it to another street in the same neighborhood. As far as the  
1919 drainage is concerned, I know a number of issues have been discussed at length. We  
1920 have had many lengthy meetings, including engineers representing the neighborhood,  
1921 engineers representing the school, and engineers representing the County. There are  
1922 definite concerns on the part of neighbors about existing drainage issues. Another thing  
1923 to recall is that according to a survey done, I believe it was in 1978, the neighbor's  
1924 yards that are adjacent to the property line for Collegiate do include flood plain  
1925 themselves, so there is flooding within those areas that is, as I understand it, not due to  
1926 construction but due to the natural topography of the land. The fact is that we have a  
1927 creek, creeks flood. There are wetlands nearby and part of those wetlands in the flood  
1928 plain lie within the neighborhood. So, the drainage issue, in particular, is extremely  
1929 complex. Our concern today however is how does this POD affect the traffic and how  
1930 does this POD affect the drainage? Acknowledging that there may be outstanding  
1931 traffic issues and there are outstanding drainage issues, as Mr. Tokarz' eloquently  
1932 stated at the beginning of our meeting, State law and Constitutional law limits the  
1933 authority of this Commission to the existing POD and the consequences and effects of  
1934 this POD. And, I think that we have discussed at length reasons for that and the basis  
1935 for that. I'd like to applaud the neighborhood and school for the efforts that they have  
1936 put forth thus far to surface the issues, to get them on the table. I believe the school  
1937 has been highly sensitive to the neighborhood's concerns. You heard last night from  
1938 the person who is Chairman for the Board of Trustees for the school and it was

1939 mentioned again today. They are appointing a committee of members that will provide  
1940 continuity in the relationship between the neighborhood and the school to semi-  
1941 annually, twice a year, address concerns of mutual interest to the school and the  
1942 neighborhood. It is through that contact that I believe the long-term, long-range traffic  
1943 issues and drainage issues will be hammered out and resolved. This is not the forum to  
1944 do that, because that is beyond the scope and purview of this Commission's review and  
1945 authority here today. But turning my attention now to the issues of the POD that has  
1946 been presented to this Commission that we have been asked to approve. We have heard  
1947 from the County experts in the traffic and drainage areas, in particular, from Mr.  
1948 Wilhite in the Planning Office, who has spearheaded the review of this POD, and they  
1949 have reviewed it and found this POD does meet applicable ordinances and laws, as Mr.  
1950 Tokarz has indicated. That dictates the action of this Commission, which is to approve  
1951 this POD as presented. Therefore, I move approval of POD-9-99, Collegiate Upper  
1952 School – Science Building, including annotations on the plans, standard conditions for  
1953 developments of this type and additional conditions Nos. 23 through 27, and I would  
1954 like to bring back the landscape plan and the lighting plan for this development for an  
1955 additional public hearing. That will give the neighborhood another opportunity to  
1956 review the landscaping because there were a lot of concerns raised about the adequacy  
1957 of the landscaping to shield the neighborhood from this development. I move, as a  
1958 part of my motion that Nos. 9 and 11 be amended, and what that means, in real  
1959 language, is that the lighting plan and the landscape plan will come back to the  
1960 Commission and the neighborhood will receive notice of those hearings.

1961  
1962 Mr. Vanarsdall - I second the motion.

1963  
1964 Ms. Dwyer - We have a motion by Ms. Dwyer and a second by Mr.  
1965 Vanarsdall. All in favor of the motion say aye. All opposed say no. The motion  
1966 carries.

1967  
1968 The Planning Commission voted to approve POD-9-99, Collegiate Upper School-  
1969 Science Building, subject to the standard conditions for developments of this type, the  
1970 annotations on the plan, and added conditions Nos. 9 and 11 Amended and Nos. 23  
1971 through 27 shown below:

- 1972  
1973 9. **AMENDED** – A detailed landscaping plan shall be submitted to the Planning  
1974 Office for review and Planning Commission approval prior to the issuance of  
1975 any occupancy permits.
- 1976 11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan  
1977 including depictions of light spread and intensity diagrams and fixture mounting  
1978 height details shall be submitted for Planning Office review and approval.
- 1979 23. The easements for drainage and utilities as shown on approved plans shall be  
1980 granted to the County in a form acceptable to the County Attorney prior to any  
1981 occupancy permits being issued.
- 1982 24. The developer shall provide fire hydrants as required by the Department of  
1983 Public Utilities in its approval of the utility plans and contracts.
- 1984 25. Outside storage shall not be permitted.

- 1985 26. Any necessary off-site drainage easements must be obtained in a form  
 1986 acceptable to the County Attorney prior to final approval of the construction  
 1987 plans by the Department of Public Works.  
 1988 27. Insurance Services Office (ISO) calculations must be included with the utilities  
 1989 plans and contracts and must be approved by the Department of Public Utilities  
 1990 prior to the issuance of a building permit.

1991  
 1992  
 1993  
 1994  
 1995  
 1996  
 1997

**SUBDIVISION (Deferred from the December 15, 1998, Meeting)**

Effinger Drive (June 1998 Plan) (A Dedication of Effinger Drive)	TIMMONS for Edward E. West, Jr., Et Als, Magnolia Development, LLC and Velpar Investment Inc.: The road extends westwardly from Mechanicsville Turnpike, approximately 1,000 feet to its terminus and is located approximately 700 feet south of the Showplace entrance on part of parcels 128-A-2, 3, 7, and 9. The zoning is M-2, General Industrial District and B-3, Business District. (Fairfield) 0 Lot
---	--

1998  
 1999  
 2000  
 2001  
 2002  
 2003  
 2004  
 2005  
 2006  
 2007  
 2008  
 2009  
 2010  
 2011  
 2012  
 2013  
 2014  
 2015  
 2016  
 2017  
 2018  
 2019  
 2020  
 2021

Ms. Dwyer - Is there anyone here in opposition to subdivision Effinger  
 Drive (June 1998 Plan)? No opposition.

Mr. McGarry - Good morning, Madam Chairman, and members of the  
 Commission. You are being handed a revised plan. This plan replaces the one in your  
 agenda packet. The one in your packet is from May of last year. I also have a copy of  
 the plan on your screen, if that is easier for you.

Mr. Archer - Is this the same as was on the screen?

Mr. McGarry - Yes, sir.

Mr. Archer - Oh, good.

Mr. McGarry - All right. That plan was provided to us this morning and  
 that is why I apologize for it not being on a smaller scale. Since it was received after  
 4:00 p.m. on Friday, you will need to make a motion to waive the time limit on the  
 time submission for this, and with that, the Traffic Engineer and Planning find this road  
 layout to be acceptable and can recommend approval to you. So, there needs to be two  
 motions.

Mrs. Wade - We need to waive it?

2022 Mr. McGarry - This plan was received after 4:00 p.m. on Friday, which  
2023 requires a separate motion for you to waive the limit on the time for the submission  
2024 deadline. That is one of the policies that is in your Rules. It says that any revised plan  
2025 needs to be here by 4:00 p.m. Friday. I will be happy to answer any questions.  
2026

2027 Ms. Dwyer - Any questions of Mr. McGarry about this case? Could  
2028 you just explain the difference between what we have in our packet and this one and we  
2029 can see the reserved part of Effinger Drive for future development?  
2030

2031 Mr. McGarry - The developer was unable to get VDOT to grant a median  
2032 break on Mechanicsville Turnpike, and the plan that was in your packet assumed that  
2033 he would get it and, therefore, his road originally came in centered on his frontage  
2034 from Mechanicsville Turnpike and went back into his property. Since he was unable to  
2035 achieve success with VDOT, he has now proposed a road location where there is a  
2036 median break, it is opposite St. Claire Lane, and the road configuration is the necessary  
2037 geometry that the Traffic Engineer and the developer on which they have agreed to  
2038 provide access to all of the parcels.  
2039

2040 Mr. Archer - Mr. McGarry. This is now opposite St. Claire Lane?  
2041

2042 Mr. McGarry - Yes, sir. It is.  
2043

2044 Mr. Archer - Is there any reason why this wouldn't be an extension of  
2045 St. Claire Lane instead of a new road. Not that it makes a whole lot of difference,  
2046 since the road essentially goes nowhere, but why wouldn't it be St. Claire Lane instead  
2047 of having a new name?  
2048

2049 Mr. McGarry - The names for these roads have not been selected yet, so  
2050 if you want, let the developer know that you would like to utilize the same name. I  
2051 think that would be appropriate.  
2052

2053 Mr. Archer - I was just curious because I saw an article in the paper the  
2054 other day about the name clearing house, but I will ask Mr. West.  
2055

2056 Ms. Dwyer - Mr. McGarry, on the plan there is what looks like a  
2057 roadway in a curved area and it is labeled "1899, Page 898." Do you see what I am  
2058 referring to?  
2059

2060 Mr. McGarry - I can't read the screen.  
2061

2062 Ms. Dwyer - It is kind of above the cul-de-sac and just looks like a road  
2063 that ends between the future roadway and the proposed roadway. Is that a road?  
2064

2065 Mr. McGarry - That is. It shows the potential for a road extension should  
2066 it be needed, but it is not. Oh, that piece is a ...it is either a power easement or, it is  
2067 not an easement because Mr. West owns this as well as the other parcels. Perhaps he



2068 can explain the history of that street. It is either a rail spur or a Virginia Power  
2069 easement. Do you have any other questions of me? OK.

2070

2071 Mr. West - My name is Eugene West and I am the developer. That  
2072 easement is a transmission line owned by Virginia Power, not owned by them, but it is  
2073 an easement. We own the property. That was originally the Rappahannock Railroad  
2074 and we used it as a haul road when it was the sand and gravel operation.

2075

2076 Ms. Dwyer - It was a haul road?

2077

2078 Mr. West - Yes.

2079

2080 Ms. Dwyer - OK, so it was originally a rail line?

2081

2082 Mr. West - Yes, it was an original rail line.

2083

2084 Ms. Dwyer - So, it is not intended to be a roadway in the future?

2085

2086 Mr. West - No, ma'am.

2087

2088 Ms. Dwyer - Thank you. Any other questions by Commission  
2089 members?

2090

2091 Mr. Archer - Mr. West, does that run into Magnolia or something else  
2092 over there?

2093

2094 Mr. West - It does not run into Magnolia. We considered the  
2095 possibility of extending this road across the railroad, but the railroad has double curves  
2096 in it and it is just not practical to extend across the property towards Rady Street, which  
2097 is in the City, because of the railroad obstructions.

2098

2099 Mr. Archer - So, does anybody get to it now, until you build, until this  
2100 road is built? So there is no use for that at all right now then, that spur, the one we are  
2101 speaking about?

2102

2103 Mr. West - This is not a spur. It is a transmission line.

2104

2105 Mr. Archer - Oh, it is a power line there?

2106

2107 Mr. West - Yes, there is a power line there, right. You cannot put a  
2108 building on it. We can park under it.

2109

2110 Mr. Archer - Oh, I am sorry. I misunderstood.

2111

2112 Mr. McGarry - Mr. West's company owns all of the parcels around it.  
2113 This just happened to be the property line from long ago.

2114  
2115 Mr. Archer - Mr. West, I just had two questions, one had to be what I  
2116 just asked about, extending St. Claire Lane and renaming it. Is that a logical thing to  
2117 do, or...  
2118  
2119 Mr. West - We considered that our reason for changing the name is  
2120 that this is an industrial development and St. Claire Lane goes into residential, so it was  
2121 to keep the confusion down.  
2122  
2123 Mr. Archer - It was just a question. I didn't have any real basis for it.  
2124 And the other thing that I need to ask you, when this case was originally brought back  
2125 last June, there was an intention to build something back there that I think has now  
2126 moved to another location. Are there any plans now to – is there any known use that  
2127 you have of this right now- this is unconditional M-2 use.  
2128  
2129 Mr. West - Yes, we have been approached by a real estate company  
2130 that has another facility of the same magnitude.  
2131  
2132 Mr. Archer - The same type of facility?  
2133  
2134 Mr. West - Same type of building, correct. We don't have any  
2135 contract for it, but we have been approached, so that is why we wanted to try and get  
2136 these issues resolved so that we can adequately represent what we have and don't have.  
2137  
2138 Mr. Archer - All right. Thank you. I don't have anything else.  
2139  
2140 Ms. Dwyer - Any other questions of Commission members? I asked if  
2141 there was any opposition and anyone to speak to the case, and there was no opposition.  
2142 Is that true? No opposition. OK. Ready for a motion.  
2143  
2144 Mr. Archer - All right, Madam Chairman. First, I move to waive the  
2145 time limit for acceptance of the revised plan.  
2146  
2147 Mr. Vanarsdall - Second.  
2148  
2149 Ms. Dwyer - We have a motion by Mr. Archer, seconded by Mr.  
2150 Vanarsdall. All in favor say aye. All opposed say no. The motion passes.  
2151  
2152 The Planning Commission voted to approve the waiver of the time limit on acceptance  
2153 of the revised plan for Subdivision Effinger Drive (June 1998 Plan) (A Dedication of  
2154 Effinger Drive).  
2155  
2156 Mr. Archer - Next, I move to approve the plan subject to the  
2157 annotations on the plan and the standard conditions for subdivisions not served by  
2158 public utilities.  
2159

2160 Mr. Vanarsdall - Second.  
2161

2162 Ms. Dwyer - We have a motion by Mr. Archer and a second by Mr.  
2163 Vanarsdall. All in favor of the motion say aye. All opposed say no. The motion  
2164 carries.  
2165

2166 The Planning Commission voted to approve Subdivision Effinger Drive (June 1998  
2167 Plan) (A Dedication of Effinger Drive), subject to the annotations on the plan and the  
2168 standard conditions for subdivisions not served by public utilities.  
2169

2170 **SUBDIVISION (Deferred from the February 23, 1999, Meeting)**  
2171

Scandia Lake  
(January 1999 Plan)                      **Wingate & Kestner for Rogers – Chenault, Inc. and  
Wingate & Kestner: The 45.5-acre site is located at the  
eastern terminus of Scandia Road approximately one  
mile east of White Oak Road on part of parcel 20-A-7B  
and part of 7C. The zoning is A-1, Agricultural District.  
County water and septic tank/drainfield. (Varina) 32  
Lots**

2172  
2173 Ms. Dwyer - Is there anyone in the audience in opposition to the  
2174 Subdivision Scandia Lake (January 1999 Plan)? No opposition. Mr. McGarry.  
2175

2176 Mr. McGarry - This parcel has now been split into two halves, which is  
2177 permitted under the zoning ordinance. The C-1 portion, which is the flood plain, is no  
2178 longer a part of the subdivision. The developer owns the subject parcel with all of the  
2179 lots on it and zoned A-1. Therefore, the Planning annotation No. 3 on your plat there  
2180 has been deleted because it is not applicable. It is staff's understanding from the  
2181 engineer that a private deed requires a pedestrian connection to the C-1 portion. With  
2182 that, staff can recommend conditional approval, subject to the annotations on the plan  
2183 and the standard conditions for subdivisions not served by public utilities, and condition  
2184 No. 11 just to be safe.  
2185

2186 Ms. Dwyer - Is there anything relating to this case in our Addendum?  
2187

2188 Mr. McGarry - No, not to my knowledge.  
2189

2190 Ms. Dwyer - Any questions of Mr. McGarry on Scandia Lake? No  
2191 questions. Will the applicant come forward? Would you like to hear from the  
2192 applicant?  
2193

2194 Ms. Quesinberry - Yes.  
2195

2196 Mr. Andy Kestner - I'm Andy Kester. I am representing the applicant and I  
2197 will be happy to address any concerns that you might have.

2198

2199 Ms. Quesinberry - Yes, I have a couple of questions just to kind of clarify  
2200 this. It is a little unusual to have a piece reserved like this that is not for use of the  
2201 adjoining property owners in some way, and I just wanted you to clarify really item  
2202 No.3, that Mr. McGarry just talked about, I'm sorry, not item No.3, the pedestrian  
2203 access to this C-1 piece and where is it and why are you providing this, and do you  
2204 have information on who actually owns the C-1 piece?

2205

2206 Mr. Kestner - The pedestrian access was recorded as two separate  
2207 easements across this property, some time back in the late 70s or the early 80s. Inside  
2208 that deed it gave the owner of our parcel of land the right to relocate this easement to  
2209 where the owner chooses on a parcel of land, but it also states that we must provide  
2210 access for, I believe, the previous section of Scandia Lake and we must provide  
2211 pedestrian access down through our parcel to the C-1 land. These two separate 20 foot  
2212 easements would be coming off of both cul-de-sacs, one in the north and one in the  
2213 south of the project.

2214

2215 Ms. Quesinberry - Will those easements be recorded in the deed for the  
2216 property owners that buy those lots, then?

2217

2218 Mr. Kestner - Yes. They will be recorded on the subdivision plat. Yes,  
2219 ma'am.

2220

2221 Ms. Quesinberry - And the property owner will have knowledge of that?

2222

2223 Mr. Kestner - The property owners that are purchasing these...

2224

2225 Ms. Quesinberry - They will know when they buy these lots?

2226

2227 Mr. Kestner- Yes, ma'am.

2228

2229 Ms. Quesinberry - OK. And do you know who owns this C-1 piece?

2230

2231 Mr. Kestner - I believe the C-1 piece has gone to foreclosure. The  
2232 previous owner or maybe current owner, I am not exactly sure, was SLA, Inc. They  
2233 were the owner the last time we checked, a few weeks ago, and they were still the  
2234 owner of the property back there.

2235

2236 Ms. Quesinberry - I am a little concerned about those pedestrian access  
2237 pieces for a couple of reasons. One is, it is unclear what will happen to the C-1 piece  
2238 in the future, and in some respects, that may be very limited access, and the other  
2239 respect is the new property owners who subsequently end up owning property and  
2240 living in White Oak Circle, and in Scandia Court may find themselves subject to traffic,  
2241 excessive parking and so forth during hunting season with this piece, essentially this  
2242 island piece of property sitting back here with no owner and hunting season is upon  
2243 them. Do you see where I am going with this?

2244  
2245 Mr. Kestner - Yes. These easements, we are not going to have those by  
2246 our choice. They were previously recorded and they will follow the chain of title. I  
2247 really can't control that those easements were recorded 15 or 20 years ago. I have to  
2248 show those on the plat because they exist across that land today.

2249  
2250 Ms. Quesinberry - Can you have those removed?

2251  
2252 Mr. Kestner - I am not an attorney, but I believe that whoever those  
2253 easements were granted to, I believe that you would have to go back and get every  
2254 single person that has been given that right to sign some kind of legal agreement to  
2255 have their right removed. But this easement has been in place since the late 1970s or  
2256 the early 1980s.

2257  
2258 Ms. Dwyer - Can you point out the exact location of the easement?

2259  
2260 Mr. Kestner - No, ma'am. The easements are very vague the way they  
2261 are currently recorded. They state that with development of this subdivision that we  
2262 must provide a 20 foot access easement on each end of the property, but as far as where  
2263 they exist today, it is not really tied down where they actually are. They just state that  
2264 there is a right for the previous section of Scandia Lake to use this property and there  
2265 are a couple of old gravel roads through there, they are probably along those roads, but  
2266 the deed is written such that we are able to relocate those easements at a future point in  
2267 time if it helps us to divide our property better, and that is what we are intending on  
2268 doing.

2269  
2270 Ms. Dwyer - And who is the beneficiary of the easements in the  
2271 document?

2272  
2273 Mr. Kestner - I've got the deed. I believe it is the lot owners of Scandia  
2274 Lake, the previous sections. The easements were actually given to the land in Scandia  
2275 Lake before it was subdivided, so in my mind, if that land has been subdivided, well  
2276 then each of those lot owners has that same right.

2277  
2278 Ms. Dwyer - Have you explored the possibility of removing those  
2279 easements?

2280  
2281 Mr. Kestner - No, I have not explored it because I believe that would be  
2282 going, literally door to door and asking everyone to sign...

2283  
2284 Ms. Dwyer - I meant have you spoken to an attorney. It might be  
2285 easier than you expect.

2286  
2287 Mr. Kestner - Yes, I have met with our attorney twice on this. And, it  
2288 is in the deed, and it has been conveyed and the rights of the previous sections have the  
2289 access, so we would have to go door to door and ask everyone to sign a legal

2290 agreement removing their rights to go down to the C-1 land that they could use for  
2291 recreation or whatever they wish.

2292

2293 Ms. Quesinberry - So, what you are saying is that you will include that  
2294 pedestrian easement. We don't know exactly where it is but you will show it on the  
2295 plat.

2296

2297 Mr. Kestner - Yes, ma'am. We are required by license to have it as  
2298 long as that deed is in place, and the two easements will be coming off of the end of the  
2299 cul-de-sacs. For ease of access, what we would do would be to have one of the  
2300 easements come off of the long cul-de-sac that you see on the bottom part of the page,  
2301 and then the second easement would come off of the top two cul-de-sacs.

2302

2303 Ms. Dwyer - Are there any other questions by Commission members?

2304

2305 Ms. Quesinberry - Do you have a copy of your deed that you can leave with  
2306 Mr. McGarry?

2307

2308 Mr. Kestner - Yes, I have one copy, if I can get it back I will be more  
2309 than happy to leave it with him.

2310

2311 Ms. Quesinberry - Would you be sure he gets a copy of that by the end of  
2312 today sometime to go with this? I am ready for a motion. I'd like to move Subdivision  
2313 Scandia Lake (January 1999 Plan) be approved with the annotations on the plans and  
2314 added condition No. 11.

2315

2316 Ms. Dwyer - And this is the January 1999 Plan?

2317

2318 Ms. Quesinberry - Yes, January 1999 Plan. Thank you.

2319

2320 Ms. Dwyer - OK. Did you mention standard conditions?

2321

2322 Ms. Quesinberry - Standard conditions, the annotations on the plans and  
2323 Condition No. 11.

2324

2325 Mr. Archer - Second.

2326

2327 Ms. Dwyer - We have a motion by Ms. Quesinberry and a second by  
2328 Mr. Archer. All in favor say aye. All opposed say no. The motion carries.

2329

2330 The Planning Commission voted to approve Subdivision Scandia Lake (January 1999  
2331 Plan), subject to the annotations on the plan, the standard conditions for subdivisions  
2332 not served by public utilities and the following additional condition:

2333

2334 10. Each lot shall contain at least one-acre exclusive of floodplain areas.

2335

2336  
2337

## PLAN OF DEVELOPMENT

POD-22-99  
Four Mile Creek  
Commercial Center –  
Convenience Store

**Balzer & Associates for Essex Properties:** 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 and a half story, 4,122 square foot convenience store with fuel pumps, bank and a car wash. The 24.80-acre site is located along the south line of New Market Road (State Route 5) 1600 feet east of its intersection with I-295 on part of parcel 249-A-51. The zoning is B-3C, Business District (Conditional). County water and sewer. (Varina)

2338

2339 Ms. Dwyer - Is anyone in the audience in opposition to POD-22-99,  
2340 Four Mile Creek Commercial Center – Convenience Store? No opposition. Mr.  
2341 Moseley, are you in opposition? Thank you, sir. Just making sure. Ms. News.

2342

2343 Ms. News - The approval before you today is for a convenience store  
2344 with fuel pumps which also houses a bank and sandwich shop and a separate car wash.  
2345 Staff is satisfied that the architectural elevations provided meet proffered conditions.  
2346 The applicant has provided all brick buildings with colonial detailing, including the car  
2347 wash and the gas canopy. They have removed the red and white stripe originally  
2348 shown around the canopy and agreed to install brick columns as requested by staff.  
2349 The applicant has also agreed to use exposed aggregate sidewalks within this  
2350 development at the request of the Varina Beautification Committee. Staff would hope  
2351 and expect that this would continue to be used throughout the development. The  
2352 applicant is interested in having the master plan approved with this development which  
2353 would allow him to have subsequent PODs approved administratively by staff with no  
2354 additional presentations to the Planning Commission. Staff has determined at this time  
2355 that there is insufficient information to adequately review the master plan at any more  
2356 than a conceptual level, and is suggesting that approval of the master plan be deferred  
2357 until the May meeting. In addition, proper public notice was not given for approval of  
2358 a master plan, as it was not part of the original application. Preliminary floor plans and  
2359 elevations for all buildings will be required for master plan approval. The master plan  
2360 could be submitted concurrently then with the POD for Site B, which is expected to be  
2361 submitted shortly. The applicant has included with this request permission to clear and  
2362 grade the entire site for this development. A concern to staff is the clearing and  
2363 grading of the proffered buffer along Route 5. The original plan submitted did not  
2364 provide adequate buffer with acceptable grading in the buffer. The proffers require an  
2365 average width of 60 feet which incorporates some undulating berms. The proffer also  
2366 states that existing mature trees shall be retained wherever possible. Revised plans  
2367 showing the berms in the buffer has been submitted. It is in the plans which I will hand  
2368 out to you right now. Staff has identified one area within the buffer where it may be  
2369 possible to save trees. There appear to be several mature trees in this area; however,  
2370 the applicant contends that they are not desirable or healthy trees and that the berms

2371 with new planting will be more desirable and provide a more effective buffer between  
2372 Route 5 and the parking area. Should the trees be saved, it would be possible to  
2373 construct the berm in this section of the property. Staff has recommended a condition  
2374 in your Addendum which would allow staff to review the actual flagged trees in  
2375 conjunction with the Planning Commissioner, if she wishes, prior to making a final  
2376 decision regarding removal of all of the trees. The applicant has indicated he is willing  
2377 to plant this area with trees exceeding the minimum size requirements of the Code, and,  
2378 in addition, the applicant intends to plant the entire buffer along Route 5 in conjunction  
2379 with the first POD, which addresses staff's concerns about clearing the site. The  
2380 remaining issues regarding utilities and development of the future connection to Buffin  
2381 Road have been resolved to staff's satisfaction. Water and sewer service to this  
2382 development will be provided within the new right of way between Route 5 and Buffin  
2383 Road. Dedication of the public right of way is required as a condition of the POD.  
2384 Staff is prepared to recommend approval of the POD, recommends deferral of the  
2385 master plan, and the applicant is here to address any additional questions the  
2386 Commission may have.

2387

2388 Ms. Dwyer - Are there any questions of Ms. News by Commission  
2389 members?

2390

2391 Mrs. Wade - Did you all discuss the number of parking spaces that they  
2392 are talking about providing here versus the number required?

2393

2394 Ms. News - Yes, we did discuss it and I am sure that Mr. Ellis could  
2395 address this, because he is quite concerned with that. But he has indicated that being a  
2396 development at the intersection of an interstate, Route 295, requires additional parking,  
2397 and he feels that is needed to support this development.

2398

2399 Ms. Dwyer - Would you review again the terms of the buffer along  
2400 Route 5? It is a buffer with an average width of 60 feet.

2401

2402 Ms. News - Yes. It is an average width of 60 feet and the...

2403

2404 Ms. Dwyer - How do you calculate that?

2405

2406 Ms. News - They have provided a calculation on the plan. What they  
2407 did is measure the actual width provided across the entire frontage of this site, came up  
2408 with what the square footage would be for 60 feet, and then showed that they exceeded  
2409 that.

2410

2411 Ms. Dwyer - And it is an undulating berm or undulating buffer?

2412

2413 Ms. News - It is an undulating berm. It says "to provide some  
2414 undulating berms within the buffer".

2415



2416 Ms. Dwyer - I know we had this discussion at zoning time about having  
2417 a variable width buffer and I just wanted to make sure that we did.

2418  
2419 Ms. News - Yes, it has actually turned out to be regular or pretty  
2420 much right at 60 feet. Originally that came in with something that was very close to  
2421 Route 5 down to the minimum 35 feet; they are allowed to go to a minimum of 35  
2422 feet. They redesigned the site to not have anything that close. Actually between the  
2423 curb line and the parking lots, we have got close to 100 feet including the area that is in  
2424 the VDOT right of way.

2425  
2426 Ms. Dwyer - Any other questions for Ms. News?

2427  
2428 Mr. Archer - Ms. News, you indicated that there were trees that the  
2429 applicant has described as being not healthy. Would that be what you show as in the  
2430 potential "tree save" area?

2431  
2432 Ms. News - Yes. There are mature trees there. I do have a picture of  
2433 the front of the site if you want to see and kind of get an idea of what it looks like, but  
2434 regarding exactly which trees are in this "tree save area," it was hard to determine  
2435 because of the clearing in front and behind, which is why we have suggested that  
2436 perhaps it be flagged and we could look at them to see what we end up with, so we  
2437 didn't end up with unhealthy trees or trees that, when you clear woods around them,  
2438 sometimes you end up with an irregular crown or things that just don't look right when  
2439 it is left, and that was difficult to determine at this stage.

2440  
2441 Ms. Dwyer - Your suggestion is not to necessarily to save the trees but  
2442 to preserve them and make a decision when other clearing is done?

2443  
2444 Ms. News - Or to flag them so that they can be looked at exactly in the  
2445 field and measured and taped off, so we can get an idea of what could be saved within  
2446 this area.

2447  
2448 Ms. Dwyer - Taped off?

2449  
2450 Ms. News - Yes, with flagging tape or staked in some fashion so it  
2451 could be viewed in the field.

2452  
2453 Ms. Dwyer - Are there any other questions for Ms. News? Would you  
2454 like to hear from the applicant? Would the applicant come forward, please?

2455  
2456 Mr. Ron Green - Madam Chairman and Commission members, my name is  
2457 Ron Green and I am representing the applicant. The applicant is here, Mr. Ree Ellis,  
2458 and someone from the Varina Beautification Committee, I believe, also. We've had  
2459 many conversations with staff and we've met with (the Committee) sic, and I believe  
2460 we have resolved most of the issues. I know there are a couple of issues. I just wanted  
2461 to get an understanding on one, which I guess, is with the buffer and what we were

2462 originally anticipating the proffer to say was that we were to provide a berm within that  
2463 60 foot, an undulating berm, and that is meandering, four to five foot height, a berm of  
2464 that caliber to make a manageable berm maintenance wise, you know, with 3' to 4' and  
2465 4 to 1 slopes with a top, adequate to support new landscaping. Our anticipation was to  
2466 put that berm in. I realize that there may be some trees there if we provide the berm,  
2467 but I was under the impression that we needed to do some berming in the buffer. I am  
2468 afraid that after piping the stormsewer, the ditch is along Route 5 within the right of  
2469 way, we have not needed to provide cover over that pipe, and then provide a berm  
2470 within the 60 foot of right of way, that after that, I calculated about 36 feet or 40 feet of  
2471 berming to do undulating, and we may create pockets from a drainage point if we try to  
2472 save some areas of trees. There may be some there, but with the construction of the  
2473 berm within that buffer, I am not so sure that any trees that we try to save would  
2474 survive. I think it's a situation where you have the berm and then no trees, or you  
2475 don't have the berm and may save some trees. So, I believe that the intent was to have  
2476 the undulating berm meander through that buffer area in front of the EXXON and  
2477 actual do supplemental landscaping on top of the berm and present a berm that looks  
2478 aesthetically pleasing and is maintainable. The other issue with regard to the 60 foot  
2479 buffer average, I think staff on their plan annotated an area that may be removing one  
2480 parking space to try to achieve the average buffer for each site. In other words, across  
2481 the site of the entire frontage, we do meet the buffer requirement of an average of 60,  
2482 but I think if, what they are trying to do is show that if we take one parking space out  
2483 we meet the average with this site and others, so we prefer to leave that space in within  
2484 the development, because we do meet the proffer for 60 foot average across the  
2485 frontage. The only issue I would like to bring up is we'd like the landscape plan  
2486 condition to be amended so that staff could review that landscape and lighting plan  
2487 administratively. If you have any questions, I would be glad to answer those or Mr.  
2488 Ree Ellis may be able to help, also.

2489  
2490 Ms. Dwyer - Any questions by Commission members?

2491  
2492 Mrs. Wade - No, I was just about to ask if we shouldn't put Nos. 9 and  
2493 11 Amended on here, but that is up to Ms. Quesinberry.

2494  
2495 Mrs. Quesinberry - Did you say you had someone here from Varina  
2496 Beautification?

2497  
2498 Mr. Green - Yes, ma'am.

2499  
2500 Mrs. Quesinberry - Could we hear from that person?

2501  
2502 Mr. Mike McKay - Good morning. I am Mike McKay from Varina  
2503 Beautification Committee and the developers worked closely with us and the changes  
2504 that we had suggested to them were suggested in the staff report, and everything from  
2505 our design has been from an architectural design, not from the landscaping and we  
2506 support the staff's request.

2507

2508 Ms. Dwyer - Thank you. Any questions for Mr. McKay? Thank you.  
2509

2510 Mrs. Quesinberry - Ms. News, the outstanding issues that we have had on the  
2511 previous plan for the most part have been met?  
2512

2513 Ms. News - Yes. They have been addressed to our satisfaction with  
2514 the revised plan or they are minor notes that we will address with the construction  
2515 plans. The only thing that was changed is the traffic engineer originally asked for 150  
2516 feet to the entrance and they have agreed to the entrance which is shown, which is  
2517 about 135 feet off of Route 5, which VDOT has also agreed to.  
2518

2519 Mrs. Quesinberry - So the outstanding questions right now are delaying the  
2520 master plan – approval of the master plan until May?  
2521

2522 Ms. News - We have asked until May. We have asked the applicant to  
2523 submit some additional information to have a full master plan submittal. We felt it  
2524 would take that long to get the information together. The applicant thinks he can do it  
2525 sooner.  
2526

2527 Mrs. Quesinberry - And the issue on the landscaping is primarily the 60 foot  
2528 buffer with the berm on the frontage of the property? The rest of the landscaping is  
2529 acceptable or is above?  
2530

2531 Ms. News - Well, we have landscaping, but we have not seen any  
2532 landscaping yet, but they are agreeing to provide landscaping across the entire frontage  
2533 of this site, which I think is really good. It will really give it time to mature and give  
2534 you a nice front to Route 5 for the entire development, because we are going to have a  
2535 portion of the site, a large portion of the site that is not going to be developed that is  
2536 going to be graded, top soiled and seeded, but it will not be developed until the future  
2537 PODs come in. But, that berm would be looked at the same time as this POD, when it  
2538 comes in to landscape this convenience store.  
2539

2540 Ms. Quesinberry - And I think that it is really important that we preserve the  
2541 previous proffers with this case as it relates to the buffering that needs to take place  
2542 along the front of this property. I understand that it may at least appear at this time that  
2543 there are some trees, a few trees maybe, that are mature and savable, but it appears  
2544 from the applicant's point of view that to get in there and tag these trees when the effort  
2545 is going to be made in the grading and landscaping and provide these undulating berms  
2546 with the elevations that they are describing subsequent to landscaping on these berms,  
2547 that it may not be possible to really tag and address individual trees in that one area.  
2548 I'd like to have the applicant come back for just a moment. Did I paraphrase that fairly  
2549 accurately?  
2550

2551 Mr. Green - Yes. In other words, if we try to provide a berm, an  
2552 undulating berm within that buffer, I think from the construction aspect that between  
2553 the EXXON curb line and the grading that would take place there, the providing of the

2554 undulating berm in that buffer, as with any mature trees, you get into that area and you  
2555 try to do some type of work and stay out from underneath the canopy of the tree. I  
2556 really don't think you are going to have a situation where you actually save any trees  
2557 and with respect to the berming being pulled away from the site and not maintaining a  
2558 good sloping grade back to the EXXON site or to Route 5, we have a situation where  
2559 we may create drainage pockets and a situation where, I guess you'd call them low, wet  
2560 areas, and it would also cause problems with any existing vegetation in there. Tree  
2561 wells, I'd call it, to try to save those trees, so, in other words, if you go with a berm I  
2562 don't know that we are going to have a situation where we can save trees without, there  
2563 is a great possibility that the trees could be saved.

2564  
2565 Mrs. Quesinberry - Am I right that it is an issue to try to get in there and tag  
2566 these trees at this time?

2567  
2568 Mr. Green - Yes. It would be, maybe we could tag one and it might  
2569 live, and it may die, depending on construction and to try to assess that at this point  
2570 would be very difficult.

2571  
2572 Mrs. Quesinberry - Could you just speak briefly about the parking spaces,  
2573 because at first when you look at the plan with the required spaces and then the spaces  
2574 that are provided, one might get the perception that there is a lot of asphalt here. Could  
2575 you address that?

2576  
2577 Mr. Green - Well, with the situation where the entrance is coming in  
2578 off of Route 5 into this site, we need to be able to provide a larger area to get these cars  
2579 transitioned to those pumps with the fact that they have got a sandwich shop and a bank  
2580 in there, we need to try to provide some spaces up front versus in the back of this  
2581 particular development, and we, to provide the stacking for the car wash we eliminated  
2582 five or six spaces up front already, and we are actually limited on the amount of space  
2583 we have in front of the store so that the typical customers would use; therefore, we  
2584 would like to try to maintain as many up front as we can and as far as the asphalt area,  
2585 we reduced some of that from a previous plan, based on staff recommendation, and I  
2586 just feel like there is a necessity for that amount of area to be in there based on the  
2587 amount of traffic and activity that is going to occur on this particular site.

2588  
2589 Ms. Dwyer - OK. Are there any other questions?

2590  
2591 Mrs. Quesinberry - I would like to make a motion and move that POD-22-99,  
2592 the revised staff plan, received March 22, 1999, with the annotations on the plan and  
2593 conditions Nos. 38. I am not adding Condition No.39 to flag trees in the field, and  
2594 delaying the approval of the master plan to a later date, preferably May or sooner, if  
2595 the applicant can provide it in May or at the time the site is developed.

2596  
2597 Ms. Dwyer - And Nos. 9 and 11 Amended?

2598  
2599 Mrs. Quesinberry - Yes, Nos. 9 and 11 Amended and standard conditions.

2600  
2601 Ms. Dwyer - Is there a second?  
2602  
2603 Mr. Vanarsdall - I'll second it.  
2604  
2605 Mrs. Quesinberry - Unless you wanted to add something, Mr. Vanarsdall. I  
2606 know that sometimes you do.  
2607  
2608 Mr. Vanarsdall - No, I didn't mean that as an ugly remark.  
2609  
2610 Mrs. Quesinberry - I know.  
2611  
2612 Ms. Dwyer - Motion by Mrs. Quesinberry and second by Mr.  
2613 Vanarsdall. All in favor of the motion say aye. All opposed say no. The motion is  
2614 carried.  
2615  
2616 The Planning Commission voted to approve POD-22-99, Four Mile Creek Commercial  
2617 Center – Convenience Store, subject to the revised plan, the standard conditions for  
2618 developments of this type and the following additional conditions:  
2619  
2620 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning  
2621 Office for review and Planning Commission approval prior to the issuance of  
2622 any occupancy permits.  
2623 11. **AMENDED** – Prior to the installation of the site lighting equipment, a plan  
2624 including depictions of light spread and intensity diagrams and fixture mounting  
2625 height details shall be submitted for Planning Office review and Planning  
2626 Commission approval.  
2627 23. The right-of-way for widening of Four Mile Drive and Road A as shown on  
2628 approved plans shall be dedicated to the County prior to any occupancy permits  
2629 being issued. The right-of-way dedication plat and any other required  
2630 information shall be submitted to the County Real Property Agent at least 60  
2631 days prior to requesting occupancy permits.  
2632 24. A copy of the letter from the Richmond Regional Planning District Commission  
2633 giving approval to the street names for Four Mile Drive and Road A shall be  
2634 submitted to the Planning Office prior to issuance of a certificate of occupancy  
2635 for this development.  
2636 25. A subdivision plat for the extension of Four Mile Drive to Buffin Road shall be  
2637 submitted to the Planning Office for conditional and final approval and shall be  
2638 recorded prior to the issuance of an occupancy permit for this development.  
2639 26. The easements for drainage and utilities as shown on approved plans shall be  
2640 granted to the County in a form acceptable to the County Attorney prior to any  
2641 occupancy permits being issued.  
2642 27. The limits and elevations of the 100-year frequency flood shall be conspicuously  
2643 noted on the plan "Limits of 100 Year Floodplain." In addition, the delineated  
2644 100-year floodplain must be labeled "Variable Width Drainage and Utility

- 2645 Easement.” The easement shall be granted to the County prior to the issuance of  
2646 any occupancy permits.
- 2647 28. The entrances and drainage facilities on New Market Road (State Route 5) shall  
2648 be approved by the Virginia Department of Transportation and the County.
- 2649 29. A notice of completion form, certifying that the requirements of the Virginia  
2650 Department of Transportation entrances permit have been completed, shall be  
2651 submitted to the Planning Office prior to any occupancy permits being issued.
- 2652 30. The developer shall provide fire hydrants as required by the Department of  
2653 Public Utilities in its approval of the utility plans and contracts.
- 2654 31. The developer shall install an adequate restaurant ventilating and exhaust system  
2655 to minimize smoke, odors, and grease vapors. The plans and specifications  
2656 shall be included with the building permit application for review and approval.  
2657 If, in the opinion of the County, the type system provided is not effective, the  
2658 Commission retains the rights to review and direct the type of system to be  
2659 used.
- 2660 32. Any necessary off-site drainage easements must be obtained in a form  
2661 acceptable to the County Attorney prior to final approval of the construction  
2662 plans by the Department of Public Works.
- 2663 33. Deviations from County standards for pavement, curb or curb and gutter design  
2664 shall be approved by the County Engineer prior to final approval of the  
2665 construction plans by the Department of Public Works.
- 2666 34. In the event of any traffic backup which blocks the public right-of-way as a  
2667 result of congestion caused by the drive-up facilities, the owner/occupant shall  
2668 close the drive-up facilities until a solution can be designed to prevent traffic  
2669 backup.
- 2670 35. Insurance Services Office (ISO) calculations must be included with the utilities  
2671 plans and contracts and must be approved by the Department of Public Utilities  
2672 prior to the issuance of a building permit.
- 2673 36. Approval of the construction plans by the Department of Public Works does not  
2674 establish the curb and gutter elevations along the Henrico County maintained  
2675 right-of-way. The elevations will be set by Henrico County.
- 2676 37. Approval of the construction plans by the Department of Public Works does not  
2677 establish the curb and gutter elevations along the Virginia Department of  
2678 Transportation maintained right-of-way. The elevations will be set by the  
2679 contractor and approved by the Virginia Department of Transportation.
- 2680 38. The initial phases of development (shown on the conceptual master plan as sites  
2681 B and C) shall be allowed to use private grinder pump station(s) and a private  
2682 two-foot force main. Future development shall be required to connect to a  
2683 public sewage pumping station (sps). Sites B and C will connect to the public  
2684 sps when it becomes operational. An overall plan for sewer service to the site  
2685 shall be approved by the Department of Public Utilities prior to approval of the  
2686 utility plan.

2687  
2688 **SUBDIVISION**  
2689

Millers Glen  
(March 1999 Plan)

Koontz-Bryant, P.C. for L.M.G., L.L.C.; L. Michael Gracik, Jr. and Wilton Investment Corporation: The 2.138-acre site is located along the east line of Millers Lane approximately 200 feet southeast of intersection of Millers Lane and Gay Avenue on part of parcel 162-A-10A. The zoning is R-4, One-Family Residence District. County water and sewer. (Varina) 11 Lots

2690

2691 Ms. Dwyer - Is there anyone in the audience in opposition to  
2692 Subdivision Millers Glen (March 1999 Plan)? No opposition. Ms. News.

2693

2694 Ms. News - This project includes development of 11 lots, one of  
2695 which contains an existing house and a remaining portion of land being held in reserve  
2696 for future development. Condition No. 12 regarding a variance for the existing house  
2697 has been removed as it has been determined that the front yard setback is existing  
2698 nonconforming and doesn't require a variance. The applicant has indicated that he may  
2699 seek to develop the land held in reserve for other residential use. Staff notes that the  
2700 approval of this subdivision does not indicate the position of support for rezoning of  
2701 that land. The only outstanding issue was regarding provision of a shared driveway  
2702 access. Staff has recommended a condition requiring a minimum of four shared  
2703 driveway access points to limit points of conflict on Millers Lane which is a minor  
2704 collector on the Major Thoroughfare Plan. It is an objective of the Major  
2705 Thoroughfare Plan to control entrances and provide safe and efficient movement of  
2706 traffic. The applicant originally was objecting to the condition, but he has now agreed  
2707 to it, so staff can recommend approval with the annotations on the plan.

2708

2709 Ms. Dwyer - Any questions for Ms. News? No questions. Would you  
2710 like to hear from the applicant?

2711

2712 Mrs. Quesinberry - I don't need to hear from the applicant if he has agreed to  
2713 condition No. 15. I think that was the only outstanding issue. I would like to make a  
2714 motion that I would like to move that Subdivision Millers Glen (March 1999 Plan), be  
2715 approved subject to standard conditions, annotations on the plans, and conditions Nos.  
2716 13, 14 and 15.

2717

2718 Mr. Vanarsdall - I second it, and I believe you have something on the  
2719 Addendum.

2720

2721 Ms. Dwyer - You omitted No. 12.

2722

2723 Mrs. Quesinberry - And delete condition No. 12.

2724

2725 Ms. Dwyer - We have a motion by Ms. Quesinberry, seconded by Mr.  
2726 Vanarsdall for approval of Millers Glen (March 1999 Plan). All in favor say aye. All  
2727 opposed say no. The motion carries.

2728  
2729  
2730  
2731  
2732  
2733  
2734  
2735  
2736  
2737  
2738  
2739  
2740  
2741  
2742

The Planning Commission voted to approve Subdivision Millers Glen (March 1999 Plan), subject to the annotations on the plans, standard conditions for subdivisions served by public utilities, and the following additional conditions:

- 12. The topsoil stockpile on this site shall be removed to the satisfaction of the Director of Public Works prior to issuance of any building permits.
- 13. Building permits for lots No. 1 through No. 4 shall not be issued until the sediment basin has been regraded to final BMP shape, as determined by the Director of Public Works.
- 14. A minimum of four shared driveway access points between adjacent lots shall be provided.

**PLAN OF DEVELOPMENT**

POD-18-99  
Texaco Convenience  
Center – Darbytown &  
Turner Roads  
(POD-130-78 Withdrawn)

**AEC Engineering and Meadow Petroleum, Inc. for Lawrence & Madeline E. Turner: 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, 2,800 square foot convenience store with gas pumps. The 1.41-acre site is located on the northwest corner of the intersection of Darbytown and Turner Roads on part of parcel 228-A-33. The zoning is B-3, Business District and ASO (Airport Safety Overlay District). Individual well and septic tank/drainfield. (Varina)**

2743  
2744  
2745  
2746  
2747  
2748  
2749  
2750  
2751  
2752  
2753  
2754  
2755  
2756  
2757  
2758  
2759  
2760  
2761

Ms. Dwyer - Is there anyone in the audience in opposition to POD-18-99, Texaco Convenience Store at Darbytown Road and Turner Road? There is opposition. Thank you, sir. We will get to you in a moment.

Mr. McGarry - Madam Chairman, you are being given a revised site plan and one of the changes on it includes a smaller building, so we are looking at a 2400 square foot convenience store instead of 2800. There are two outstanding issues. The first is the BMP basin, which was proposed in the 25 foot front-yard setback, and secondly, a transitional buffer 35 is required along both the north and the west property line. Staff has received that revised plan. It came in on March 18. First the issue of the BMP. The applicant now proposes a pre-cast concrete in-ground treatment for the stormwater water requirement. The Department of Public Works has granted preliminary design approval to this concept. The BMP location is OK within this location. This structure will continue to be in the front yard, but since it will primarily be the low to the ground it will not have the impact of creating a visual impact of an above-ground basin. Public Works is satisfied with this as an effective way to provide treatment on a site that has limited capabilities.



2762 Mrs. Quesinberry - Mr. McGarry, can I interrupt you for just a moment?  
2763  
2764 Mr. McGarry - Yes, you may.  
2765  
2766 Mrs. Quesinberry - Are you still talking about the BMP, which is on the front  
2767 corner of that property? It has not been moved.  
2768  
2769 Mr. McGarry - It is still on the corner. It has not been moved. It will not  
2770 be an above-ground basin and instead it is going to be below ground, but 80% of it will  
2771 be a concrete structure that you won't see, and there will be landscaping around it to  
2772 help hide it further.  
2773  
2774 Mrs. Quesinberry - OK, that is what I wanted to catch. When you started  
2775 talking about cast in concrete, I envisioned something above ground.  
2776  
2777 Mr. McGarry - It will be below ground.  
2778  
2779 Mrs. Quesinberry - We won't see that at all?  
2780  
2781 Mr. McGarry - You will only see the top portion of it. Actually, I have a  
2782 drawing in the file if you want to see a typical example of it.  
2783  
2784 Mrs. Quesinberry - But it does allow for landscaping?  
2785  
2786 Mr. McGarry - Yes. The second issue was the transitional buffer  
2787 deviation. The site is carved out of a parcel by an owner who owns both the abutting  
2788 site as well as the business-zoned site, and in the rear there is a drainfield and a  
2789 reserved drainfield which is grass today, and because it has to remain a drainfield, there  
2790 cannot be trees planted in it. So, the opportunity for transitional buffer planting  
2791 conflicts with the drainfield. So, the applicant is requesting approval of a full  
2792 transitional buffer without plantings. The grass there will still be there and visible.  
2793 The same is along the side, and along the rear, full deviation from the plantings'  
2794 requirement for transitional buffer because of the drainfield down to approximately the  
2795 side of the store. And, from the parking area on the side of the store to Darbytown  
2796 Road, they are proposing to reduce the 35 foot transitional buffer to 20 feet and provide  
2797 equivalent plantings here and elsewhere on the site where it is practical.  
2798  
2799 Mrs. Quesinberry - Can you point to that?  
2800  
2801 Mr. McGarry - This is not a good map for it, but let's try it. I am  
2802 pointing to an old location map which does not help you. What you have is the more  
2803 current plan.  
2804  
2805 Mr. Marlls - Mr. McGarry, can you put the more current map on the  
2806 projection table?  
2807

2808 Mrs. Quesinberry - What I really want to see is where the request is to reduce  
2809 that 25 foot to 20 foot, in here.

2810

2811 Mr. McGarry - The planting provides for the full 25 foot transitional  
2812 buffer down along that west property boundary to a point where the pavement begins  
2813 for the drive around the concrete pump island. The area in front of you, that is a 23  
2814 foot wide area that is being provided for plantings, so that portion right along there not  
2815 quite to Darbytown Road, so I probably misspoke when I said that it would go from the  
2816 edge of the building to Darbytown. It is this area right adjacent to the pump islands  
2817 where you don't have a full 35 feet provided that will be a reduction in the width of the  
2818 buffer and it will also allow for plantings elsewhere on the site to make up for the  
2819 deficiency.

2820

2821 Mrs. Quesinberry - Plantings elsewhere on the site? Not additional plantings  
2822 in that buffer?

2823

2824 Mr. McGarry - The requirement is that when you do that transitional  
2825 buffer restriction you do it proportionally – you take the plantings required and reduce  
2826 it proportionally. It would not be appropriate to try to jam plantings into a 23 foot area  
2827 that you would normally expect to extend over 35 feet, so we asked them to provide it  
2828 elsewhere on the site where it would fit, supplement it, if you will.

2829

2830 Mrs. Quesinberry - OK.

2831

2832 Mr. McGarry - So, in this case staff feels that the transitional buffer  
2833 deviation is temporary until public sewer is provided which will come in time.  
2834 Therefore, staff recommends an additional condition that is not in your Addendum or  
2835 on your agenda. It will be called condition No. 30. It was crafted this morning in  
2836 response to this revised plan. It would read: When public sewer is available within 300  
2837 feet of the site, the owner shall connect and the transitional buffer requirement in effect  
2838 for any continuous A-zoned or R-zoned district property shall be provided by the  
2839 owners or as may be requested by the County or an adjacent property owner. So, that  
2840 reinforces the fact that this transitional buffer is – the deviation he is getting now is  
2841 considered to be temporary – to allow him use of his site until such time as sewer can  
2842 be provided. With that, staff can recommend approval of this revised plan in additions  
2843 to your standard conditions for developments of this type and conditions Nos. 23  
2844 through 29 on your agenda, and No. 30 as I have read to you. And No. 30 has been  
2845 reviewed with the applicant and he is in agreement. Are there any questions?

2846

2847 Mrs. Quesinberry - Could you just speak briefly to, because I am not familiar  
2848 with a business project like this, with wells and septic, what kind of fire suppression is  
2849 required at that level?

2850

2851 Mr. McGarry - Because it is not met, we have condition No. 29 that we  
2852 have had to apply to this and to other sites where it is not available, primarily in  
2853 Varina. Condition No. 29 says “All buildings when constructed shall include a fire

2854 detection alarm system. The alarm system shall be designed and installed to provide  
2855 immediate notification to the Fire Division in the event of an alarm situation at the  
2856 facility. A twenty-four hour monitoring company must be utilized for this service.”  
2857 This is an agreement that was worked out between the Fire Department and Utilities,  
2858 and the County, in trying to provide some level of service when we do not have County  
2859 water hydrants to draw on to fight fire.  
2860  
2861 Mrs. Quesinberry - OK.  
2862  
2863 Ms. Dwyer - Any other questions of Mr. McGarry? Would you like to  
2864 hear from the applicant? Would the applicant come forward, please?  
2865  
2866 Mr. Charles Watson - My name is Charles Watson and I am the engineer for the  
2867 applicant. The applicant is here if you would like to speak with him, also. I will try to  
2868 answer any questions that you have.  
2869  
2870 Mrs. Quesinberry - I know we have some opposition in the audience, so I  
2871 wondered if you were already aware of that, or if you could address what the concerns  
2872 are for the adjoining property owners?  
2873  
2874 Mr. Watson - I am sorry. I did not hear you.  
2875  
2876 Mrs. Quesinberry - Are you aware of any concerns for the adjoining property  
2877 owners?  
2878  
2879 Mr. Watson - No, I am not.  
2880  
2881 Mrs. Quesinberry - OK. That’s fine. I can hear from the opposition.  
2882  
2883 Ms. Dwyer - Would the opposition come forward, please?  
2884  
2885 Mr. Kambis - Hello. My name is Mitchell Kambis and I live on Turner  
2886 Road on the opposite side of the street from this site.  
2887  
2888 Ms. Dwyer - Could you spell your last name, please?  
2889  
2890 Mr. Kambis - K A M B I S.  
2891  
2892 Ms. Dwyer - Mr. Kambis, I know that is not a great map, but can you  
2893 point to about where you live?  
2894  
2895 Mr. Kambis - Well, we had the other map and I think it was a little  
2896 larger. The word “Turner” on Turner Road, I live just above that site, and those are  
2897 my properties that are to the right on Turner Road. The reason I am here to oppose  
2898 this request is that when I was a kid, I grew up in this area, and there was an old  
2899 country store on the site just to the right of this site at the intersection. Where this site

2900 is there was a gorge and that store used that gorge as a dumping site. And I know  
2901 because we used to play in there as kids. And that site has been filled over time and  
2902 probably the last fill that took place was maybe 20 or so years ago, and in 1978,  
2903 another convenience store applied for a POD for this site. At that time, the Health  
2904 Department would not permit a septic system on this site because of fill. I talked with  
2905 Allan Stringer about that in the Health Department. A provision was then made at that  
2906 time for an off-site septic drainfield to serve that POD proposal.

2907  
2908 Ms. Dwyer - Mr. Kambis, you are talking about the site now across  
2909 Turner from the site – from the proposed site we are looking at right now?

2910  
2911 Mr. Kambis - No, I am talking about this proposed site was the dump.

2912  
2913 Ms. Dwyer - This site? Continue.

2914  
2915 Mr. Kambis - And, again at the time, there was a POD on this site,  
2916 about 20 years ago that was denied, or it was withdrawn actually because when the  
2917 applicants could not get a drainfield location approved on this site, then they withdrew  
2918 their application, and this is a matter of record in the Health Department and in the  
2919 Planning Department. I do not know if they have done soil work sufficient to go below  
2920 this typical five foot depth that is required by the Health Department. If they did, I  
2921 think they will find sill. They may already know that it exists. Also, I have a concern  
2922 about septic systems in general in this location for commercial use. At one time I owned  
2923 a property which is to the south of this, which is also B-3. And even though we had  
2924 approval for septic systems, we weren't confident they were going to be adequate for  
2925 commercial use.

2926  
2927 When objecting to this site, the Planning Commission denied approval for a similar use  
2928 on the southwest corner of this same intersection. There are drainage problems. If you  
2929 were, again, to look at this map you will see where drainage cuts across that southwest  
2930 parcel, there is a dash line. That dash line picks up drainage that serves a large, water,  
2931 shed, probably 25 or 30 acres. It originally came through that gully. I think to  
2932 consider such an extraordinary effort, as an underground chamber for stormwater  
2933 management, indicates the severity of the drainage problem. My understanding of what  
2934 they are saying would be something like a swimming pool that would be built to carry  
2935 or deal with that water. There is a large volume of water that comes under Turner  
2936 Road onto this property. It has been diverted around the property since the property  
2937 was filled. Originally, it came through this property. I'm concerned about the buffers.  
2938 As you may know, this area is largely residential. This is old zoning. There are some  
2939 scattered old zoning areas in Varina. And because they were zoned unconditionally,  
2940 the residents don't have the typical protection for use. The only opportunity residents  
2941 have to affect a development on an old zoned property is at this point. It's almost like  
2942 you have got to wait until the last minute that we have to do that. There is no  
2943 opportunity to object to a development until someone brings in a plan. When I saw the  
2944 engineering or survey stakes on the property I called, in fact, I asked Mr. McGarry  
2945 several months ago, if anything was going on and he said nothing had been filed yet. I

2946 also talked to Mr. Smithers at the Health Department. At that time, he said no permit  
2947 had been approved by the Health Department for a septic system on this site. I would  
2948 request that this case be denied. I'm in favor of development in Varina, most of you,  
2949 Mrs. Wade and others that know me, I am a developer. But, I believe in high-quality  
2950 development where it is appropriate. I do not think this site lends itself, geologically,  
2951 to this sort of development when you the size of the store, the paved area, the disturbed  
2952 area, the extraordinary effort that's going to be required to handle that stormwater. I  
2953 just don't think it can be done on this site. I think if this were a new case it wouldn't  
2954 be seriously considered. I would end by asking, if the Health Department has in fact  
2955 approved a septic permit, if there is a permit on this site. If there is, I would like to  
2956 know what type of system was approved. Thank you.

2957  
2958 Ms. Dwyer - Thank you, Mr. Kambis. Are there any questions of Mr.  
2959 Kambis by Commission members?

2960  
2961 Mr. Vanarsdall - Did you say you live right above Turner Road? Is that  
2962 your house by the fork?

2963  
2964 Mr. Kambis - No. I own that house. I rent that house out. I live in the  
2965 house next door to it. You can see it, right there at the top of the map.

2966  
2967 Mr. Vanarsdall - OK. Thank you.

2968  
2969 Mrs. Wade - Do you know who owns the land at this intersection when  
2970 it was rezoned?

2971  
2972 Mr. Kambis - Pardon me.

2973  
2974 Mrs. Wade - Was this rezoned in 1960?

2975  
2976 Mr. Kambis - I think this was zoned when the zoning ordinance went  
2977 into effect. I think they just, this was way earlier than that. This was some of the old  
2978 zoning that was on the maps, I think, when the zoning ordinance was adopted back in  
2979 the 40's.

2980  
2981 Mr. Vanarsdall - I think this one was in 1978.

2982  
2983 Mr. Kambis - In 1978 the property had this current zoning but in the  
2984 final analysis, they were unable to find suitable soil on this site for a drainfield. And  
2985 the drainfield location was proffered off site. But, when the company learned that was  
2986 the only way they could get the site approved, they withdrew the case. There was a  
2987 Seven-Eleven Store that was proposed to go there. As I said, I think this information is  
2988 in the record.

2989

2990 Ms. Dwyer - Are there any other questions by Commission members?  
2991 I think we had another person that was in opposition. OK. Would you step forward  
2992 please?  
2993

2994 Ms. Green - Yes. My name is Mary Ellen Green and I live on  
2995 Darbytown Road right next door to where this proposed building is to be erected. My  
2996 concerns were mainly addressed by this last gentleman, that it is basically a residential  
2997 area. There is a horse farm right next door to me. I don't feel that it is a... I'm in  
2998 favor of progress also, but I don't think it is a business that is needed in our particular  
2999 area. Within three miles, in any direction, you can come to a convenience store and  
3000 gas pumps. If this structure is placed there it's going to change the traffic patterns  
3001 there. Right now there are stop signs on Turner Road and there are considerable  
3002 accidents that have occurred right on that corner. I think this would only add to the  
3003 traffic problems there. I would ask that you reject this proposal too. Thank you.  
3004

3005 Ms. Dwyer - Are there any questions by Commission members? All  
3006 right. Next.  
3007

3008 Ms. Turner - I'm Madalene Turner. I own that corner and Mitchell  
3009 Kambis has just stood up here and told a big bunch of lies. I can't help if he is my  
3010 neighbor. But, the reason why his property was turned down was because they didn't  
3011 have enough to put in the septic tank and well, with 60 feet in-between. And, I don't  
3012 see why that he would show up here today because he was the cause of Seven-Eleven  
3013 not going in cause he owned that little corner that he sold to Southern Express. And he  
3014 tried to say that too much water would come down on him, so the County didn't pass it.  
3015 So, now he's up here today showing his face and there was not a dump there. There  
3016 might have been trash that we cleaned up when we built our home there, and I don't see  
3017 how he can stand up here and tell them lies and supposed be a Christian because I'm a  
3018 Christian lady and I will not lie. Thank you.  
3019

3020 Mrs. Quesinberry - Ms. Turner, do you live right next door to this property?  
3021

3022 Ms. Turner - Yes, ma'am, it comes off of my property. And Mitchell  
3023 Kambis' houses, there was an old store at that end and he owns up on Turner Road.  
3024 He's not right at my property.  
3025

3026 Mrs. Quesinberry - I'm just trying to find out exactly where your house is.  
3027

3028 Ms. Turner - In the back of this.  
3029

3030 Mrs. Quesinberry - You are in the back of this? So, you will be affected  
3031 by....  
3032

3033 Ms. Turner - I live on five acres.  
3034

3035 Ms. Dwyer - Are there any questions for Mrs. Turner? Thank you. I  
3036 believe those were not comments in opposition to the POD. Mrs. Turner, I believe you  
3037 were speaking in favor of the proposed development, is that correct?  
3038

3039 Ms. Hodson - I'm Grace Hodson with Pioneer Realty, and I represent  
3040 Mrs. Turner. I want to tell you that my comments are for the convenience store and  
3041 not against it. But, Ms. Turner owns the whole corner down from where she lives.  
3042 So, I don't see how it would effect either of these neighbors. She also adjoins the  
3043 property that abuts it. She has some extra property there that is between her and  
3044 Mitchell Kambis.  
3045

3046 Ms. Dwyer - OK. Thank you, ma'am. Are there any questions by  
3047 Commission members?  
3048

3049 Mrs. Quesinberry - I would like to have the applicant come forward for a  
3050 minute.  
3051

3052 Ms. Dwyer - Would the applicant come forward, please?  
3053

3054 Mrs. Quesinberry - I heard a couple of concerns that I was just hoping you  
3055 would address and maybe indulge my colleagues here, because Mr. Kambis was right  
3056 that this has been a piece of property that has been zoned a long time ago,  
3057 unconditionally. In a case like this I think it does behoove all of us to look at that,  
3058 acknowledge that and see what we can do to lessen the impact of development on  
3059 neighbors because we are not in zoning case, that's already been done. I was  
3060 wondering if you would talk a little bit about the buffers themselves around this  
3061 property and how adequate are they for the adjoining neighbors. I know Ms. Turner's  
3062 house is far back, but make some assumptions that, I mean, that is all A-1 property at  
3063 some point in time it could be developed. So, could you look at these buffers and give  
3064 us an idea of exactly what you have planned and that may be adequate to screen this  
3065 area. And, also, talk about the front of this property where the BMP will ultimately  
3066 end up and plant landscaping for that, to shield that. I'm also concerned about the  
3067 traffic because this will impact traffic in this area. Obviously, there is nothing there  
3068 right now. When you put in a convenience store and gas pumps you create in and out  
3069 traffic. So, I'm interested in what's that going to look like there because we really do  
3070 just have a stop sign there. And what the turn lanes will do in that particular area and  
3071 how that will effect the flow of traffic on Darbytown Road and Turner.  
3072

3073 Mr. Watson - OK. You should be looking at the sketch on the screen,  
3074 the one that was submitted late last week. Let's talk first about the buffer. The rear  
3075 yard area where the septic drainfield is shown, and also the reserve area, both are in the  
3076 buffer. They are, at the present time, covered with grass and because of the nature of  
3077 the proposed use of these spaces, we are limited in what we can do in those areas with  
3078 landscaping and any kind of land disturbance because of the installation of the  
3079 drainfield. We are required by regulations to have a 100% reserve area for the  
3080 drainfield, so you see two large blocks there marked off. The drainfield that would be

3081 installed, it's a shallow placed, low pressure, distribution system, and we have a report  
3082 from a soil scientist in this area, who investigated the site, and came back... this was  
3083 one of the recommendations for a disposal system for this site and for commercial use.  
3084 There will be, once the system is installed, there will be no visual impact whatsoever.  
3085 The grass will be restored and it will look just like it looks now. As you come down  
3086 the left side line, as you get just to the left of the pump islands there, you will see that  
3087 we have asked for a reduction in the buffer width to 20 feet. That's done for two  
3088 reasons. It's done from the standpoint of both internal traffic circulation and for safety  
3089 reasons. You will notice parked in the front there, we show the transport tanker which  
3090 delivers fuel to the site. Our consideration in one of the safety considerations in getting  
3091 this large vehicle, which is the largest thing that can legally travel Virginia highways  
3092 without a permit, we would like to get him onto the site, to his unloading position and  
3093 then for him to drive off of the site and all of this done without him using his reverse  
3094 gear. We want him moving forward all the time. To do that, we felt like on the right  
3095 side of the pumps there we would need a minimum of 35 feet of clearance. So, you  
3096 will see, right there in front of the tankers, you go back up to the rear entrance there  
3097 and you will see a 35-foot clearance. So, you will see, right there in front of the  
3098 tanker, as you go back up toward the rear entrance there, you will see a 35-foot  
3099 clearance dimension. We have 24 foot clear between the islands to provide adequate  
3100 clearance for vehicular refueling. And then on the left side of the left island, we felt we  
3101 needed more than 18 or 20 feet there for both vehicle fueling and also to be used as a  
3102 driveway. So, we requested a reduction of the buffer in that area to 20 feet, which  
3103 gives us almost 30 feet of clearance which is, from a traffic circulation standpoint, is  
3104 very good.

3105  
3106 With regard to the BMP, these will be fairly small units. In these BMPs, we are not  
3107 handling all of the water coming from these acres and acres back up Turner Road. We  
3108 are installing a catch basin and storm sewer. We are going to pick that water up at the  
3109 rear of the property, convey it around the intersection and into an inlet which will  
3110 connect to the existing outfall pipe which crosses Darbytown at about the center point  
3111 of the property. So, the only water we have to be concerned about is a fairly small  
3112 volume because we are developing the site with less than 50% impervious cover.  
3113 Impervious cover being buildings, pavements, and things that water will run off of  
3114 when it falls on it. I think our impervious cover on this site is about 46 1/2 % and  
3115 pervious cover, meaning lawns, landscape areas, is about 53 1/2%. So, I addressed the  
3116 drainage by telling you how we will take care of the water which we know is coming  
3117 south along Turner Road, in which must be conveyed across Darbytown Road through  
3118 the existing outfall pipe. Now the BMPs, there will be two, and they may have to be in  
3119 that setback space or they may not. We have not resolved that yet, but they will be in  
3120 the ground and they will be fairly small. They are filtration type units as opposed to  
3121 the normal ones you see dug in the ground and have an outfall structure very much like  
3122 a dam would have, a spillway for a dam. These operate in a similar fashion to remove  
3123 pollutants and we have worked out the revised grading for the site to limit the flow to  
3124 these basins to only that which is on the site. We are not taking any off site water  
3125 through these BMPs. And, as I indicated, they will be buried, they won't stick up



3126 above the ground. Visual impact will be minimal and I think any individual impact that  
3127 there is can be taken care of adequately with landscaping.

3128

3129 Now I mentioned a little bit about internal traffic. We need to talk a little bit about  
3130 external traffic. We have provided an additional turning lane, curb and gutter, and a  
3131 tapered turn-out de-acceleration lane along the west side of Turner Road. We are also  
3132 providing significant widening of both Turner Road and Darbytown Road right in the  
3133 vicinity of the development.

3134

3135 Ms. Dwyer - OK. Thank you. Are there any other questions by  
3136 Commission members?

3137

3138 Mrs. Quesinberry - Just in general, on your landscaping, have you agreed to  
3139 any additional landscaping other than what's minimally required to try to screen this  
3140 property?

3141

3142 Mr. Watson - Well, we agreed to that item 30 that Ted read to you a  
3143 little bit ago.

3144

3145 Mrs. Quesinberry - That concerns the public sewer services available.

3146

3147 Mr. Watson - But the normal landscaping that would be required in the  
3148 transitional buffer, as he indicated, like where you have 20 feet you don't want to put  
3149 35 feet of landscaping there so you put on other areas of the site where you can work it  
3150 in. We have not prepared a landscape plan at this time.

3151

3152 Mrs. Wade - Is this not a part of a five-acre property? Is that what I  
3153 heard earlier?

3154

3155 Mr. Watson - Yes. It is the corner out of a larger parcel that Ms.  
3156 Turner owns.

3157

3158 Mrs. Wade - And where is the gasoline storage tank located?

3159

3160 Mr. Watson - The fuel tanks are underground, right there in front, right  
3161 on there where we show the tanker parked there, the underground tanks are right there.

3162

3163 Mrs. Quesinberry - Back on the landscaping. Mr. McGarry, I also need you  
3164 for a second. When public utilities are available, and they come in, will that change  
3165 significantly the landscaping that is on the property at that time, is there some provision  
3166 to bring it back up after those connections are made?

3167

3168 Mr. McGarry - Essentially, once the public sewer is provided and the  
3169 drainfields and the reserved drainfields are no longer needed and that 35-foot  
3170 transitional buffer is then available for plantings.

3171

3172 Mrs. Quesinberry - And how will we know that that will take place at that  
3173 time? See, I'm really concern, as we talked previously, that this is an old piece of  
3174 zoned property and at some time long after Mrs. Turner is gone, there is probably  
3175 going to be development there, and when that development starts moving in, this  
3176 property would have existed a long time and we need to know that it is adequately  
3177 transitioned into what maybe a residential neighborhood at some time in the future.

3178  
3179 Mr. McGarry - Condition No. 30 addresses what should happen when the  
3180 sewer becomes available. Until such time, though, to approve this plan there is not  
3181 sufficient space on the north and west sides to provide the transitional buffer plantings,  
3182 because it conflicts with the septic tank drainfields and backup drainfields.

3183  
3184 Mrs. Quesinberry - But does condition No. 30 provide that when the public  
3185 utilities are available that these buffered areas then will be landscaped? Is that very  
3186 clear?

3187  
3188 Mr. McGarry - Yes.

3189  
3190 Mrs. Quesinberry - That's what I really needed to know. It took me a while  
3191 to get there, but that's what I really needed to know. And, Mr. McGarry, do you have  
3192 something from the Health Department?

3193  
3194 Mr. McGarry - Yes. I'll be happy to read the letter from them to make  
3195 you have a level of confidence that the Health Department is satisfied that there is a  
3196 system that will work on this site. The technology may not have been available back in  
3197 1978 when the first POD came in and was eventually withdrawn.

3198  
3199 Mrs. Quesinberry - And, we also have condition No. 28, that says: The  
3200 applicant shall furnish proof to the Planning Office that conditions satisfactory to the  
3201 Health Department have been met that insure the proposed septic tank drainfield system  
3202 is suitable for this project prior to the issuance of a building permit.

3203  
3204 Mr. McGarry - That's correct. We also have a letter from them saying  
3205 based on the information they have they feel they can issue a permit and before the  
3206 building permit is issued the applicant has to get an actual permit in hand from the  
3207 Health Department and they will confirm that to us that they have been able to issue  
3208 one based on the preliminary engineering that they have done.

3209  
3210 Mrs. Quesinberry - OK.

3211  
3212 Ms. Dwyer - Are we ready for a motion?

3213  
3214 Mrs. Quesinberry - Yes, ready for a motion. I'd like to move POD-18-99,  
3215 Texaco Convenience Center - Darbytown & Turner Roads, with the changes and  
3216 annotations on the plan received March 18, 1999, with the standard conditions and with  
3217 the conditions Nos. 23 through 30 and Nos. 9 and 11 amended.

3218  
3219  
3220  
3221  
3222  
3223  
3224  
3225  
3226  
3227  
3228  
3229  
3230  
3231  
3232  
3233  
3234  
3235  
3236  
3237  
3238  
3239  
3240  
3241  
3242  
3243  
3244  
3245  
3246  
3247  
3248  
3249  
3250  
3251  
3252  
3253  
3254  
3255  
3256  
3257  
3258  
3259  
3260  
3261  
3262  
3263

Mr. Archer - Second.

Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr. Archer for approval of POD-18-99. All in favor say aye...all opposed say nay.

Mrs. Wade - No. It just seems, perhaps it's just premature with all the exceptions that have to be made on this site to put it here without the public services.

Ms. Dwyer - Duly noted. Thank you.

On a vote of 4 to 1, the Planning Commission approved POD-18-99, Texaco Convenience Center - Darbytown & Turner Roads (POD-130-78 Withdrawn), subject to the standard conditions attached to these minutes and the following additional conditions. Mr. Donati was absent.

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the issuance of any occupancy permits.
11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. When public water is available to the site, fire hydrants shall be installed by the property owner to meet existing ISO – Needed Fire Flow requirements and Division of Fire commercial property minimum hose lay requirement which is 350 feet.
24. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
25. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
26. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
27. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.
28. The applicant shall furnish proof to the Planning Office that conditions satisfactory to the Health Department have been met that insure the proposed septic tank drainfield system is suitable for this project prior to the issuance of a building permit.
29. All buildings when constructed shall include a fire detection alarm system. The alarm system shall be designed and installed to provide immediate notification to

3264 the Fire Division in the event of an alarm situation at the facility. A twenty-four  
3265 hour monitoring company must be utilized for this service.

3266 30. When public sewer is available within 300 feet of the site, the owner shall  
3267 connect and the transitional buffer requirement in effect for any contiguous "A"  
3268 or "R" district shall be provided by the owner as may be requested by the  
3269 County or adjacent owners.

3270

## 3271 PLAN OF DEVELOPMENT

3272

POD-25-99  
Broyles Auto Service-  
Mountain Road  
(POD-136-83 Revised)

**Balzer & Associates for Phillip Broyles:** 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, 3,360 square foot office-warehouse addition and increase the number of service bays to eight in the existing building. The 2.14-acre site is located at 1601 Mountain Road on parcels 52-A-46 and 46A. The zoning is B-3, Business District. County water and sewer. **(Fairfield)**

3273

3274 Ms. Dwyer - Is there anyone in the audience in opposition to POD-25-  
3275 99, Broyles Auto Service on Mountain Road? There is opposition. We will get to you  
3276 soon. Mr. McGarry.

3277

3278 Mr. McGarry - You do have an Addendum on this project. The only  
3279 thing that staff has to discuss is the requirement for the transitional buffer, the 35-foot  
3280 transitional buffer located along the rear of the site adjacent to the North Run Meadows  
3281 development. The applicant has proposed to provide a transitional buffer, screen "E"  
3282 as an approved deviation. What that means is that he will provide 23 feet of area for  
3283 landscaping, a six-foot solid board fence. He's agreed to provide along the entire rear  
3284 of his property. This will conflict with a small portion of chain link fence and he's  
3285 agreed to relocate that accordingly. The revised condition, that's on the Addendum, it  
3286 deals with No. 29. It goes a little bit further, it states that "outside storage shall not be  
3287 permitted." It tries to address the standard in the B-3 regulations which sets criteria for  
3288 how long a time period you may have for storage of vehicles outside. So, that No. 29  
3289 revised has additional language to state "No inoperative vehicles shall be permitted."  
3290 What is implied, as permitted under the B-3 regulations and there is a separate  
3291 provision there, it's Section 24-62.1 paragraph E. It talks about the length of time that  
3292 vehicles can be stored. I'm only going through this because in the original POD, back  
3293 in 1983, there was a condition there that limited storage of vehicles that were not  
3294 operable to 15 days and our current Code gives you up to 30. So, I was trying to be  
3295 fair and apply today's standards to that. With that, staff can recommend approval of  
3296 this plan, subject to the standard conditions, Nos. 23 through 30, with No. 29 revised  
3297 as shown on the Addendum. I'd be happy to answer any questions.

3298

3299 Ms. Dwyer - Are there any questions of Mr. McGarry by Commission  
3300 members? Would the applicant come forward please? For everyone's information, it  
3301 is our policy to impose a 10-minute limitation on presentations by applicants and  
3302 statements or comments by the opposition. So, we will enforce that time limitation  
3303 now. Would you state your name and would you like to reserve any time for rebuttal?  
3304

3305 Mr. Horne - Yes, I would like to reserve five minutes. My name is  
3306 Shawn Horne, I'm representing the client, Phil Broyles, for Balzer & Associates. I  
3307 would just like to say that we have met with the County and agree to all of their  
3308 comments. We have also worked with and gone out and contacted the residents that are  
3309 adjacent to this site and tried to work out an agreement with them as far as the buffer  
3310 goes. They have concerns with the lighting and the noise pollution from the site as well  
3311 as an eye sore. This site was here before the residential area was developed, that's  
3312 something to keep in mind. But, what we have worked out, like Mr. McGarry said, we  
3313 want a six-foot-high board on board fence and we will leave the existing trees between  
3314 the fence and the property line and supplement that planting to bring it up to County  
3315 Code. Are there any questions?  
3316

3317 Ms. Dwyer - Are there any questions by Commission members?  
3318

3319 Mr. Archer- Sir, were you aware that there was opposition before  
3320 today?  
3321

3322 Mr. Horne - Yes. We actually went out and contacted the residents  
3323 last weekend, so it's been over a week that they have know about this and we have tried  
3324 to sit down with them, the client sat down with them, and said this is what I am willing  
3325 to do, I'm willing to put up the fence, willing to do additional planting. We have  
3326 taking into note the consideration about the lighting and have agreed to use a lower  
3327 level lighting in the parking area as a safety factor.  
3328

3329 Mr. Archer - Thank you.  
3330

3331 Ms. Dwyer - Are there any other questions by Commission members?  
3332 Thank you, sir. Would the opposition come forward, please?  
3333

3334 Mr. Puckett - My name is Paul Puckett. I live off of approximately  
3335 66% of the property that's in question, that the Broyles are attempting to do some  
3336 modification on. I have a couple of issues. Yes, he did come up to me about a week  
3337 ago, Saturday, and discussed this. I believe he is, in all good faith, he is trying to do  
3338 the right thing here. I do have some concerns in regards to County ordinances that  
3339 have happened as a result of one of the properties that is, Tribble Electric, to one end  
3340 and then on the other side of the Broyles property is a Fast Mart or Southern Express.  
3341 Illumination is a big problem. As a matter of fact, illumination and the fact that I'm in  
3342 a tri-level has a tendency, from the Southern Express Store, has a tendency to shine  
3343 into the upper levels of my windows of my residence. The discussion I had with Mrs.  
3344 Broyles is the fact that I'm not so sure that putting up a six-foot-high fence is going to

3345 take care of this issue. From looking at the schematic that he had, the blueprint he had  
3346 of what his intention is, it seems as though there may be a direct line as to any  
3347 illumination, be it minimal, as he said it's going to be if it is going to make clearance  
3348 over six, of that high fence. He made some comments that he may be thought about  
3349 elevating along the ditch line up above on his side allowing the elevation of a six-foot-  
3350 high fence. That's cool, if that works. I'm not so sure that's going to get the type of  
3351 elevation that's needed. I do have an area. There are several trees in the area on the  
3352 other side of the fence in question. A lot of the trees are unhealthy in a lot of ways and  
3353 if Mr. Broyles' intent is on trying to take those down or trying to make modifications in  
3354 terms of making a good cohesiveness between the residents and this type of business,  
3355 that's one issue I hope he does. Mr. Martinez, my neighbor, has about 33% of that  
3356 property line. He's got some similar concerns and I do believe if there is a way to... It  
3357 is my understanding from the previous presentation, that Mr. Broyles intention is to  
3358 move a portion of his chain link fence or mine?  
3359

3360 Mr. Horne - (Unintelligible. He was speaking away from the mike).

3361

3362 Mr. Puckett - That's what I thought. I don't know if there is a  
3363 possibility to move it parallel out one point or something to allow for a mound or  
3364 something to elevate the fence. I do believe that's one thing that would help both Mr.  
3365 Martinez and my own property to help it at least maintain some sense of integrity  
3366 without disturbing the residents and both the commercials as well. I don't have a  
3367 problem with commercial or development, I have a problem with trying to maintain  
3368 property values. And, I'll just point out, that Mr. Martinez house has been on the  
3369 market three times. We have another house down the way, and right now it's on the  
3370 market, and this is the third time it's been on the market and two houses over this way.  
3371 These homes, for a lack of a better word, and I don't know if it is a result of where it  
3372 is, there have been discussions as to the appreciation, the resalability of these homes  
3373 sometimes. And, I want to try to do everything I can to keep some sense of integrity  
3374 into the value of my own home.  
3375

3376

3377 When it comes to things like sound barriers and so forth, I don't know if that is a  
3378 possibility. I would certainly hope that it would be entertained, because in the middle  
3379 of the night we hear wrecking trucks coming in, banging. They have their backup  
3380 lights on. You see those lights. They are pretty bright. As far as sound trying to  
3381 probably dislodge a car that can't run or so forth may require some hammering and so  
3382 forth, so that gets pretty loud at night, occasionally. It really doesn't happen that often  
3383 but when it does it's disturbing. It may happen maybe once or twice a week. But, for  
3384 sure at least three times a month. I don't have a big concern about that, but mainly the  
3385 visible effects of what's going on. I do have a problem with illumination coming from  
3386 the Fast Mart or Southern Express or whatever that is. I'll probably be checking into  
3387 to see if that's in Code because the canopy that hangs over the top of the service station  
3388 areas have me concerned in terms of illumination and it stays open until about 11:30  
3389 p.m. And, I just hope that whatever we do in terms of making this a cohesive situation  
3390 that it can be done in a way that both Mr. Martinez and myself can feel comfortable  
that we have made some forward progress. Again, I don't know if the Code will allow

3391 taking.... Instead of just taking the... could we see the map up there again? Between  
3392 these two dots, here, are basically what I would perceive would be an equitable solution  
3393 to try to elevate and Mr. Martinez may have the same concern to see if a mound could  
3394 be extended all the way down to try to elevate and screen away some of the undesirable  
3395 issues related to the property. I don't know what Mr. Broyles intention is, if it's  
3396 questionable, he's just going to take it up to a point half way, where his chain link  
3397 fence is, the chain link fence starts about right there (referring to map) and goes to  
3398 somewhere in the neighborhood of, not there, but, anyway, if this could be relocated to  
3399 run parallel to the fence that may allow a better transition of a mound to elevate a  
3400 structure that would cover up any kind of undesirable issues related to the property that  
3401 he plans to expands.

3402

3403 Ms. Dwyer - So, you are looking for a berm?

3404

3405 Mr. Puckett - Kind of a hill. And I think that's what he had in mind  
3406 too. We had an open/ended discussion about it. We even talked about instead of  
3407 putting up a wooden fence, possibly a pine that will grow big, maybe a taller pine or  
3408 something that may give a better cohesiveness between the commercial development  
3409 and ourselves. I'm open to either one. I think, personally, I would like for it to be  
3410 natural. But, I think we would have a whole lot more desirable affect of what the  
3411 residents is going to look like on the back of the property, on both of the properties in  
3412 general. There are a number of trees that are really undesirable, they are not very  
3413 healthy. My chain link fence was put up a little over a year ago and I had to take down  
3414 three trees in the process because there are a bunch of trees in that area that are just not  
3415 making it. But, you may want to consider taking those down too as well.

3416

3417 Mr. Archer- Mr. Puckett, all the trees that you mentioned are on the  
3418 applicant's property, is that correct?

3419

3420 Mr. Puckett - Up the drainage ditch which really splits up the property  
3421 line, there's a couple that are really on the other side of the chain link fence that do  
3422 belong to my property. But, for the most part they are all on Mr. Broyles' property.

3423

3424 Mr. Archer - So, the problems with the illumination, they already exist  
3425 now?

3426

3427 Mr. Puckett - They don't exist from him, they exist mainly from the  
3428 Fast Mart. There is little to no foliage which blocks any of that sort of problem.

3429

3430 Mr. Archer - Of course, we know he's not responsible for that.

3431

3432 Mr. Puckett - Well, I'll check into that.

3433

3434 Mr. Archer - In reference to this POD is what I'm saying.

3435

3436 Mr. Puckett - The only thing I can refer to as far as any kind of  
3437 illumination problem has to do with probably the backing up of the vehicles and the  
3438 noise levels and so forth.

3439

3440 Mr. Archer- There is a condition that has been attached to this POD  
3441 that "outside storage shall not be permitted and no inoperative vehicles shall be  
3442 permitted," which I think in some degree might help alleviate that problem. But, I  
3443 guess I need to get the applicant up to address some of the issues that you mentioned  
3444 concerning the screening and the buffer.

3445

3446 Mr. Puckett - I talked to him openly about the possibility of getting his  
3447 engineer to do a delineation indicating a more precise idea of what he's got in terms of  
3448 landscaping. It would be nice to know that. As long as he goes by Code, there is  
3449 nothing I can do about it.

3450

3451 Mr. Archer - I understand.

3452

3453 Mr. Puckett - I'd like for him to do the right thing as opposed to doing it  
3454 right.

3455

3456 Mr. Archer - Let's hope that the open/ended discussion is still open.

3457

3458 Mr. Puckett - I can understand the constraints in what he would like to  
3459 do, but we just have more concerns than just looking at a chain link fence or looking at  
3460 something that backs up to a bunch of trash and so forth. Elevation is one thing,  
3461 whether or not you are going to achieve what you need to in terms of illuminating from  
3462 that, from the building that he's going to build onto, it still may be visible from my  
3463 bedroom window. We won't know until we get somebody out there and take a real  
3464 good look at it.

3465

3466 Ms. Dwyer - Is there other opposition?

3467

3468 Mrs. Wade - Is there anyone here for the one o'clock hearing?

3469

3470 Ms. Dwyer - As soon as we finish this case I will.... Is there anyone  
3471 here who came for the hearing that was scheduled for one o'clock? Well, we are  
3472 running a little late and we have six more cases, including this one and we need to take  
3473 a break for lunch. So, I'm not predicting when we will get to the public hearing. I just  
3474 want to mention that. OK. Sir, go ahead.

3475

3476 Mr. Martinez - Hi. My name is Sergio Martinez, I'm the neighbor to  
3477 Mr. Broyles and Mr. Puckett. My home is right there where that red Honda Civic is  
3478 located (referring to picture on the screen). I am a truck driver and I know Mr.  
3479 Broyles' job is picking up these trailers or trucks that have broken down or have had  
3480 accidents. My concerns are... I feel for him, as far as the noise I understand, I don't  
3481 have a problem with it. It's just that at night time, yes, sometimes it does get to be a



3482 little bit loud. I've got a two-year-old little girl who at times wake up screaming  
3483 because of the noise. The other point that I do have is the trees that are back there. I  
3484 myself have cut between four to five trees, which were dead, they were growing no  
3485 type of foliage. In the wintertime when the foliage is gone, as you can see in the  
3486 picture, you can see a clear view to the roofline of where the existing building of Mr.  
3487 Broyles. I've had my home on two or three occasions on the real estate market and that  
3488 was one of the concerns, what was seen straight across, seeing some of the trucks and  
3489 some of the trailers that are sitting there presently. From my home a lot of light does  
3490 come in when they put on the rear trailer lights, when you are backing up the tractor  
3491 into whatever trailer he has brought in, which does come blaring into my bedroom.  
3492 And, I know as a driver, there is no way to avoid that. The only thing I would like,  
3493 and it was considerate for Mr. Broyles to come and talk to us and take the time to  
3494 really sit down and discuss this with us, is making sure that the fence is high enough  
3495 and hopefully putting some type of evergreens or pines that could stay all year around  
3496 to keep that greenage and not be able to see the commercial of Mountain Road, which  
3497 apparently there is a lot of building that is going around right there on that particular  
3498 road. But those are mainly my concerns, the lights, the noise, and possibility cleaning  
3499 some of that brush up or taking down some of those trees that are not living and put up  
3500 some kind of landscaping that can just try to help the residents as far as retailing on  
3501 their homes or possibly just cleaning up the area. That's mainly just my concerns.

3502  
3503 Ms. Dwyer - Are there any questions of Mr. Martinez?

3504  
3505 Mr. Archer - Mr. Martinez, maybe I should ask the applicant, but you  
3506 might know. The proposal is to increase the number of service bays to eight, do you  
3507 know what it is now?

3508  
3509 Mr. Martinez - No, sir, I don't know what it is.

3510  
3511 Mr. Archer - OK. I'll ask the applicant.

3512  
3513 Mr. Martinez - I know that his service bays are a lot closer to my home  
3514 than to Mr. Puckett's home, in which, when you do back up the trailers, again, it's  
3515 sitting right behind my home, which the light and the noise does come through.

3516  
3517 Mr. Archer - OK. I need to talk with the applicant.

3518  
3519 Ms. Dwyer - Will the applicant come back please?

3520  
3521 Mr. Archer - Mr. Horne, in listening to the things that Mr. Puckett and  
3522 Mr. Martinez have surfaced today, it seems to me that the applicant is willing to meet  
3523 them half way in the concerns that they have. And, I'm curious as to whether or not,  
3524 because once we do it is rather permanent, you are in agreement with some of the  
3525 suggestions that they have made in terms of working this out.

3526

3527 Mr. Horne - We can even go as far as doing the berm idea. Mr.  
3528 Broyles has extra topsoil on the site. He is willing to berm, you know, make a mound  
3529 and possibly put the fence along that mound and add a couple of feet or extra height to  
3530 the fence. As far as the planting goes, he initially left all of those trees there to act as a  
3531 buffer in case development came along, as it did, so he is willing to thin that out. He  
3532 will take out the dead trees. That was what he has agreed to do. What we will do is go  
3533 back in and count the number of trees that are there and supplement that planting with  
3534 evergreen planting as requested by the homeowners. I don't think that we would want  
3535 to go and do the full buffer planting if we had trees there that could count toward it.  
3536 And we are certainly willing to extend that board on board fence completely across the  
3537 back property line and supplement the planting per County regulations.

3538  
3539 Mr. Archer - How many existing bays are there now?

3540  
3541 Mr. Horne - There are six existing bays and they are adding two. The  
3542 way he has it organized, there is one garage door, which accounts for a lot of the  
3543 backing up of vehicles and the bays are angled, actually, inside of the building. So,  
3544 he's only got one door in right now. His proposal is to have four doors in. So, that the  
3545 trucks can actually pull up and pull straight into the bays. They don't have to do all of  
3546 this backing up to get the cars in. So, basically, now he's got parking on either side.  
3547 You can pull straight into his building and he doesn't have to worry about backing up  
3548 on that one little right side of the property.

3549  
3550 Mr. Archer - All right. So, if I can sum this up then, you are willing to  
3551 change the effect of the transitional buffer that you originally submitted, including  
3552 berming, and perhaps fencing on top of the berm, and putting in some evergreen and  
3553 removing dead trees.

3554  
3555 Mr. Horne - Or we could put the fence and do some berming behind  
3556 the fence and plant the evergreen on top of the berm. I don't know if the adjacent  
3557 homeowners realize that when we do this planting, the trees are so small, even if you  
3558 cram it in there, you are not going to get a good coverage for about probably 10 to 15  
3559 years of the height that you guys really want. So, the fence is going to really add to  
3560 that and the planting will eventually supplement it. As the existing planting dies off this  
3561 will grow up.

3562  
3563 Mr. Archer - We could just plant a little larger tree in the beginning,  
3564 couldn't we?

3565  
3566 Mr. Horne - Right, you could, but as far as County requirements the  
3567 trees aren't huge.

3568  
3569 Mr. Archer - I understand that, but I guess I was just trying to get you  
3570 to go a little bit beyond what is required. I'm not asking for a 15-foot tree initially  
3571 but....

3572

3573 Mr. Horne - Right. But we have been pretty much in agreement with  
3574 what everyone has asked of us so far and kind of gone beyond with working with the  
3575 berming and the fence.  
3576

3577 Mr. Archer- Mr. Puckett, does that sounds reasonable to you? Would  
3578 you like to come down again?  
3579

3580 Ms. Dwyer - Mr. Archer, you could do Nos. 9 and 11 Amended also.  
3581

3582 Mr. Archer - Oh, yes, we could. And I would probably suggest that we  
3583 do that, that we add Nos. 9 and 11 Amended to the conditions.  
3584

3585 Mr. Puckett - Any reasonable height to it is a concern, having a small  
3586 tree really isn't going to serve much purpose. I don't know if I'm going to be there for  
3587 that length of time myself. But more so than anything, the resale value of the homes is  
3588 an issue at stake when it comes to that. One thing I didn't ask, what is the height of  
3589 this building? Is it going to be serving automobiles or is it going to be servicing 18-  
3590 wheelers? I would then think if it is going to serving 18-wheeler trucks it is going to be  
3591 a substantially high building and I don't know the nature of that at this point.  
3592

3593 Mr. Archer - Maybe the applicant can answer that.  
3594

3595 Mr. Horne - Yes. The building that we are proposing is actually on the  
3596 front of this, on the street side of the existing building, and that's going to be more  
3597 office space and auto part sales.  
3598

3599 Mr. Archer - On the side away from his property.  
3600

3601 Mr. Horne - On the side away from your building. So, the building  
3602 that you see now is existing, it's going to stay the way it is, except it will have the bay  
3603 doors cut into it.  
3604

3605 Mr. McGarry - It proposes one bay door per bay. It's going to be a total  
3606 of eight, four on each side of the building.  
3607

3608 Mr. Archer - I have one more question of the applicant. Based on, and  
3609 I know we are going to bring back Nos. 9 and 11 so that we can see it, but based on  
3610 what Mr. Puckett was requesting, do you think we can, with the planting and buffering  
3611 eliminate the light spread or at least reduce it to the point that it is not bothersome to his  
3612 house and Mr. Martinez?  
3613

3614 Mr. Horne - From the adjacent property?  
3615

3616 Mr. Archer- Yes. What type of lighting are you proposing?  
3617

3618 Mr. Horne - What we are proposing are just shoe-box type fixtures,  
3619 wall pack on the new building and nothing on the old building. So, this fixture would  
3620 just be mounted on the wall probably eight feet high, it will be shielded, so it would be  
3621 more downward. And the distance of that front building is away from the fence and the  
3622 angled down lighting it would not clear the top of the fence, as far as glare. You might  
3623 be able to see a glow of light.

3624  
3625 Mr. Puckett - I wouldn't be able to tell that because I am in a tri-level  
3626 and the nature of looking down toward the back of my property I don't know if that  
3627 would really hold true.

3628  
3629 Mr. Archer - Well, the shoe-box fixture is designed so that lighting does  
3630 not spread but instead glows downward. And, then, of course, if we do Nos. 9 and 11  
3631 amended would mean that we will get an opportunity to review the landscape and  
3632 lighting plan before it is finally passed. So, I'm just trying to get this into a position  
3633 where it is workable and that you all have some agreement between you.

3634  
3635 Mr. Puckett - I think it's workable. I think creating a mounded berm  
3636 and as well as a fence is probably going to be the most advantageous way of getting  
3637 height into this equation more so than pines at this moment because the pines are going  
3638 to take some period of time to mature.

3639  
3640 Mr. Archer - Right. We understand that part. And maybe it would  
3641 help to alleviate problems you already have.

3642  
3643 Mr. Puckett - They haven't been unreasonable, they have been talking to  
3644 us.

3645  
3646 Mr. Archer - That's good.

3647  
3648 Mr. Horne - I would just like to say one more thing. Just some of  
3649 what he just said. We have worked with them extensively and we are willing to do  
3650 whatever it takes to keep everybody happy. And whatever we do is going to be a huge  
3651 improvement over what is existing. You can tell by the pictures, when they moved in  
3652 they saw what was there and Phil Broyles is willing to enhance that quite a bit. Also, I  
3653 would like to request that the landscape plan be revised by the administration and not  
3654 come back before the Commission.

3655  
3656 Mr. Archer - Mr. McGarry, do you think you can handle that  
3657 administratively? He requested that it not come back to the Commission but be  
3658 reviewed by the staff. I sense that the applicant is willing to do what is requested of  
3659 him. Mr. Secretary, would you be in agreement to that, to having that handled  
3660 administratively instead of coming back to the Commission?

3661  
3662 Mr. Marles - That would be fine.

3663

3664 Mr. Archer - OK. Are there any other questions? I don't have any,  
3665 Madam Chairman.

3666  
3667 Ms. Dwyer - All right. We are ready for a motion.

3668  
3669 Mr. Archer - I'm not sure if I can put all of this in a motion, I'll try. I  
3670 move for approval of POD-25-99, Broyles Auto Service, subject to the annotations on  
3671 the plans, the standard conditions for developments of this type, the additional  
3672 conditions Nos. 23 through 30 with a revised condition No. 29 stipulating "No outside  
3673 storage and no inoperative vehicles." And, also, with the understanding that staff will  
3674 be able to administratively approve a landscape and lighting plan that will include the  
3675 removal of some dead trees already existing on the property, some plantings and an  
3676 elevated berm and wooded fence.

3677  
3678 Mr. Vanarsdall - Second.

3679  
3680 Mr. Archer - Did I leave out anything?

3681  
3682 Ms. Dwyer - I don't think so. Did you mention the standard  
3683 conditions?

3684  
3685 Mr. Archer - Yes, I did.

3686  
3687 Ms. Dwyer- All right. The motion was made by Mr. Archer and  
3688 seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion  
3689 passes.

3690  
3691 The Planning Commission approved POD-25-99, Broyles Auto Service - Mountain  
3692 Road (POD-136-83 Revised), subject to the standard conditions attached to these  
3693 minutes the annotations on the plans and the following additional conditions. Mr.  
3694 Donati was absent.

- 3695  
3696 23. The developer shall provide fire hydrants as required by the Department of  
3697 Public Utilities in its approval of the utility plans and contracts.  
3698 24. Any necessary off-site drainage easements must be obtained in a form  
3699 acceptable to the County Attorney prior to final approval of the construction  
3700 plans by the Department of Public Works.  
3701 25. Deviations from County standards for pavement, curb or curb and gutter design  
3702 shall be approved by the County Engineer prior to final approval of the  
3703 construction plans by the Department of Public Works.  
3704 26. Insurance Services Office (ISO) calculations must be included with the utilities  
3705 plans and contracts and must be approved by the Department of Public Utilities  
3706 prior to the issuance of a building permit.  
3707 27. Approval of the construction plans by the Department of Public Works does not  
3708 establish the curb and gutter elevations along the Henrico County maintained  
3709 right-of-way. The elevations will be set by Henrico County.

- 3710 28. Employees shall be required to use the parking spaces provided at the rear of the  
 3711 building(s) as shown on the approved plans.  
 3712 29. Outside storage shall not be permitted except inoperative vehicles shall be stored  
 3713 for no more than 30 days or as permitted and regulated by Section 24-62.1(e).  
 3714 30. All repair work shall be conducted entirely within the enclosed building, the  
 3715 doors of which shall remain closed during repair or service operations.  
 3716

3717 **AT THIS TIME THE COMMISSION TOOK A FIVE-MINUTE RECESS.**

3718 **SUBDIVISION**

3719 Oak Hill Manor  
 3720 (March 1999 Plan)

**William J. Schmidt & Associates for Wallace C. Lang, III and W. C. Lang and Son, Inc.:** The 11.514-acre site is located at the western terminus of Tonaka Road and the northern terminus of Johnson Road on parcel 128-A-44 and part of parcel 128-A-55. The zoning is R-4, One-Family Residence District. County water and sewer. **(Fairfield) 40 Lots**

3721  
 3722 Ms. Dwyer - Is there anyone in the audience in opposition to  
 3723 subdivision Oak Hill Manor (March 1999 Plan)? No opposition. Mr. Wilhite.  
 3724

3725 Mr. Wilhite - There is a revised subdivision plat that has been handed  
 3726 out to you. It addresses most of the staff's concerns from the original submittal. It  
 3727 identifies a common area that will be used for the BMP. This is located behind lots 31  
 3728 through 34 off of street "A". Staff has added an annotation requiring that a 20-foot  
 3729 common area strip be connected to that for access purposes. Circle "C" has shifted  
 3730 slightly to align with Tonaka Road and as according to the staff's request. This in turn  
 3731 improves the lot design of Lot 40. There is the need for a slight adjustment of the  
 3732 alignment of radius of street "A". This is also an annotation on the revised plan. In  
 3733 addition, staff had originally requested that circle "A" and circle "B" be stubbed to the  
 3734 eastern property line of this proposed subdivision. Staff, on the revised plan, has  
 3735 continued the stub request for circle "B." This would stub into a landlocked piece of  
 3736 parcel that is to be developed in the future and doesn't have access to public right-of-  
 3737 way at this time. Circle "A", however, the staff has changed its recommendation as far  
 3738 as stubbing that street. There are two parcels that are shown there, that are landlocked  
 3739 but are actually owned by an adjoining property owner that has access to public road.  
 3740 In addition, the stub of that street would end up stubbing to the rear of two homes that  
 3741 are already existing there. There is a revision on the Addendum on page 4. It says:  
 3742 Staff recommends approval of this subdivision. There is a change in condition No. 12  
 3743 that is recommended. The original condition required that a survey plat of the  
 3744 remainder of the parcel showing the existing home be submitted to make sure that that  
 3745 remainder of the parcel was meeting all of the zoning requirements. That has already  
 3746 been done and staff has confirmed that all zoning requirements are being met. In its  
 3747 place, a new condition No. 12 is being recommended with the addition of common area  
 3748 to the subdivision. This requests that covenants and deed restrictions be reviewed by

3749 the County and recorded prior to recordation of plat. With that staff can recommend  
3750 approval of the revised plan, with the annotations, the standard conditions for  
3751 subdivisions, plus the new condition No. 12 and condition No. 13 already on your  
3752 agenda.

3753

3754 Ms. Dwyer - Are there any questions of Mr. Wilhite by Commission  
3755 members?

3756

3757 Mr. Archer - Mr. Wilhite, which circle was it you said we were still  
3758 recommending? Is the applicant in conformance with what you want to do?

3759

3760 Mr. Wilhite - Yes. He is in agreement with the staff's annotations and  
3761 requirements of the circle "B", which is going to be the northernmost circle.

3762

3763 Mr. Archer- OK. I see it now.

3764

3765 Mr. Wilhite - Do you see where the staff annotated the stub to the  
3766 property line. On circle "A" we did eliminate the suggestion for a stub street there.

3767

3768 Mr. Archer - What are the current street widths out there? Do you  
3769 know? Would they be the same, I guess what I meant?

3770

3771 Mr. Wilhite - Roughly, the same, Doran Lane is 50 feet. That's shown  
3772 on the plan here. Both Tonaka Court and Tonaka Road are also shown as 50-foot  
3773 rights-of-way. Johnson Road and street "A" are proposed as 50-foot rights-of-way, so  
3774 it is consistent with what is already out there.

3775

3776 Mr. Archer - For the benefit of the other Commission members, that  
3777 would be an improvement, Johnson Road that is just a one-cow cow path. That's all I  
3778 have Madam Chairman.

3779

3780 Ms. Dwyer - Are there any other questions of Mr. Wilhite? There's no  
3781 opposition. Would you like to hear from the applicant, Mr. Archer?

3782

3783 Mr. Archer - Yes, briefly, if I could.

3784

3785 Mr. Schmidt - Yes, sir. I'm William Schmidt, the engineer on the  
3786 project.

3787

3788 Mr. Archer - Mr. Schmidt, this is an unconditional zoning case and I'm  
3789 just a little bit curious as to what type of dwellings you plan to build and market.

3790

3791 Mr. Schmidt - What type of dwellings? They will be small two-story  
3792 dwellings that will fit and improve the area that now exist.

3793

3794 Mr. Archer - OK. That area is about 30 years old, maybe a little older  
3795 than that?

3796  
3797 Mr. Schmidt - A little older than that, yes.

3798  
3799 Mr. Archer - Well, a part of it, there's a brick rancher over there that  
3800 might have been done in the early 70's.

3801  
3802 Mr. Schmidt - Yes. I think a lot of them date earlier than that.

3803  
3804 Mr. Archer - OK. That's all I have.

3805  
3806 Ms. Dwyer - Are there any questions of Mr. Schmidt by Commission  
3807 members? Thank you, sir. Are you ready for a motion?

3808  
3809 Mr. Archer - Yes, ma'am. I move approval of subdivision Oak Hill  
3810 Manor, subject to the standard conditions for subdivisions served by public utilities, the  
3811 revised condition No. 12, and condition No. 13.

3812  
3813 Mr. Vanarsdall - Second.

3814  
3815 Ms. Dwyer - The motion was made by Mr. Archer and seconded by  
3816 Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

3817  
3818 The Planning Commission granted conditional approval to subdivision Oak Hill Manor  
3819 (March 1999 Plan), subject to the standard conditions for subdivision served by public  
3820 utilities attached to these minutes, the annotations on the plan and the following  
3821 additional conditions. Mr. Donati was absent.

3822  
3823 12. Prior to requesting the final approval, a draft of the covenants and deed  
3824 restrictions for the maintenance of the common area by a homeowners association  
3825 shall be submitted to the Planning Office for review. Such covenants and  
3826 restrictions shall be in form and substance satisfactory to the County Attorney and  
3827 shall be recorded prior to recordation of the subdivision plat.

3828 13. Vacation of the existing Johnson Road right-of-way to be incorporated into the  
3829 subdivision lots shall be completed prior to the recordation of the subdivision  
3830 plat.

3831  
3832 **LANDSCAPE PLAN**

3833  
LP/POD-12-98  
The Greens at  
Wyndham  
HHHunt: 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 12.87-acre site is located on the east side of Wyndham Lake Drive, 1,200 feet south of Old Wyndham Drive on part of parcel 4-A-7B.



The zoning is R-5C, General Residence District  
(Conditional). (Three Chopt)

3834

3835 Ms. Dwyer - Is there anyone in the audience in opposition to the  
3836 landscape plan LP/POD-12-98, The Greens at Wyndham? No opposition. Mr.  
3837 Strauss.

3838

3839 Mr. Strauss - Staff has nothing to add. We have received a landscape  
3840 plan and recommend approval. You may recall, this morning that there were a number  
3841 of neighbors who had showed up. I answered their questions. They were more  
3842 concerned about the Morgan Glens project, which is to the west of the golf course, I  
3843 think it's hole No. 17, here. They did not want to impede the review of this project.  
3844 They have since left, they are going to take their case to the Wyndham Foundation.  
3845 They were looking for some explanation for some trees that were removed and some  
3846 understory in their project. I don't know if the applicant is here, Mr. Bob Loftus, but  
3847 we are recommending approval unless you have any further questions?

3848

3849 Ms. Dwyer - Is there anyone in the audience to speak to LP/POD-12-98, The  
3850 Greens at Wyndham? Well, there is no one here, Mrs. Wade.

3851

3852 Mrs. Wade - Did you look up the case and see about the building materials?

3853

3854 Mr. Strauss - Yes, ma'am. The approved POD, the architectural of the POD,  
3855 stated that it would be a brick foundation with siding and there was a previous proffer  
3856 that said that it would be a brick foundation or a stone foundation unless the  
3857 predominant building material was drivit and then the foundation could be drivit. So,  
3858 they are in compliance.

3859

3860 Mrs. Wade - Because the building seems to be siding, and there is a sign out  
3861 there identify the project that says brick buildings, houses, or condos but that's not  
3862 what they seem to be doing but they did conform to what was approved. OK. Thank  
3863 you.

3864

3865 Ms. Dwyer - Are you ready for a motion, Mrs. Wade?

3866

3867 Mrs. Wade - Yes, ma'am. I move LP/POD-12-98 be approved subject  
3868 to the annotations, the standard conditions, this is not a revised plan, I move it be  
3869 approved.

3870

3871 Mr. Vanarsdall - Second.

3872

3873 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by  
3874 Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

3875

3876 The Planning Commission approved the landscape plan, L/POD-12-98, The Greens at  
3877 Wyndham, subject to the standards conditions applicable to such plans and the  
3878 annotations on the plans. Mr. Donati was absent.

3879  
3880  
3881

## LANDSCAPE & LIGHTING PLAN

LP/POD-20-97  
Market Café  
(Formerly Great To Go No. 2)

CMSS Architects: 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 2.35-acre site is located at the northeast corner of Nuckols Road and Lake Brook Drive on parcel 28-1-B-4. The zoning is M-1C, Light Industrial District (Conditional). (Three Chopt)

3882  
3883  
3884  
3885  
3886

Ms. Dwyer - Is there anyone in the audience in opposition to the landscape and lighting plan for LP/POD-20-97, Market Café? No opposition. Mr. Strauss

3887  
3888  
3889  
3890  
3891  
3892  
3893  
3894  
3895  
3896  
3897  
3898

Mr. Strauss - Thank you, Madam Chairman. Staff has received some additional information regarding the proposed lighting plan, which we have handed out previously with your Addendum. The applicant has proposed in addition to the standard parking lot lighting, decorative globe lights on ornamental poles, which are to be located in an outdoor patio area in front of the building. Staff has reviewed the light fixtures and found them to be consistent with our current lighting policy and we have no problems with those lights. The applicant has agreed to make other adjustments to the lighting plan that the staff had earlier requested, since we did observe a number of conflicts with the parking lot light poles and proposed landscaping and some County easements. So, the applicant has looked at that situation and will be submitting those changes with the final for signature.

3899  
3900  
3901  
3902  
3903  
3904  
3905  
3906  
3907  
3908  
3909

In regards to landscaping, the applicant is considering adding additional evergreen planting along the main entrance off Nuckols Road, which is in this area here (referring to the map on the screen). I discussed this with the applicant earlier today. They are suggesting that they change the Bradford Pears or the Red Spire Pears, which are in this location in the parking lot. They were suggesting to change those to evergreens and changing some of the Red Maples to Ilex "Nellie Stevens" hollys, which would add some evergreen plantings to the project which would be a benefit during winter months when the deciduous trees are not in leaf. So, with that, staff can recommend approval of the plan and the revised sketch with your Addendum. I'll be happy to answer any other questions you have.

3910  
3911  
3912

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

3913

Mrs. Wade - No.

3914  
3915 Ms. Dwyer - No questions. Are you ready for a motion?  
3916  
3917 Mrs. Wade - Well, the Market Café was the Great To Go No. 2, which  
3918 was formally The Innsbrook Express, the Market Café is the latest though. I move  
3919 LP/POD-20-97, landscape and lighting plan be approved subject to the annotations, the  
3920 standard conditions and the new plan that was handed out regarding the lights today and  
3921 with the understanding that they will work with staff on providing some evergreen trees  
3922 on the site.  
3923  
3924 Mr. Vanarsdall - Second.  
3925  
3926 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by  
3927 Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.  
3928  
3929 The Planning Commission approved the landscape and lighting plan, L/POD-20-97,  
3930 Market Café', subject to the standards conditions applicable to such plans and the  
3931 annotations on the plans. Mr. Donati was absent.  
3932  
3933 **SUBDIVISION**  
3934  
Dickens Glen  
(March 1999 Plan) **Rotunda Corporation for Koontz-Bryant P.C.:** The 5.38-  
acre site is located on Bethlehem Road, 560 feet south of  
its intersection with Dickens Road on parcels 93-A-62  
and 93-A-63. The zoning is R-3AC, One-Family  
Residence District (Conditional). County water and  
sewer. **(Brookland) 13 Lots**

3935  
3936 Ms. Dwyer - Is there anyone in the audience in opposition to Dickens  
3937 Glen (March 1999 Plan)? No opposition. Mr. Whitney.  
3938  
3939 Mr. Whitney - Thank you, Madam Chairman. On your Addendum, there  
3940 is a revised condition No. 12 which adds to that condition that the landscape plan will  
3941 include the common area, which to provide, for the BMP for this subdivision. Also,  
3942 there is an added condition No. 15, which deals with the accessory structures for Lot  
3943 13. Lot 13 is being provided to accommodate an existing dwelling. I'll take any  
3944 questions you may have.  
3945  
3946 Ms. Dwyer - Are there any questions for Mr. Whitney?  
3947  
3948 Mr. Vanarsdall - Did you say there is an added condition No. 15?  
3949  
3950 Mr. Whitney - Yes. It is on your Addendum.  
3951  
3952 Mr. Vanarsdall - We have Nos. 12 and 14 on the Addendum.

3953  
3954 Mr. Whitney - Number 14 is incorrect, it should be No. 15.  
3955  
3956 Mrs. Wade - So, we are eliminating No. 14 on the agenda.  
3957  
3958 Mr. Whitney - No. Number 12 is being revised and Nos. 13 and 14 will  
3959 remain. The added condition will be that No. 15.  
3960  
3961 Mrs. Wade - All right.  
3962  
3963 Mr. Vanarsdall - I don't have any more questions and I don't need to talk to  
3964 the applicant  
3965  
3966 Ms. Dwyer - Do any other Commission members have questions of Mr.  
3967 Whitney? We are ready for a motion.  
3968  
3969 Mr. Vanarsdall - I move that subdivision Dickens Glen be approved with  
3970 the standard conditions, the annotations on the plan and the revised condition No. 12  
3971 and then conditions Nos. 13 and 14 and we added No. 15.  
3972  
3973 Mr. Archer - Second.  
3974  
3975 Ms. Dwyer - The motion was made by Mr. Vanarsdall and seconded by  
3976 Mr. Archer. All in favor say aye...all opposed say nay. The motion carries.  
3977  
3978 The Planning Commission granted conditional approval to subdivision Dickens Glen  
3979 (March 1999 Plan) subject to the standard conditions attached to these minutes, the  
3980 annotations on the plan and the following additional conditions. Mr. Donati was  
3981 absent.  
3982  
3983 12. The detailed plant list and specifications for the landscaping to be provided  
3984 within the 25-foot-wide planting strip easement along Bethlehem Road and the  
3985 common area shall be submitted to the Planning Office for review and approval  
3986 prior to recordation of the plat.  
3987 13. Any necessary off-site drainage easements must be obtained prior to final  
3988 approval of the construction plans by the Department of Public Works.  
3989 14. Prior to requesting the final approval, a draft of the covenants and deed  
3990 restrictions for the maintenance of the common area by a homeowners  
3991 association shall be submitted to the Planning Office for review. Such  
3992 covenants and restrictions shall be in form and substance satisfactory to the  
3993 County Attorney and shall be recorded prior to recordation of the subdivision  
3994 plat.  
3995 15. Prior to requesting final approval, the engineer shall furnish the Planning Staff a  
3996 plan showing the existing dwelling and all accessory structures, including  
3997 fences, situated on Lot 13 to determine if the lot design is adequate to meet the  
3998 requirements of Chapter 24, of the Henrico County Code.

3999  
4000  
4001  
4002

**PLAN OF DEVELOPMENT, TRANSITIONAL BUFFER DEVIATION AND  
ALTERNATIVE FENCE HEIGHT (Deferred from the January 26, 1999 Meeting)**

POD-6-99  
Rite Aid @ Church  
And Pump 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)

4003  
4004  
4005  
4006

Ms. Dwyer - Is there anyone in the audience in opposition to POD-6-99, Rite Aid @ Church and Pumps Road? No opposition. Mr. Wilhite.

4007  
4008  
4009

Mr. Wilhite - You are being handed out a revised plan that we received earlier. It shows the 10,000 square foot store reduced down to 9,615 square feet. The rear access drive to the south of the property has been moved to 23 1/2 feet from the property line and a larger basin has been shown also. It adds additional property which is zoned A-1 on the west and the south sides to this request. In addition, the applicant has an additional revised drawing that he has brought in today. In order to accept this revised drawing, you would need to waive the requirements or regulations on submitting items for Planning Commission approval. The applicant has requested a transitional buffer deviation and that's shown on the revised plan that you have. He is proposing an alternative, allowed under the Code, for 23 1/2 feet between the improvements and the A-1 zoned property to the south. He also showed a six-foot-high board on board fence, which was located on the other side of the zoning line on the A-1 portion of the property. In addition, the transitional deviation request was made for the western side of the property line. The applicant, on the revised plan, is only showing 7 feet between the back of the curb and only provide 7 feet with the 6-foot-high-fence also on the A-1 portion of the property.

4010  
4011  
4012  
4013  
4014  
4015  
4016  
4017  
4018  
4019  
4020  
4021  
4022  
4023

In addition, this revised plan did not address water quality requirements to the satisfaction of staff. Also this plan is still in conflict with the Major Thoroughfare Plan. The revised plan that the applicant has brought in today, apparently, has been looked at by staff. As far as the water quality and the water quality issues, appears to have been addressed by that. It does show a sand filter now on the site to address water quality. The basin will still be there for 50/10 requirements. The transitional buffer has been met as far as the alternative allowed under the Code, with the exception that the fence along the south side of the building is still showing the A-1. Staff would recommend that that be shifted to the B-3 portion of the property and that all

4024  
4025  
4026  
4027  
4028  
4029  
4030  
4031  
4032

4033 transitional buffer requirements be met on the B-3 portion of the property. Once again,  
4034 that revised plan would have to be accepted by the Planning Commission by special  
4035 motion.

4036

4037 In addition, with the six-foot-high transitional buffer fence along the south property  
4038 line, its location means that the fence exceeds 42 inches in the front yard, which is the  
4039 allowable height in the zoning ordinance, and in order for that six-foot-high fence to be  
4040 placed in the front yard, you would need to approve an alternative fence height, which  
4041 is also a part of the request. Those issues, if they are worked out, still leaves the fact  
4042 that this plan shown is in conflict with the 2010 Major Thoroughfare Plan and that it  
4043 shows that John Rolfe Parkway, the routing of that, which is a minor arterial, it runs  
4044 right directly through the middle of this site. There is underway an attempt to look at  
4045 alternatives and that may be forthcoming in the future. However, there are no  
4046 alternatives that have been approved. What we are looking at is a public information  
4047 hearing scheduled for roughly early to mid April, which is the first step in the process  
4048 of looking at alternatives and possibly approving an alternative. Because of this conflict  
4049 with the Major Thoroughfare Plan, staff is not in a position to recommend approval of  
4050 this plan. Staff recommends denial.

4051

4052 Ms. Dwyer - Has the Department of Public Works recommended denial  
4053 based on the Major Thoroughfare Plan?

4054

4055 Mr. Wilhite - That is correct, yes.

4056

4057 Ms. Dwyer - Have there been comments by the County Attorney's  
4058 Office on that subject?

4059

4060 Mr. Wilhite - We have not received comments from the County  
4061 Attorney's directly.

4062

4063 Ms. Dwyer - Well, magically, we have a representative from the  
4064 County Attorney's Office here. So, I'm going to ask Mr. Tokarz to respond to this  
4065 question. But, first I have a couple of points I want to clarify with you.

4066

4067 Mr. Vanarsdall - Madam Chairman, I talked with Mr. Tokarz if you want  
4068 to hold it until now.

4069

4070 Ms. Dwyer - What did he tell you?

4071

4072 Mr. Tokarz - I would prefer that we go into executive session, Madam  
4073 Chairman.

4074

4075 Mr. Vanarsdall - Oh. I didn't know he was sitting there.

4076

4077 Ms. Dwyer - All right. Just so that I understand, Mr. Wilhite, we have  
4078 the revised plan that was handed out to us and there have been additional revisions to  
4079 that plan today.

4080  
4081 Mr. Wilhite - There are some additional revisions that's been brought in  
4082 today by the applicant.

4083  
4084 Ms. Dwyer - And that revision is to move the fence off the A-1  
4085 property onto the B-3 property, the fence that is along the side?

4086  
4087 Mr. Wilhite - They show meeting the transitional buffer requirements  
4088 along the west side of the property. On the south side they do meet the distance  
4089 requirements, their fence is still shown in A-1. We would recommend that the fence be  
4090 shifted from the A-1 to the B-3 to meet all transitional buffer requirements on the B-3  
4091 portion. We feel that using A-1 property to address any transitional buffer  
4092 requirements is in essence approving a rezoning of that A-1 property to a business  
4093 district.

4094  
4095 Ms. Dwyer - So, if we could make an annotation on the plan that the  
4096 fence would be in the B-3, that would be satisfactory to you?

4097  
4098 Mr. Wilhite - That is correct. It would meet the transitional buffer  
4099 requirements and the water quality issues would apparently be worked out too.

4100  
4101 Ms. Dwyer - So, the only outstanding issue, assuming that the fence is  
4102 moved from the A-1 to the B-3 property, the only outstanding issue is this elephant of  
4103 John Rolfe Parkway bisecting the property.

4104  
4105 Mr. Wilhite - Other than the approval of the alternative fence height in  
4106 the front yard.

4107  
4108 Ms. Dwyer - Which is technically in part in the front yard.

4109  
4110 Mr. Wilhite - That's correct.

4111  
4112 Ms. Dwyer - OK. All right. Just so we can clear up these details,  
4113 before we take any action.... Mr. Tokarz, did I understand you to say that we need to  
4114 go into executive session on this point?

4115  
4116 Mr. Tokarz - Ms. Dwyer, I have spoken with two members of the  
4117 Commission, but I haven't had an opportunity to speak with the other members, and I  
4118 think it would be proper to, a proper subject of a motion to go into executive session  
4119 for me to give you the legal advice on this particular matter.

4120  
4121 Ms. Dwyer - All right. We do need a motion to go into executive  
4122 session. What is the form of that particular motion?

4123  
4124 Mr. Tokarz - I was just asking Mr. Silber if we have one. It would be a  
4125 motion to go into executive session under 2.1-344, and I think it's Exception 7, of the  
4126 Code of Virginia in order to discuss legal matters with legal counsel concerning a  
4127 pending case of whatever case this is, POD-6-99.  
4128  
4129 Mr. Vanarsdall - I move that we do that, what he just said.  
4130  
4131 Mrs. Wade - What was the Code Section again?  
4132  
4133 Mr. Tokarz - I think it's Code Section 2.1-344, I think it's B7,  
4134 consultation with legal counsel. I don't have the Code with me, I'm sorry.  
4135  
4136 Ms. Dwyer - We just say in substance with what the Code says.  
4137  
4138 Mr. Tokarz - That's correct.  
4139  
4140 Ms. Dwyer - OK. Mr. Vanarsdall made the motion, do we have a  
4141 second?  
4142  
4143 Mr. Archer - Second, Madam Chairman.  
4144  
4145 Ms. Dwyer - The motion was made by Mr. Vanarsdall and seconded by  
4146 Mr. Archer that we go into executive session. All in favor say aye...all opposed say  
4147 nay. The motion carries. Now, where shall we meet?  
4148  
4149 **AT THIS TIME THE COMMISSION EMPTIED THE CONFERENCE, STOPPED**  
4150 **THE RECORDING, AND WENT INTO EXECUTIVE SESSION.**  
4151  
4152 Ms. Dwyer - We have our mikes back on and if folks can hear in the  
4153 ante room, you are welcomed to come back in and join us. OK. We are ready to start  
4154 back again. I believe we formally need to make a motion to leave our executive session  
4155 and reenter our regular meeting.  
4156  
4157 Mr. Tokarz - That's correct. You come out of executive session by a  
4158 motion and then there would be a resolution to be read by the Secretary of the  
4159 Commission.  
4160  
4161 Ms. Dwyer - OK. Is there a motion to come out of executive session?  
4162  
4163 Mr. Archer - So move, Madam Chairman.  
4164  
4165 Mr. Vanarsdall - Second.  
4166  
4167 Ms. Dwyer - All right. We will read the resolution.  
4168



4169 Mr. Tokarz - That's correct. He will read the resolution and then there  
4170 will be a vote, on the certification.  
4171  
4172 Mrs. Wade - Have we voted on the coming out?  
4173  
4174 Ms. Dwyer - All right. Do we need to vote on the coming out first?  
4175  
4176 Mr. Tokarz - That's correct.  
4177  
4178 Ms. Dwyer - OK. All those in favor of coming out of executive session  
4179 say aye...all opposed say nay. The motion carries.  
4180  
4181 Mr. Marlles - OK. Madam Chairman. This is the Certification of  
4182 Executive Meeting Whereas, the Henrico County Planning Commission has convened  
4183 an executive meeting on this date pursuant to an affirmative recorded vote and in  
4184 accordance with the provisions of The Virginia Freedom of Information Act; and  
4185  
4186 WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the  
4187 Planning Commission that such executive meeting was conducted in conformity with  
4188 Virginia law;  
4189  
4190 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission certifies that,  
4191 to the best of each member's knowledge, (i) only public business matters lawfully  
4192 exempted from open meeting requirements by Virginia law were discussed in the  
4193 executive meeting to which this certification resolution applies, and (ii) only such public  
4194 business matters as were identified in the motion convening the executive meeting were  
4195 heard, discussed, or considered by the Planning Commission.  
4196  
4197 All those in favor vote aye....all opposed say nay. The Certification of Executive  
4198 Meeting is approved. Mr. Donati is absent.  
4199  
4200 Ms. Dwyer - Mr. Secretary, you will certify that vote.  
4201  
4202 Mr. Marlles - Yes, Madam Chairman.  
4203  
4204 Ms. Dwyer - Have we completed everything we needed to complete,  
4205 Mr. Tokarz?  
4206  
4207 Mr. Tokarz - Yes, ma'am, Madam Chairman, with respect to the  
4208 executive session and the necessary requirements under the Freedom of Information  
4209 Act. One thing that would be appropriate, as a part of the staff report or to inquiry as  
4210 to the staff whether all of the requirements of the zoning ordinance have been met with  
4211 respect to the application for the POD presently before the Commission.  
4212

4213 Ms. Dwyer - Thank you. Let me ask Mr. Wilhite a few more  
4214 questions. Mr. Wilhite, are you familiar with the Commission's rules as far as  
4215 submitting plans to the Planning Commission, is that right?

4216  
4217 Mr. Wilhite - Yes, that's correct.

4218  
4219 Ms. Dwyer - The plan that was handed out to us today, I think I went  
4220 over this earlier, that was submitted in a timely fashion?

4221  
4222 Mr. Wilhite - Yes, it was.

4223  
4224 Ms. Dwyer - But the changes that were recommended today, were they  
4225 submitted within the time period required by our rules.

4226  
4227 Mr. Wilhite - No. They were brought to the meeting today and then  
4228 given to staff at today's meeting.

4229  
4230 Ms. Dwyer - And the difference between the two is the existence of the  
4231 fence along the southern boundary in the A-1 as opposed to the B-1 property.

4232  
4233 Mr. Wilhite - That still shows up on the south property line even with  
4234 the revised plan.

4235  
4236 Mr. Dwyer - Are there any other problems with the plan not revised as  
4237 of today?

4238  
4239 Mr. Wilhite - It does not meet transitional buffer requirements and it did  
4240 not meet water quality requirements as well. Also there would be the need for an  
4241 alternative height approval.

4242  
4243 Ms. Dwyer - And the transitional buffer deviation was not met where?

4244  
4245 Mr. Wilhite - It showed the fence on the A-1 portion on the south side  
4246 of the building.

4247  
4248 Ms. Dwyer - That's how it wasn't?

4249  
4250 Mr. Wilhite - On the west side of the building, it only showed a seven-  
4251 foot buffer area and it also showed the fence on the A-1 portion of the property.

4252  
4253 Ms. Dwyer - All right. Thank you. Would the applicant like to come  
4254 forward, please?

4255  
4256 Mr. Gallagher - Madam Chairman, I'm Gary Gallagher with Sigma  
4257 Development of Virginia. I would like to state for the record, we were only made  
4258 aware of the need to make these changes as of Friday. We had shown a fence at the

4259 property limits, which was outside of the zoning line, but inclusive of additional buffer  
4260 that we were intending to provide along the perimeter of this property. We have made  
4261 the required change to move the fence to the zoning line, which is 23 1/2 feet from the  
4262 curb line. And, it is our belief, although the plan may show two lines, it's an attempt  
4263 to show a zoning line and a fence line concurrent. We are not attempting to show that  
4264 we are outside the zoning on the south perimeter on the revised plan. So, any  
4265 ambiguity there is probably a drafting error more than an attempt on our part. We do  
4266 intend to have the fence at the zoning limits. The storm water question that was  
4267 brought up was....

4268  
4269 Ms. Dwyer - Excuse me. Let me ask Mr. Wilhite another question.  
4270 Mr. Wilhite, did you say the fence was located in the A-1 property along the western  
4271 boundary. Is that correct?

4272  
4273 Mr. Wilhite - Yes, that is correct.

4274  
4275 Ms. Dwyer - So, would you explain that, while we are talking about  
4276 fences in the A-1?

4277  
4278 Mr. Gallagher - Again, on the previous submittal, we had 23 feet of  
4279 available buffer land between the curb line and the zoning line, which would have met  
4280 the (alternative eave?) requirements. However, since we intend to own additional land,  
4281 which can be used for buffer, we had shown the fence at the property line.

4282  
4283 Ms. Dwyer - Which is on the A-1 and not the B-1.

4284  
4285 Mr. Gallagher - Which technically is on the A-1, not an effort to divert the  
4286 Code or circumvent the Code. That issue has been addressed by the revised plan,  
4287 which was submitted this morning. Again, to address comments that we received on  
4288 Friday. The storm water management issue, we do show a detention pond on the  
4289 western part of the property to meet the required 50/10 continuation requirements. We  
4290 had submitted in February addition BMP calculations to show that a sand filter could be  
4291 incorporated on the site to supplement the pond in meeting the requirements for BMP.  
4292 And there was a comment raised Friday about where was the sand filter going to 90.  
4293 It's not something we normally show because it is an underground element, but in order  
4294 to satisfy the comment, we showed its location along the curb line in the front parking  
4295 lot. That's something subject to change and normally worked out with engineering  
4296 after POD. With that, Madam Chairman, I would respectfully state that this plan meets  
4297 all of the ordinance criteria for B-3 zoning in this location.

4298  
4299 Ms. Dwyer - You have the six-foot-tall fence in the front yard property.

4300  
4301 Mr. Gallagher - Yes, ma'am.

4302  
4303 Ms. Dwyer - So, that doesn't meet the ordinance requirements.

4304

4305 Mr. Gallagher - We would be asking for a deviation in that matter only.

4306

4307 Ms. Dwyer - Are there any questions of Mr. Gallagher by Commission  
4308 members? Thank you. Well, I have seen the revised plan and discussed that with Mr.  
4309 Wilhite but I hadn't seen the changes made today until moments ago. The Commission  
4310 has oftentimes discussed our concerns and difficulties of getting last minute submittals  
4311 and so I have decided not to make a motion that we waive the time limits for the late  
4312 submittal for this particular POD, which means we are now reviewing the master  
4313 review, the plan of development that was submitted to the Commission in a timely  
4314 manner. And, as Mr. Wilhite indicated, this plan is deficient in a number of ways  
4315 including... Actually, Mr. Wilhite, would you just run down that list again for my  
4316 benefit? I would appreciate it so that we are all clear on this. I know it's the  
4317 transitional buffer on the western/southern sides are inadequate.

4318

4319 Mr. Wilhite - The plan that was handed out to you, that we received  
4320 earlier this month, showed a fence on the A-1 portion on the southern boundary line.  
4321 Therefore, it did not meet transitional buffer requirements along the south. It showed  
4322 seven feet of separation between the top of the storm water BMP basin and the back of  
4323 the curb where 23 would be required and it also showed the fence in the A-1 portion.  
4324 Once again, it did not meet transitional buffer requirements along the west boundary  
4325 line. The six-foot-high fence in the front yard does not meet the 42-inch-high code  
4326 limitation and would therefore need an alternative fence height request as well as the  
4327 issues on the Major Thoroughfare Plan.

4328

4329 Ms. Dwyer - So, we do have a request for the alternative fence height.  
4330 Do we need a motion on that, Mr. Secretary, one way or the other?

4331

4332 Mr. Marlls - Yes, we do.

4333

4334 Ms. Dwyer - My motion is that the Planning Commission deny the  
4335 request for the alternative fence height in the front yard.

4336

4337 Mrs. Quesinberry - Second.

4338

4339 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by  
4340 Mrs. Quesinberry. All in favor say aye...all opposed say nay. The motion carries.

4341

4342 The Planning Commission denied the applicant request for an alternative fence height  
4343 for POD-6-99, Rite Aid @ Church and Pump Roads. Mr. Donati was absent.

4344

4345 Ms. Dwyer - I'm ready now for a motion on the case itself. Looking at  
4346 the POD that was submitted in a timely manner to the Planning Commission, standards  
4347 and ordinance requirements have not been met. In addition, to the alternative fence  
4348 height, we have the transitional buffer deviation problems that Mr. Wilhite has  
4349 outlined. So, for those reasons, I move for denial of POD-6-99.

4350

4351 Mr. Gallagher - Madam Chairman, I don't know if it is appropriate or not,  
4352 but given that all of this is coming down so fast, is it appropriate for me to ask for a  
4353 deferral to work out these issues?  
4354

4355 Ms. Dwyer - That will be fine.  
4356

4357 Mr. Gallagher - In that case, I would respectfully request that we be  
4358 granted a 30-day deferral to work out these issues with staff and to clean up any of  
4359 these matters.  
4360

4361 Ms. Dwyer - Is that April 20, Mr. Secretary?  
4362

4363 Mrs. Wade - Are you withdrawing your motion?  
4364

4365 Ms. Dwyer - Well, I'm considering it. We have a half way motion  
4366 here.  
4367

4368 Mr. Marlles - Yes, our next meeting is on April 20.  
4369

4370 Ms. Dwyer - OK. I withdraw my motion, then, to deny the case and I  
4371 now move that the Commission defer POD-6-99, Rite Aid at Church and Pump Roads,  
4372 until our April 20, 1999, meeting.  
4373

4374 Mr. Archer - Second.  
4375

4376 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by  
4377 Mr. Archer. All in favor say aye...all opposed say nay. The motion for deferral  
4378 carries.  
4379

4380 Pursuant to the applicant's request, the Planning Commission deferred POD-6-99, Rite  
4381 Aid @ Church and Pump Roads, until its April 20, 1999, meeting. Mr. Donati was  
4382 absent.  
4383

4384 **PLAN OF DEVELOPMENT**  
4385

POD-21-99  
Gayton Business  
Center Phase V –  
Gayton Centre Drive

**TIMMONS for Ridgeview, Inc.:** 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, 6,093 square foot office/retail building. The  
1.03-acre site is located at Gayton Centre Drive on part  
of parcel 65-A-7N. The zoning is B-3, Business District.  
County water and sewer. **(Tuckahoe)**

4386

4387 Ms. Dwyer - Is there anyone in the audience in opposition to POD-21-  
4388 99, Gayton Business Center Phase V - Gayton Centre Drive? No opposition. Mr.  
4389 Whitney.

4390  
4391 Mr. Whitney - Thank you, Madam Chairman. The only real issue we  
4392 have to discuss on this, for the record anyway, would be a continuation of Phase IV on  
4393 this project. We approved that phase with a question about office/warehouse in a B-3  
4394 district. Condition No. 31, then, has been recommended by staff that we add Phase V  
4395 to the condition regulating the office/warehouse. B-3 zoning only requires one  
4396 office/warehouse under 15,000 square feet. With that, I will take any questions. Staff  
4397 is recommending approval of this plan of development.

4398  
4399 Ms. Dwyer - Is the purpose of condition No. 31, Mr. Whitney, because  
4400 the B-3 zoning limits office/warehouse operations to one tenant per B-3 property,  
4401 correct?

4402  
4403 Mr. Whitney - That is correct.

4404  
4405 Ms. Dwyer - So, we have defined the B-3 property to which that  
4406 limitation is applicable to Phase III, IV and V of Gayton Business Center?

4407  
4408 Mr. Whitney - Yes. All of this property is owned by Wilton, or a  
4409 company of Wilton. Phase IV, they do have a building permit for that, the shell  
4410 building, and they have not identified tenants in there as of yet. And, once again, in  
4411 Phase V we have a request for plan of development with no knowledge of who the  
4412 tenants are going to be. It's all speculative in nature. So, staff has always been  
4413 uncomfortable with this idea, without this knowledge, knowing what the use is going to  
4414 be. And with the loading docks represented on the architectural, the floor plan  
4415 included with your packet does point to an office/warehouse type activity being in this  
4416 building. And, we, again, would ask the applicant if they could identify any future  
4417 applicants in Phase IV and here in Phase V.

4418  
4419 Ms. Dwyer - Thank you, Mr. Whitney. Are there any questions of Mr.  
4420 Whitney by Commission members? Would the applicant come forward, please?

4421  
4422 Mr. Loving - Good afternoon. My name is Monty Loving with  
4423 TIMMONS representing the applicant. I would like to say that we have met with staff  
4424 and agreed to meet their conditions and I'd be happy to answer any questions you have.

4425  
4426 Ms. Dwyer - As a representative of the applicant here, I have spoken to  
4427 Mr. Dallas and I believe Mr. Whitney has spoken to representatives of the Wilton  
4428 Companies before. Do you understand the dialog that Mr. Whitney and I just had  
4429 about our concern about the uses to which this property may be put, and our concern  
4430 that we may be stepping over the B-3 limitations into perhaps office/service or even M-  
4431 1 use?

4432

4433 Mr. Loving - Yes, ma'am. I understand that, and as I've been told by  
4434 the applicant, to my understanding, that the type of use he intends to use the buildings  
4435 for are more like a retail office area where the back half of the buildings are going to be  
4436 used to store his inventory, not per se storage warehouse type of use. That's the way  
4437 it's been design as a office retail.  
4438

4439 Ms. Dwyer - As we looked at the development, in preparation for this  
4440 case, we did see some outside storage that is not permissible in the B-3. I believe Mr.  
4441 Dallas indicated that they have taken steps to have that cleared. But, that is the kind of  
4442 problem that we are concerned about as the use of this particular facility intensifies and  
4443 begins to approach more of an office/warehouse. Our point in having this condition,  
4444 and also reviewing this at the meetings, is to sensitize the developer to our concerns  
4445 that this be strictly limited to B-3 uses, to be mindful of that as we acquire tenants.  
4446

4447 Mr. Loving - OK. Point taken.  
4448

4449 Ms. Dwyer - And, so with that understanding, your client, then, agrees  
4450 to condition No. 31?  
4451

4452 Mr. Loving - Yes, ma'am.  
4453

4454 Ms. Dwyer - Thank you. Are there any other questions by Commission  
4455 members? All right. I move for the approval of POD-21-99, Gayton Business Center  
4456 Phase V, subject to the annotations on the plans, the standard conditions for  
4457 developments of this type, and conditions Nos. 23 through 31.  
4458

4459 Mrs. Wade - Second.  
4460

4461 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by  
4462 Mrs. Wade. All in favor say aye...all opposed say nay. The motion carries.  
4463

4464 The Planning Commission approved POD-21-99, Gayton Business Center Phase V -  
4465 Gayton Centre Drive, subject to the standard conditions attached to these minutes, the  
4466 annotations on the plans and the following additional conditions. Mr. Donati was  
4467 absent.  
4468

4469 23. The easements for drainage and utilities as shown on approved plans shall be  
4470 granted to the County in a form acceptable to the County Attorney prior to any  
4471 occupancy permits being issued.

4472 24. The developer shall provide fire hydrants as required by the Department of  
4473 Public Utilities in its approval of the utility plans and contracts.

4474 25. The certification of building permits, occupancy permits and change of  
4475 occupancy permits for individual units shall be based on the number of parking  
4476 spaces required for the proposed uses and the amount of parking available  
4477 according to approved plans.

- 4478 26. Any necessary off-site drainage easements must be obtained in a form  
4479 acceptable to the County Attorney prior to final approval of the construction  
4480 plans by the Department of Public Works.
- 4481 27. Deviations from County standards for pavement, curb or curb and gutter design  
4482 shall be approved by the County Engineer prior to final approval of the  
4483 construction plans by the Department of Public Works.
- 4484 28. The loading areas shall be subject to the requirements of Chapter 24, Section  
4485 24-97(b) of the Henrico County Code.
- 4486 29. Insurance Services Office (ISO) calculations must be included with the utilities  
4487 plans and contracts and must be approved by the Department of Public Utilities  
4488 prior to the issuance of a building permit.
- 4489 30. Approval of the construction plans by the Department of Public Works does not  
4490 establish the curb and gutter elevations along the Henrico County maintained  
4491 right-of-way. The elevations will be set by Henrico County.
- 4492 31. Only one (1) building in Phases III, IV, and V in this development shall be used  
4493 for office/warehouse purposes and shall be occupied by only one (1) tenant.  
4494

4495 Ms. Dwyer - I believe that is the end of our case agenda for today, but  
4496 we have a few other items to go over, a resolution, amendment to the Major  
4497 Thoroughfare Plan and of course our 1:00 p.m. public hearing on Flag Lots. OK. Do  
4498 you all want to break for lunch or what?  
4499

4500 Mr. Marlles - Madam Chairwoman, I know the public hearing was  
4501 schedule to start at 1:00 p.m. I know the representatives from the development  
4502 community have been waiting since one o'clock and I believe, at least in several cases,  
4503 they are not going to be able to stay if the public hearing is delayed to much longer.  
4504 Staff recommendation would be to finish up these last remaining items on the agenda, at  
4505 least start the public hearing to give the representatives of the development community  
4506 to make their presentation. We can certainly adjourn at any point and move the public  
4507 hearing or the work session up to the Public Utilities Conference Room, which is where  
4508 we are scheduled to eat lunch. So, that would be staff's recommendation.  
4509

4510 Ms. Dwyer - Could we move it now and eat lunch while we are  
4511 handling these other issues?  
4512

4513 Mr. Marlles - We could.  
4514

4515 Ms. Dwyer - Would there be a problem starting the Flag Lots hearing  
4516 in the other room?  
4517

4518 Mr. Marlles - As long as the Commission agrees to relocate the meeting  
4519 from here to the Public Utilities' Conference room, that would be fine.  
4520

4521 Ms. Dwyer - OK. Let's get these other items out of the way, then. We  
4522 have the Major Thoroughfare Plan and the Substantially in Accord, do we have any  
4523 idea how much time those are going to take?



4524  
4525 Mr. Marlles - These are very brief presentations.  
4526  
4527 Mrs. Wade - And can we get rid of these minutes? I'm so tired of  
4528 carrying around these same minutes back and forth.  
4529  
4530 Ms. Dwyer - All right. We will do the next three items on the agenda  
4531 and then we will adjourn to the Public Utilities Conference Room and eat lunch while  
4532 we hear the presentation on flag lots. OK. We need a motion on the minutes for  
4533 December 15, 1998.  
4534  
4535 **APPROVAL OF MINUTES: December 15, 1998**  
4536  
4537 Mrs. Wade - I move the December 15, 1998, minutes be approved with  
4538 the corrections that were called in.  
4539  
4540 Mr. Vanarsdall - Second.  
4541  
4542 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr.  
4543 Vanarsdall in favor of adopting the December 15, 1998, minutes as revised. All in favor  
4544 say aye...all opposed say nay. The motion carries.  
4545  
4546 The Planning Commission approved the December 15, 1998, minutes as amended. Mr.  
4547 Donati was absent.  
4548  
4549 **APPROVAL OF MINUTES: January 14, 1999, Rezoning Minutes**  
4550  
4551 Mrs. Wade - I move the January 14, 1999, rezoning minutes be  
4552 approved as revised.  
4553  
4554 Mr. Vanarsdall - Second.  
4555  
4556 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr.  
4557 Vanarsdall in favor of adopting the January 14, 1999, Rezoning minutes. All in favor  
4558 say aye...all opposed say nay. The motion carries.  
4559  
4560 The Planning Commission approved the January 14, 1999, Rezoning minutes as  
4561 amended. Mr. Donati was absent.  
4562  
4563 **RESOLUTION: Northwest Elementary School #5 (Twin Hickory) – Substantially In**  
4564 **Accord With the County of Henrico Comprehensive Plan (Staff Presentation by Audrey**  
4565 **Anderson)**  
4566  
4567 Ms. Anderson - Madam Chairman, I don't have any additional comments  
4568 on this.  
4569

4570 Ms. Dwyer - We have your report. Are there any questions by  
4571 Commission members on the report on the Northwest Elementary School #5 site, Twin  
4572 Hickory subdivision, R-2 property?  
4573

4574 Mrs. Wade - It seems to be in order. The utilities are available. It  
4575 meets the goals and objectives of the Comprehensive Plan. It supports the intent of the  
4576 plan to provide public services in a timely manner. I don't have any questions, I'm  
4577 quoting.  
4578

4579 Ms. Dwyer - Are there any questions by Commission members? No  
4580 questions. Do I have a motion on the resolution.  
4581

4582 Mrs. Wade - The land is available, the money is available and certainly  
4583 needs the space. I move, therefore, that passage of the Resolution entitled Northwest  
4584 Elementary School #5 site as we were given today. I'll read the whole thing if that  
4585 necessary, that it's substantially in accord with the Comprehensive plan.  
4586

4587 Ms. Dwyer - It's not necessary.  
4588

4589 Mr. Vanarsdall - Second.  
4590

4591 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by  
4592 Mr. Vanarsdall. All in favor say aye...all opposed say nay. Mrs. Wade, if you would  
4593 like to give a copy of the resolution that you referred to, to the Secretary then there  
4594 would be no question as to which version of a resolution we voted on.  
4595

4596 Mrs. Wade - Is there another copy somewhere?  
4597

4598 Ms. Dwyer - No. Well, just in case there are any questions. All right,  
4599 the Major Thoroughfare Amendment.  
4600

4601 The Planning Commission approved the Resolution for Northwest Elementary School  
4602 #5 (Twin Hickory), substantially in Accord with the Comprehensive Plan. Mr. Donati  
4603 was absent.  
4604  
4605

4606 **AMENDMENT: Major Thoroughfare Plan – Airport Connector Road to Interstate I-895**  
4607 **(Staff Presentation by John Merrithew)**  
4608

4609 Mr. Merrithew - Thank you, Madam Chairman. If I can get away with  
4610 saying I have nothing to add to the report, I would do that. But, I would like to point  
4611 out one specific point. Most of the MTP amendments that you have seen have been  
4612 taking roads off of the map or taking lines off the map. This is a rare occasion where  
4613 we are adding a line to the map. And I want to point out that adding that line to the  
4614 map does not mean that we are affixing ourselves to a specific alignment for the road.  
4615 Selecting an alignment for the road is just in the initial feasibility phases. There is

4616 work being carried out by the Capital Regional Airport Commission and there is no  
4617 specific alignment selected at this point in time. However, for our purposes the point  
4618 of this amendment is to show a connection between I-895 and Airport Drive South at  
4619 the airport, which is intended to improve access to the airport. This is a project that  
4620 has been, more or less, been looked at for many years now.

4621  
4622 The reason it is coming to you now is that with the construction of I-895, the airport  
4623 views a major opportunity to improve its visibility and access by connecting to that  
4624 road. This amendment falls on the heels of the Board's decision to include an airport  
4625 connection from I-895 in its recommended state highway improvement plan for this  
4626 year. So, the Board is moving progressively toward this connection. The proposed  
4627 amendment is consistent with the Major Thoroughfare Plan and with the Land Use Plan  
4628 in that it provides improved access for economic development and so on. So we  
4629 believe, as staff, that we can recommend approval of this amendment as it has been  
4630 requested, and I'll be glad to answer any questions.

4631  
4632 Ms. Dwyer - Are there any questions of Mr. Merrithew?

4633  
4634 Mrs. Quesinberry - I do. Mr. Merrithew, I would just like to state for the  
4635 record, I understand what you said about this amendment not fixing the road alignment,  
4636 and if I could just note that, for those of us in the Varina District, there is some concern  
4637 as the road looks on this particular map right now, understanding it is not the affix  
4638 alignment on this road, but as it looks right now, it does go through a small industrial  
4639 development area with some businesses that would be impacted pretty significantly.

4640  
4641 Mr. Merrithew - The feasibility report that's been done on behalf of the  
4642 CRAC, looks at, depending on the section of the road you look at, four or five different  
4643 alignments and they all will have an impact on different properties. Of course, those  
4644 properties will have to be compensated or improved somehow as engineering decides  
4645 how much land is being required from those properties. You are right. There will be  
4646 some impact from any one of those alignments

4647  
4648 Mrs. Wade - Will this take the place of 193-1?

4649  
4650 Mr. Merrithew - 193-1 was intended to provide local access. So, it may  
4651 have to be adjusted but it won't take the place of 193 they will work together, 193  
4652 being the local access road and this being more a high-speed arterial.

4653  
4654 Mrs. Wade - There don't appear to be any homes in this path.

4655  
4656 Mr. Merrithew - As I recall there are no homes taken north of I-895. If the  
4657 project goes to the south of I-895 then there are some homes involved.

4658  
4659 Mr. Vanarsdall - Did you say that the Capital Regional Airport Commission  
4660 recommended this?

4661

4662 Mr. Merrithew - Yes. They requested that we proceed with this  
4663 amendment.

4664  
4665 Mr. Vanarsdall - The MPO also endorses it and the Richmond Regional  
4666 Planning Commission endorses it.

4667  
4668 Mrs. Wade - Well, there has always been concern that I-895 didn't  
4669 have access to the airport area.

4670  
4671 Ms. Dwyer - Is there anyone in the audience that would like to speak to  
4672 the Major Thoroughfare Plan amendment?

4673  
4674 Mr. Axselle - Madam Chairman, I'm Bill Axselle on behalf of the  
4675 Capital Regional Airport Commission and I have nothing further to add but will be glad  
4676 to respond to any questions. We hope you would approve the amendment.

4677  
4678 Ms. Dwyer - Are there any questions of Mr. Axselle by the  
4679 Commission? No question. Ready for a motion.

4680  
4681 Ms. Quesinberry - I would like to move approval of the Major Thoroughfare  
4682 Plan Amendment for the airport connector road to I-895 as present by Mr. Merrithew  
4683 today.

4684  
4685 Mrs. Wade - Second.

4686  
4687 Ms. Dwyer - The motion was made by Mrs. Quesinberry, and seconded  
4688 by Mrs. Wade. All in favor say aye...all opposed say nay. The motion passes carries.

4689  
4690 The Planning Commission approved the Amendment to the Major Thoroughfare Plan  
4691 for the airport connector road to I-895. Mr. Donati was absent.

4692  
4693 Ms. Dwyer - The Commission will now move to the Public Utilities  
4694 Conference room to continue our meeting at that location.

4695  
4696 **AT THIS TIME, THE PLANNING COMMISSION RELOCATED THE MEETING**  
4697 **TO THE PUBLIC UTILITIES CONFERENCE ROOM**

4698  
4699 **PUBLIC HEARING BEGINNING AT 1:00 P.M.**  
4700 **(Deferred from the January 26, 1999, Meeting)**

4701  
4702 **AMENDMENT TO CHAPTER 24 (Zoning) OF THE CODE OF THE COUNTY OF**  
4703 **HENRICO: An ordinance to Amend and Reordain Section 24-95 (r) the Henrico County**  
4704 **Code to Prohibit Flag Lots (Staff Presentation by David O'Kelly)**

4705  
4706 **DISCUSSION: Work Session – Proposed Zoning Ordinance and Subdivision Ordinance**  
4707 **Amendments for Flag Lots and Cul-de-sac lots. (Staff Report by David O'Kelly)**

4708

4709 Ms. Dwyer - Before we get started I'm going to ask a question that's a  
4710 procedural one. We have scheduled today both a public hearing on the proposal to  
4711 eliminate flag lots from the ordinance and a work session on a larger subject of cul-de-  
4712 sac lots, flag lots and proposals for future ordinance amendments. Is that correct, Mr.  
4713 O'Kelly?

4714

4715 Mr. O'Kelly? - That's correct, Madam Chairman. This is a continuation  
4716 of a public hearing that the Planning Commission held on January 26, 1999, to consider  
4717 an amendment that staff brought forward to eliminate flag lots from the zoning  
4718 ordinance.

4719

4720 Ms. Dwyer - So, my question is, procedurally how should we handle  
4721 both the public hearing and the work session? What is your recommendation on that?

4722

4723 Mr. O'Kelly - Staff at this point in time would recommend to the  
4724 Commission that the ordinance that was emphatically recommended by the staff in  
4725 January be reconsidered in the public hearing. We will have to advertise or readvertise  
4726 an amendment, not only to the zoning ordinance but what the proposal that should have  
4727 been brought to us by the Homebuilders, we will have to advertise an amendment to the  
4728 subdivision ordinance as well, which was not included in your original resolution. Staff  
4729 has prepared a revised resolution for your consideration today that would initiate future  
4730 ordinance amendment for both the zoning ordinance and the subdivision ordinance.

4731

4732 Ms. Dwyer - Was that sent to us in the mail, the resolution?

4733

4734 Mr. O'Kelly - The resolution was handed out to you this morning.

4735

4736 Ms. Dwyer - Yes, it was, I just didn't know if I had it in my earlier  
4737 packet or not.

4738

4739 Mrs. Wade - I thought you all were recommending to eliminate flag  
4740 lots.

4741

4742 Mr. O'Kelly - I think this is a continuation of the public hearing, but we  
4743 can't act on the ordinance today because the ordinance that is before you is to eliminate  
4744 flag lots. So, the public hearing can be tabled, cancelled, continued. We would  
4745 recommend that you hold another public hearing, possibly at the April meeting, to  
4746 continue this discussion and at the time review actual language that we will work with  
4747 the Homebuilders Association on in terms of the form and the content. I had planned  
4748 some opening remarks that I think we have already covered and Mr. Theobald did not  
4749 have an opportunity at the February 23, 1999, meeting to really make more than a brief  
4750 introduction. We would hope that today that Mr. Theobald and the other  
4751 representatives that are here or who would like to participate will introduce the  
4752 Commission to their proposal. We had an opportunity to review this with them last  
4753 Monday, the 15<sup>th</sup> of March, and we had a very productive meeting, I thought. We have

4754 since received some additional information, even as late as yesterday, I received a fax.  
4755 I think staff and the Homebuilders, although, we haven't had an opportunity to discuss  
4756 any issues since last Monday, we are pretty close on a lot of technical aspects of the  
4757 ordinance where the staff is willing to work with them on those. There may be some  
4758 disagreement and the staff will be making a brief recommendation to the Commission  
4759 after Mr. Theobald's presentation and any other discussion that the Commission would  
4760 like to entertain. So, with that, Madam Chairman, I'll turn it back over to you.

4761  
4762 Ms. Dwyer - We will now listen to the presentation by the  
4763 Homebuilders. Thank you, Mr. O'Kelly.

4764  
4765 Mr. Jones - Madam Chairman, I'm Clarke Jones with the  
4766 Homebuilders Association. And Dave has pretty well covered everything. I did want  
4767 to say on the 15<sup>th</sup> of March at 8:30 a.m., we had a very fine meeting with John and  
4768 members of your staff, to discuss the issue. We appreciate very much the opportunity  
4769 to appear before you again today in a work session on the cul-de-sac lot and the stem  
4770 lot issue. I feel that as of a result of the meeting we had with staff on the 15<sup>th</sup>, we had a  
4771 very positive meeting. I think, basically, the staff and the Homebuilders Association  
4772 and the developers are in accord with the direction in which we want to go. Mr.  
4773 Theobald has distributed and I think we have sent to the members of the Commission,  
4774 two papers, one on cul-de-sac lots and the other one on stem lots. Mr. Theobald is  
4775 here to discuss in further detail and Mr. Junie West who is the chairman of our  
4776 subcommittee on this issue and all the members of our group that have exhibits that  
4777 they would like to show to the Commission and the staff members. We appreciate your  
4778 time. And, we feel, as Dave has indicated, that after our presentation today, with  
4779 another meeting with the staff to fine tune some of these points, we should be in a  
4780 position to request your formal approval. With that, I'll turn the meeting over to Mr.  
4781 Theobald and Mr. West.

4782  
4783 Ms. Dwyer - Thank you, Mr. Jones.

4784  
4785 Mr. Theobald - Good afternoon. For the record, I'm Jim Theobald. I  
4786 appreciate the opportunity to spend a little time talking about some suggestions on the  
4787 flag lot dilemma. I think Dave has very accurately described what we all have been  
4788 trying to accomplish since we were before you last on this issue. What we would like  
4789 to do this afternoon is not really belabor the point but we would like to just briefly walk  
4790 through an approach to a resolution of the things that we think you are concerned  
4791 about. Obviously, interested in confirming that we are addressing the things that you  
4792 are concerned about. And, then, allowing people with better technical expertise, our  
4793 engineers and homebuilders here, to perhaps show you some examples of good flag  
4794 lots, bad flag lots and explain perhaps a little bit about the geometry of the drawing that  
4795 you have been given.

4796  
4797 When we first started out it was on the premise that flag lots should be eliminated and  
4798 recognizing that there were opportunities that made sense to preserve cul-de-sac lots as  
4799 opposed to perhaps stem shaped flag lots. We started down a road, I think, together as

4800 to separate the good from the bad, from the ugly. And I think we are just about there. I  
4801 think we need just a little more fine tuning. I've got a couple of alternatives to talk  
4802 with you about today and make sure that we are heading into the direction that you  
4803 think is appropriate.

4804

4805 The idea was, first of all, to create a definition for what we are now calling a cul-de-sac  
4806 lot, which acknowledge that cul-de-sac neighborhood development was desirable for  
4807 many reasons. But, many of those cul-de-sac lots, technically fell within the definition  
4808 of the old flag lot because they really didn't meet the requirements otherwise set forth  
4809 in 24-94. So, our two-prong approach, the first prong was to create a definition of cul-  
4810 de-sac lots, which we have forwarded to Mr. O'Kelly. And, as of a result of our  
4811 earlier meeting, we had tried to simplify cul-de-sac lots as much as possible. And what  
4812 we did in that, and what I presume has been circulated to you all, was a very simple  
4813 definition and then some regulations that required that they only be developed along a  
4814 public cul-de-sac street. And then talked about lot width and sort of a maximum and  
4815 minimum front yard setback. What we had attempted to do, as of a result of our  
4816 discussion with staff, was, our initial though, well perhaps we could just come with one  
4817 size fits all in terms of having a window in which a house could be at the minimum  
4818 setback but could not be further back than another certain distance in order to create the  
4819 orientation that's desirable and is reflected in some of these charts. What we provided  
4820 initially, as a starting point, with something that said "well that window is 10 feet  
4821 regardless of the (unintelligible). We also said that each cul-de-sac lot would have a  
4822 minimum frontage of 35 feet on a public cul-de-sac street regardless of what zoning  
4823 classification that lot was in. Again, that was an attempt to simplify it. I put that out as  
4824 one approach, that being the one size fits all. But, I'm going to suggest to you on some  
4825 further reflection, and some additional engineering work that we've done, we are really  
4826 not sure that it is in the County's interest or the development communities interest to  
4827 have one size fit all because some of the geometry, still in our opinion, would not solve  
4828 the very things that we think you find a problem.

4829

4830

4831 So, staying with cul-de-sac lots, for just a moment before we switch to the stem or flag  
4832 lots. You were provided with a package of drawings, that I'm going to let others  
4833 explain in a little more detail, and we did this a little bit at the last meeting, and what  
4834 you have for the different zoning classifications is basically a cover sheet showing a  
4835 proposal A, B and C as to each zoning classification. With the "A" and "B" drawing  
4836 being the existing standards and the "C" drawing illustration the proposed. Then,  
4837 behind each of the sheets, that have the three lots on it, you have a blow up of the A, B  
4838 and C represented on that first sheet. So, you go through R-2 and you see the summary  
4839 and then the R-2, A bad example, B bad example and C, good example based on these  
4840 suggested changes. Essentially, these are just a function of the geometry of the lot.  
4841 Some increase minimum widths on the cul-de-sac and then trying to force a house  
4842 alignment that results in good planning and does not result in the backs of homes facing  
4843 fronts of homes and vice versa. I think that perhaps that Mr. Windsor or Mr. West, or  
4844 Mr. Tyler would like to elaborate on those just a little bit more.

4845

4846 In essence, we worked with the engineering and geometry back to, if you will, a table.  
4847 This is the first alternative you may want to consider. Rather than the one size fits all,  
4848 we have another alternative for your consideration, which you have not seen. I faxed  
4849 David a table late afternoon when we discovered that the geometry was still not quite  
4850 correct on some of these based on the simplified approach and I will send these around  
4851 the room. What this does, it basically has the same criteria except rather than saying  
4852 under each district, you only have to have 35 feet on the bulb. These actually show  
4853 increased widths on the bulb as the lot size increases. In fact, the smallest one on here  
4854 is basically 38 feet on the radius as opposed to the one size fits all 35 feet on a radius.  
4855 In then it has different minimum front yard and maximum front yard setbacks. We  
4856 found that the geometry of the engineering was such that you were going to end up with  
4857 a bad example if you maintained a static 10 feet area within which the front of the  
4858 house could be located as you move through the different district.

4859  
4860 So, I'm sorry to give you another alternative, but I think that we all hope that we can  
4861 tinker with this as few times as possible on a going forward basis. I think we all salute  
4862 the notion of simplicity, sometimes the devil is in the details and I think when you hear  
4863 from our engineers and builders you will find that this better facilitates what I think  
4864 your intent is on house design and location on a cul-de-sac. So, these would be  
4865 permitted as a matter of right based on either the table or some other unified,  
4866 simplified, approach that we hope to continue working through with staff. I would  
4867 make one sort of caveat, and I'll need to do this again a little bit later and that is these  
4868 engineering studies and this geometry and this table works based on your existing  
4869 development standard. And we know you have been asked to consider revising those  
4870 standards through the residential strategies initially set forth by the Board. These aren't  
4871 going to work if those are changed because it really is a function of the geometry and  
4872 the engineering. So, to accomplish what you hope to accomplish, would require  
4873 another look at those if those were changed, which is one reason why at the last  
4874 meeting we suggested, and I was stating, I think, the desire of many to move this issue  
4875 forward on an isolated basis. We still, respectfully, question whether that's in the best  
4876 interest of everybody at this point, but we are trying to respond to, if this issue has to  
4877 go forward on a stand-alone basis, then this would work based on your current  
4878 ordinance. But keep in mind we may need to come back and play with it further.

4879  
4880 We then, in discussions, with staff on two different occasions, believe that there was a  
4881 strategy in permitting what used to be called flag now and now we are calling stem lots.  
4882 The term flag lots being so tainted, we all thought collectively that we should perhaps  
4883 freshen it up a little bit image wise. So, those discussions with staff have really  
4884 resolved in an approach where we try to simply it. We reject ideas of making them  
4885 special exceptions where you had to go to the Board of Zoning Appeals etc. What we  
4886 have tried to do, and I think we still need input from the County Attorney's Office on  
4887 some of these things, but what we tried to do is basically give you some additional  
4888 discretion or approval level when it comes to flag lots. It would be done  
4889 contemporaneously with your consideration of a subdivision plat, but basically this  
4890 would occur under the subdivision ordinance, and that's Dave's comment about re-  
4891 advertising for an amendment to that ordinance



4892

4893 And as we look through this subdivision ordinance, what we chose was an Article III.  
4894 There was a section called design standards and there are a number of enumerated  
4895 criteria and we thought that perhaps a suggestion would be that this would fit under  
4896 there. So, what I have suggested, and I believe has been circulated previously, by Mr.  
4897 O'Kelly, is that it involves a number of sections in the ordinance. You would need to  
4898 delete the current section regarding flag lots. You would need to change the definition  
4899 of flag lot to stem lot. And, then, what I have done is, basically, provided that at the  
4900 time when a subdivision plat is reviewed, stem lots could be approved. And, then, I  
4901 basically dropped in the exact same criteria that exist for flag lots currently. And then  
4902 what I tried to do was add some additional criteria to serve as a bit a benchmark or  
4903 rationale as to the kinds of things where you might find that approval of a stem lot  
4904 might make sense. I've added one thing to item "E" at the bottom where it says:  
4905 Approval of stem lots shall be considered in order to encourage efficiency in overall  
4906 site design and to promote and "E", which was not a definitive list of things that could  
4907 cause you to consider a stem lot of added limited access roads. I've added in this  
4908 version at the risk of giving you more paper.

4909

4910 Mr. Vanarsdall - This would be helpful. Let me ask you a question. What  
4911 you want to add is "F"?

4912

4913 Mr. Theobald - I just added in this list, Ernie, under "E" where it says  
4914 "development of parcels that are impacted by features" on the next page, under "E."

4915

4916 Mr. Vanarsdall - Next would be "F."

4917

4918

4919 Mr. Theobald - Well, in that list under "E" I just added.... And that's  
4920 what being passed out to you.

4921

4922 Mr. Vanarsdall - You are eventually going to go over what we disagree on,  
4923 by item?

4924

4925 Mr. Theobald - Sure. We are very interested in input from you.

4926

4927 Mr. Vanarsdall - This is what Dave O'Kelly sent to us.

4928

4929 Mr. Theobald - And we provided that to him and I just enumerated the  
4930 only difference between the two.

4931

4932 Ms. Dwyer - So, you are adding exactly, what, to "e", which is on page  
4933 2?

4934

4935 Mr. Theobald - I just added, limited access roads on that list of land  
4936 features that might cause you to consider the appropriateness of a stem lot.

4937

4938 Ms. Dwyer - So, at the end of the sentence, you just added "and to the  
4939 limited access roads"?

4940  
4941 Mr. Theobald - I added, actually, after where it says, "BMP facilities,  
4942 easements, I added limited access roadways.

4943  
4944 Ms. Dwyer - And, how does this differ from the earlier handout that we  
4945 had recommending the flag lots? Are those the differences that you just highlighted?

4946  
4947 Mr. Theobald - That's really the difference. Previously, we were  
4948 suggesting perhaps just to be handled by special exception. I think Dave's thoughts, in  
4949 that, he's correct that that was much too cumbersome.

4950  
4951 Mr. Vanarsdall - The first time they wanted it under a provisional use  
4952 permit, they wanted it under a PUP.

4953  
4954 Mr. Theobald - Right.

4955  
4956 Ms. Dwyer - So, now it's under design standards giving us the option to  
4957 do it under certain circumstances.

4958  
4959 Mr. Theobald - We are trying to find a way that gives you the authority to  
4960 look at it specifically without added additional burdens in the process on staff or the  
4961 development community, basically. I think in our initial meeting with Mr. Hinson he  
4962 discouraged the PUP process thinking it was overly cumbersome. Approach wise,  
4963 that's really where we are. Cul-de-sacs is a matter a right either with some sort of table  
4964 or one size fits all, if that can be done, I'm not sure that it can. And, secondly, stem or  
4965 flag lots as you prefer with special approval right set forth in the subdivision ordinance,  
4966 and basically based on the old flag lot criteria. What we would like to show you, at the  
4967 appropriate time, we have some examples of where we think the stem lots have worked  
4968 very effectively and also show you in the same development where we think they have  
4969 not worked really effectively and would likely not pass most of you.

4970  
4971 Mrs. Wade - You in affect have a cul-de-sac definition?

4972  
4973 Mr. Theobald - You do now.

4974  
4975 Mrs. Wade - I mean not a lot but a cul-de-sac street.

4976  
4977 Mr. Theobald - There's a cul-de-sac street definition in the ordinance. I  
4978 will just point out to you, particularly for staff's benefit, the complexity of doing this is  
4979 like pulling that string out of the big ball in terms of what happens in other sections.  
4980 And, just yesterday we found in our drafting that we are going to need to take into  
4981 account certain sections like 24-95(b), it's on page CD 26:84, which is exceptions to  
4982 Section 24-94, when you had old lots that were approved under prior development  
4983 standards. You now don't have to make current standards but you can meet this table

4984 as to lot area and minimum lot width. And we have got to figure out how that works so  
4985 we don't set up yet another situation. We just have to be careful.

4986  
4987 Mr. O'Kelly - I'll have to look at that, Jim, but I believe those  
4988 regulations are setup for subdivisions that were approved prior to 1960. If you  
4989 resubdividing the road, you have to meet current regulations so I don't think you need  
4990 to address it.

4991  
4992 Mr. Theobald - So, you don't think we are setting up a third exception to  
4993 deal with under some cases?

4994  
4995 Mr. O'Kelly - No, I would hope not, but I don't think so.

4996  
4997 Mr. Theobald - And then possibly lots without public water and sewer  
4998 would have some special width area requirements? Is that the same issue?

4999  
5000 Mr. O'Kelly - Well, Jim, all of those things are with the lots recorded  
5001 prior to 1960, existing lots recorded prior to 1960. So, if you resubdivide, you would  
5002 have to go back to the Commission to meet all of the current requirements whatever  
5003 they may be.

5004  
5005 Mr. Theobald - But, if we were to just go in with an already platted lot....

5006  
5007 Mr. O'Kelly - You can't have flag lots or you can't do any of that stuff  
5008 that you are proposing to do. You can only do that in a resubdivision.

5009  
5010 Mrs. Quesinberry - I have a question about the tables that you handed out  
5011 today. A cul-de-sac lot definition and regulations in a table. We already had a table in  
5012 the mailing that we got from Dave, dated March 17. Explain the rationale for table  
5013 versus one size fits all but not the rationale for changing these numbers. Is this just for  
5014 fine tuning or....

5015  
5016 Mr. Theobald - We found some mistakes in our R-2 calculations, and we  
5017 added some of the additional categories that we had not charted in the text. We still  
5018 have a couple to go. These should reflect the diagrams in the most recent packages.

5019  
5020 Ms. Dwyer - Do we have those? Were those revised from what we had  
5021 on the 17<sup>th</sup>?

5022  
5023 Mr. Theobald - These are the most current. I'll pass these out.

5024  
5025 Ms. Dwyer - I would like to ask a couple of questions about the tables,  
5026 just so I understand before you move on. Why are there blanks for zero through R-1  
5027 and R-4A and A1 for minimum road frontage and maximum front yard setbacks?

5028

5029 Mr. Theobald - Our engineer just didn't have time to finish those  
5030 drawings.  
5031  
5032 Ms. Dwyer - Oh. OK. That makes sense. My other question was, I'm  
5033 not sure if this is true for the existing one. We seem to bounce around in terms of  
5034 minimum road frontage, as the lots get smaller we go from 50, to 46, 39 then back up  
5035 to 42 then back down to 41 and then back down to 38. There's not a concurrent linear  
5036 progression here? Is that the right term that you engineers use? That correspond to the  
5037 change in lot size.  
5038  
5039 Mr. Theobald That's a function that the geometric, what you end up with  
5040 is just a difference in the number of lots and that is really why you have a break in the  
5041 liner footage and road frontage. The circle is here and the lot needs to.... What you  
5042 have those dimensions are functions for the lot width and the lot area. So, if the lot  
5043 gets larger, the circle is here (referring to picture), as it gets larger the two points can  
5044 merge. That's why the larger the lot....  
5045  
5046 Mr. Archer - The smaller the road frontage?  
5047  
5048 Mr. Theobald - Right  
5049  
5050  
5051 Ms. Dwyer - That's not the case.  
5052  
5053 Mr. Theobald - No. But, what it is, again, it's R-2A versus R-3. The  
5054 variable here is the minimal front yard setback as well. As you can see, those change  
5055 through the R-4 and R-3A and R-3 and then you get to a consistent 45. So, your  
5056 conversion point is actually where your axis is rotating (unintelligible).  
5057  
5058 Mrs. Wade - So, this basically accomplishes what 1 and 2  
5059 (unintelligible).  
5060  
5061 Ms. Dwyer - OK. I see what you are saying.  
5062  
5063 Mr. Theobald - Let me give you the latest and greatest, if you will, which  
5064 is very much like the drawing you already have with a couple of slight modifications.  
5065  
5066 Ms. Dwyer - Are there any other questions of Mr. Theobald?  
5067  
5068 Mrs. Quesinberry - I just want a clarification, just to make sure on the stem  
5069 lot proposal, No. 2 when you amend Section 24-3 definition, and you take out lot, flag  
5070 and you substitute stem for flag, do we know longer have flag lots mentioned  
5071 anywhere, all we talk about are steam lots, correct?  
5072  
5073 Mr. Theobald - Stem or cul-de-sac lots.  
5074

5075 Mrs. Quesinberry - Wait a minute now. We have over here on....  
5076  
5077 Mr. O'Kelly - Debra, we haven't worked through some of those details.  
5078 Staff would recommend that we introduce the word stem lot, that we define it as a flag  
5079 lot and leave the definition of flag lot in the ordinance. That's a way to get around the  
5080 problem if we are introducing the new lot, which in essence is a flag and define it as a  
5081 flag lot.  
5082  
5083 Ms. Dwyer - I would vote to keeping that terminology to mean the  
5084 same thing as a stem lot and then having a new lot called cul-de-sac lot, which we  
5085 understand would be something different.  
5086  
5087 Mr. O'Kelly - Right. We would need a new definition.  
5088  
5089 Mr. Theobald - We made a suggestion to that here on the cul-de-sac lot  
5090 page.  
5091  
5092 Ms. Dwyer - So, as far as the Commission's concern, we like flag lot.  
5093 Also, staff could can draws little flags, you know, on the plan. We know what that  
5094 means.  
5095  
5096 Mr. O'Kelly - We can certainly introduce the stem lot with the details  
5097 suggested by the homebuilders but we will just define the stem lot as a flag lot.  
5098  
5099 Mr. Theobald - It really doesn't matter. We just thought that there had  
5100 been so much negative associated with flag lots that perhaps you would....  
5101  
5102 Mr. O'Kelly - Flag lot has to stay in the ordinance because we have  
5103 hundreds of them that are already approved and haven't been developed and....  
5104  
5105 Mr. Theobald - Well, the easier the better. That's not an issue with us.  
5106 One of the reasons too, in thinking about the two terminologies is what clear when you  
5107 said the word stem lot. That's pretty pictorial when you say that and cul-de-sac lots  
5108 likewise versus flag lots as a real broad meaning at this particular point.  
5109  
5110 Ms. Dwyer - But, I think that the image of a flag or a flag pole is also  
5111 real visual. OK. Are there any other questions on this?  
5112  
5113 Mr. Archer - I don't know who to ask this question to, but Jim you are  
5114 there. I think it would be easier for us to try and figure out what we are trying to do.  
5115 If we know what direction each side of this issue is trying to get toward. When Dave  
5116 first made the introduction, was it the January meeting? There was a purpose that he  
5117 was trying to accomplish and there is one that you are trying to accomplish and we are  
5118 hoping that we can meet somewhere in the middle. I think if we can clarify for  
5119 ourselves exactly what each side is trying to accomplish then maybe it will make a little

5120 more sense to us when we start getting to that point that we will hopefully get to. I  
5121 don't know who to ask first to define his side.

5122

5123 Mr. Theobald - I think that's an excellent summary and I think what the  
5124 evolution was, what we heard was, get rid of flag lots and then what we said was "well  
5125 wait a minute there are some instances where you may not want to do that and oh by  
5126 the way what about traditional pie shaped cul-de-sac lots." Our impression, although  
5127 this is the really the first opportunity that we've had a chance for you to tell us if we are  
5128 on the right track as to what is a concern to you or the Board. I think maybe these  
5129 charts summarize, A and B, what you don't like about the current ordinance and C  
5130 what we think you would like to move to like providing larger lot widths on the bubble  
5131 and better house design. At least, that's my impression.

5132

5133 Mr. Vanarsdall - I think what we are trying to say, or he's trying to say, is  
5134 that we are trying to do away with a pound of coffee in a half pound bag cul-de-sac.

5135

5136 Ms. Dwyer - That's a good summary.

5137

5138 Mr. Vanarsdall - And at the same time, do away with the front of the house  
5139 looking at the back of the house. I think those were the two main issues. Density, I  
5140 think came up, to me I don't think that makes that much difference how they are  
5141 shaped.

5142

5143 Mr. Theobald - I think the real goal, objective, if you would, of the staff  
5144 and ourselves are, and I think it's good land planning, is the goal. Good land planning  
5145 is the function of orientation of thousands. How do the lots that are not in the cul-de-  
5146 sac match in lot area in configuration with the cul-de-lots themselves and when you  
5147 look at the overall region is good land planning, cul-de-sacs in interconnecting  
5148 neighborhoods. It's basically the whole gambit of good land planning is where we are  
5149 headed. I think the solution that we come up with takes all of those into consideration  
5150 and in a nutshell sums up the concerns that we believe that has created the request in  
5151 the first place. So, I think it is land planning.

5152

5153 Ms. Dwyer - And I think that orientation of house and matching lot  
5154 areas are roughly equivalent for lot areas, the cul-de-sac lots and....

5155

5156 Mr. Theobald - You've got to take consideration in proper land planning  
5157 that you don't have 18,000 square foot lots and then in the cul-de-sac you have 32,000  
5158 and 34,000 square foot lots that really aren't good mixes within that subdivision. In  
5159 orientation of the house and good quality house placement, I think is the objective and I  
5160 think that was the problem that was initiated initially. In order to do that reduction in  
5161 density is just a function of that.

5162

5163 Ms. Dwyer - Well, it's a by product. I don't think the density is  
5164 motivating, at least I'm hearing that from the Commission, I don't think motivating  
5165 (unintelligible).

5166  
5167 Mrs. Wade - I was a little curious about the reduced sprawl you all  
5168 mentioned.  
5169  
5170 Mr. Theobald - Well, the idea there is the notion that if you have a little  
5171 left over piece of land, and I think Webb had some good examples, where if there are  
5172 pockets of land after you lay out your subdivisions that could be developed, if you were  
5173 able to do a flag lot, some of those are appropriate some of those are not appropriate.  
5174 Right now, they are all allowed, if you meet the minimum criteria. But, that leave an  
5175 area undeveloped so there is obviously is less yield and ultimately a potential to  
5176 promote a sprawl. I mean, it is a bit of an over statement that.... The idea is you  
5177 really don't want to have little pockets of unused land and just sit there unless they are  
5178 being used for passive recreation activity.  
5179  
5180 Mr. Vanarsdall - You are still talking about cul-de-sacs, or the whole  
5181 subdivision?  
5182  
5183 Mr. Theobald - Well, Mary's question was....  
5184  
5185 Mr. Vanarsdall- I know what Mary's question is, but you said you don't  
5186 want to have pockets are you just talking about cul-de-sacs or the whole subdivision?  
5187  
5188 Mr. Theobald - Well, really anywhere but this sort of works off of cul-de-  
5189 sac streets.  
5190  
5191 Mrs. Wade - That's assuming that you have exhausted all of your  
5192 design possibilities now, correct?  
5193  
5194 Mr. Theobald - Well, we have some examples of where we have done just  
5195 that.  
5196  
5197 Mr. West - I think we could say that the pictures that you are seeing,  
5198 to see the proposed C renderings, are what you will typically see and that's what we  
5199 would have, as you say, the right to plant. And, any of what you didn't like in the past  
5200 we would have no right to do that unless you granted it. So, I don't know if that is  
5201 kind of a fair summary, where we think that's what we are proposing. And I would  
5202 say that before 1982 the flag lot ordinance, and Dave O'Kelly might correct me, was  
5203 not introduced until 1982. And it was done at the request of the homebuilders because  
5204 there were the different size lots. If they are in the back of a cul-de-sac the lots would  
5205 be very crowded. It would be where other lots along the main road would be 15,000.  
5206 I think that the ordinance would put the 20-foot stem provision, that turned into a  
5207 nightmare, where it has been abused to the extent we heard "no flag lots." We just  
5208 don't want to go back to pre 1982. Clarke was probably here then fighting for us.  
5209  
5210 Mr. Archer - Well, if I can follow up on my question a little bit, and I  
5211 would assume and I have not been here long enough to try to claim to be an authority

5212 on anything, but it would seem to me that prior to some point in time we must have  
5213 been doing this right. And, then, after, maybe 1982, we begin to get creative and did it  
5214 not quite so right. I can see some of the things cropping up that you mentioned. I say  
5215 that from experience. I lived on a cul-de-sac and the house was built in 1974. The  
5216 zoning was probably R-4, it may have been -R-3A. There were three houses on the  
5217 cul-de-sac, and the next time I moved I just automatically assumed that was the way it  
5218 was. There would be three houses on a cul-de-sac, but when I got over there it looked  
5219 more like ten. But, the point I'm trying to make, there was that odd land between the  
5220 houses. There were three wedges between the houses on the cul-de-sac. All of our lots  
5221 were basically rectangular in shape. I don't know if anybody had ever declared the  
5222 infield common area as we do now, may not have. It sort of either grew up or the  
5223 neighbors just kind of took care of it. That may not have been the best approach but I  
5224 think it's probably better than what we have now. I think we can solve this if we some  
5225 kind of way go back toward where we were and figure out what to do with the land in  
5226 between, that wedge between the houses. I guess that's what we are trying to do here.  
5227

5228 Mr. West - Well, again, we are today allowed 20 feet and you can see  
5229 the lowest street width is 38, now, where pre 1982 it was 50.

5230  
5231 Mr. Archer - So, that came about in 1982, is that what you are saying?  
5232

5233 Mr. West - Twenty feet came about in 1982.  
5234

5235 Mr. O'Kelly - It came in 1982 with all of the other bay districts except  
5236 R-2A.  
5237

5238 Mr. West - And I think that's where we are headed because the  
5239 zoning changed a lot after that, as far as the size of the lots. And, for the most part in  
5240 our larger lots here, you are looking at probably three, except for when you get down  
5241 to the R-4 lots, you are looking at three or four at the terminus of the cul-de-sac.  
5242 Another thing that has changed, Mr. Archer, is the right-of-way widths. Everything  
5243 used to be 50, now there are 44's and 40's and those are all geometric changes that  
5244 make a part of the overall division of the property.  
5245

5246 Mr. O'Kelly - And, then, all of those were adopted in 1982. That was  
5247 the comprehensive amendment that was brought forth by the homebuilders.  
5248

5249 Mr. Vanarsdall - Junie, let me ask you a question.  
5250

5251 Mr. West - Sure.  
5252

5253 Mr. Vanarsdall - This was just handed out by you?  
5254

5255 Mr. West - Yes. I don't want to confuse the issue. What's the  
5256 difference?  
5257



5258 Mr. Vanarsdall - No. We don't want to ask that. So, this is the first one  
5259 that we had from the last meeting, so I'm not going to use this any more  
5260  
5261 Mr. West - And, for the most part it's still good. What we did with  
5262 the second packet. We didn't give you A and B.  
5263  
5264 Mr. Vanarsdall - Is that all?  
5265  
5266 Mr. West - Well, let me explain. Take your third sheet, which is the  
5267 R-2, that shows the three lots. Do you see A, B, and C on there? The only difference  
5268 in this pack is that I don't have the individual A's and B's, it just seemed a bit  
5269 redundant to Xerox them again. Do you see what I'm saying?  
5270  
5271 Mr. Vanarsdall - Yes.  
5272  
5273 Mr. West - So, if you consider that they are removed, then you can  
5274 throw the other packet away. OK. And the front page, if you would, summarizes the  
5275 differences. Now, what we attempted to do....  
5276  
5277 Mr. Vanarsdall - Junie, I hate to keep interrupting you, but I'm trying to  
5278 understand it. This chart right, here, is what Jim is saying that one size won't fit all.  
5279  
5280 Mr. West - That's correct.  
5281  
5282 Mr. Vanarsdall - But, we are still working towards no front and no back.  
5283  
5284 Mr. West - Oh, yes. And we had the chart when we can up with the  
5285 numerical values. The problem was we expanded and looked at the 1A and realized  
5286 that we were way off on the 10-foot difference on the 1A. So, it created concern of  
5287 "Boy we have really got to look at the O/A and possibly the O as well. If you look at  
5288 the differences on this chart, you will see the minimum front yard and let's start with  
5289 R-2 and look at R-2 through R-4. If you look at the minimum and the maximum, under  
5290 R-2 for instance, it's 45 and 57, the R-2A, 45 and 53. So, you have a difference of 12  
5291 feet, 8 feet, 5 feet and zero really on the R-3A and R-3. So what we tried to do is  
5292 come up with. What if we used 10 feet for every district? Well, the geometrics start  
5293 really getting distorted in the R-2, R-1A, and it doesn't work particularly well. It  
5294 seems like it's going to work OK on the districts, perhaps, up to R-2, but we thought  
5295 R-2 might be an isolated case where you are over a couple of feet, and maybe we can  
5296 make the 10 work. We found out that we could not and we found out that the R-1A  
5297 becomes a larger problem, which you do have now, in the package, the second page is  
5298 an R-1A. So, realistically, we feel that the object is to have the houses spaced with  
5299 good landscaping. It is our opinion that each one of the districts that you have before  
5300 you, the 1-A,  
5301  
5302 Mr. Vanarsdall - You have a one-size fits all there with 30, 30, 30, 30.  
5303

5304 Mr. West - That is the house. But you see, for instance, the 1-A, do  
5305 you see the, have you got the second page? Do you see Lot 7? I am sorry. The second  
5306 page being this sheet, Ernie. Do you see Lot 7 had 45 foot and then the next one has a  
5307 setback of 70? Theoretically, that is a 25 foot differential, but if you can see how the  
5308 orientation of the houses are, they really work pretty well. So, if you had a 10 foot  
5309 dimension, theoretically, on that lot, it would be – it would defeat some of our goal, I  
5310 think.

5311  
5312 Mr. Marllles - Junie, on that R-1A, Example C, is the C on lots 2, 3, 4,  
5313 5 and 6 representing cul-de-sac lots.

5314  
5315 Mr. West - That is correct.

5316  
5317 Mr. Marllles - So you would have five there? The ordinance you are  
5318 proposing is strictly for four?

5319  
5320 Mr. West - That would be for the stem or flag lots. Because we don't  
5321 see that the numerical value of what your number is in the cul-de-sac is the problem.  
5322 The problem is the 20 foot front and where the house sets in relationship to the other  
5323 houses. Now, I think we are still proposing four in flag lots or stem lots.

5324  
5325 Ms. Dwyer - Where is that?

5326  
5327 Mr. West - Under D, 3D.

5328  
5329 Ms. Dwyer - There is nothing in the cul-de-sac lots.

5330  
5331 Mr. West - No. Because it is really a function by the geometry.

5332  
5333 Mr. Marllles - But it is a cul-de-sac lot under our old definition of flag  
5334 lots.

5335  
5336 Mr. West - That is correct.

5337  
5338 Mr. Marllles - And you can only have a total of four.

5339  
5340 Ms. Dwyer - Could you have cul-de-sacs and stem-shaped flag lots  
5341 around the cul-de-sac and have four flag lots plus a number of cul-de-sacs?

5342  
5343 Mr. West - I would think theoretically that it is possible if you have  
5344 the correct... but, again, there is, under the stem lot proposal, there is design criteria  
5345 for approval of those and that is not a lot of right, if you will. May I make a real quick  
5346 summary? Are any of the drawings that you see, the dimensions I used whether they  
5347 are R-3, 3A, or 4, under the current system, would be an extra flag lot. The designs  
5348 that you did furnish give us one lot. I will say that again. If you want to jam the lots  
5349 in there, the worse possible layout, there is enough area to have gotten one more lot

5350 than what you see. Basically, the development community (unintelligible) worked off  
5351 the radial design of the cul-de-sac and came up with this and we are giving up, if you  
5352 will, one lot per cul-de-sac.

5353

5354 Ms. Dwyer - You are giving it up in relation to what?

5355

5356 Mr. West - To the existing code. The permitted number. Because of  
5357 the fine area along the cul-de-sac. The length of the lot, road frontage on the cul-de-  
5358 sac, and assumption of where the house goes.

5359

5360 Ms. Dwyer - OK, let me see if I can summarize what you said.  
5361 Currently you are limited to five flag lots.

5362

5363 Mr. West - No, currently today four.

5364

5365 Mr. Silber - I think what he is trying to say is that if they had maxed  
5366 out the cul-de-sac with design permitted by our regulations, he could get one more flag  
5367 lot currently than what they are now proposing.

5368

5369 Mr. West - Here there are five cul-de-sac lots and I could get six,  
5370 which might have been flag. And that block of land, that rectangular-shaped piece, one  
5371 more lot could have been obtained. (Unintelligible)

5372

5373 Ms. Dwyer - My problem is that I am getting the cul-de-sac lots that we  
5374 are talking about mixed up with thinking about a combination of what we are now  
5375 defining as cul-de-sac and flag lots. I am not sure which ones you are referring to  
5376 when you talk about what you have given up.

5377

5378 Mr. West - There are four flag lots permitted today and that  
5379 rectangular, anyone of those rectangular could have maxed out with another lot pretty  
5380 much like Exhibit A maybe, any given A that you have would be on the sheet of three,  
5381 the summary sheet. I am just trying to make the point that we have given up one lot for  
5382 cul-de-sac from what is permitted today, and I guess...

5383

5384 Mr. Vanarsdall - If you had to lay it out today under the present laws, you  
5385 could put one more on it.

5386

5387 Mr. West - That is correct, and I think one thing we should consider  
5388 should be one of the reasons to limit it to four today is because a 20 foot road frontage  
5389 with the current setback regulations we have lends itself to an ill conceived layout.  
5390 And, I think that these regulations give you a much more spacious layout regardless of  
5391 the number; the object is good land planning and not the number of lots.

5392

5393 Mr. Tyler - Could we actually show you on the authority of three  
5394 sheets that we know we may get technically additional "cul-de-sac lots on your bubble"

5395 the density is actually lower than you're and B example in the terms of the amount of  
5396 land that it takes to accomplish that.

5397

5398 Mr. West - Are you looking at R-2?

5399

5400 Ms. Dwyer - I want to look at R-4; that is one of my favorites. It looks  
5401 like in R-4, the B has an extra .... (unintelligible) for cul-de-sac lots.

5402

5403 Mr. West - That is correct.

5404

5405 Ms. Dwyer - But not A.

5406

5407 Mr. West - That is correct. Under the existing R-4, you could have  
5408 up to the maximum which would be nine. Under the proposed R-4, it would be eight,  
5409 and A is just another illustration of that. We don't have the lot lines cut on that B plot,  
5410 but...and R-4 is right now the tougher, the most problematic lot, because of the square  
5411 footage and you have 20 feet.

5412

5413 Ms. Dwyer - On the stem lots and we are now talking about design  
5414 standards, how does this differ from what is permitted today? When we think about  
5415 today's actual stem shape or flag lots? Does this change anything?

5416

5417 Mr. Tyler - There are no design standards for you to consider. And,  
5418 so these were sort of aspirational in terms of when we were thinking of the kinds of  
5419 things that might justify your consideration, stem lots, but these are the things that we  
5420 thought would derive favorable consideration but we have not seen those anywhere,  
5421 they are merely our first attempt to articulate why you might favorably consider a stem  
5422 lot.

5423

5424 Ms. Dwyer - Well, we have the 20 feet, but what you are saying is...

5425

5426 Mr. Tyler - The A, B, C, D and E at the bottom.

5427

5428 Mr. West - For instance, now there is just a set of numerical criteria  
5429 that you have to meet in order to get the stem lots, and what we are saying is, well,  
5430 above and beyond that, there needs to be a reasonable application criteria for the stem  
5431 lot, and some are, for instance, environmentally protected areas, flood plain  
5432 acceptability, and what I would like to do, Webb has a couple of good examples, as  
5433 well, is show you. For instance, what, "A picture is worth a thousand words", they  
5434 say, what he's got, what we think are some problem stem lots that we need to identify  
5435 what is good, what is bad. Our idea again is that if a stem lot can meet this criteria,  
5436 and still meet the objective of not having people's front yards look into rear back yards  
5437 and the poor planning aspect of it. This is one at Gayton Station. OK. At the end of  
5438 this, this is down near Tuckahoe Creek. When we got to the end of this cul-de-sac, we  
5439 had an environmentally protected RPA. You have a flood plain for the extension of the  
5440 cul-de-sac which was impractical, but you had all of this land back here that really went

5441 to the creek. So, this is what our interpretation of a stem lot, of an acceptable stem lot  
5442 would be. There are configurations of environmentally protected areas, but, quite  
5443 frankly, a great location for a lot. I went there and actually took pictures standing at  
5444 this point that, for instance, Picture 1 is standing and looking out the front. You are  
5445 looking across the front, if you would. The next lot is way over here. Picture 2 would  
5446 be looking to the rear, which you are facing rears standing beside this house, looking to  
5447 your rear, and again you are facing rears, and this is the house.

5448  
5449 Ms. Dwyer - That is the rear of the house?

5450  
5451 Mr. West - Yes, this house faces this way. Picture 3 would be  
5452 looking to this side of the house along the rear of the house to this undeveloped area, as  
5453 well. Picture 4 would be looking to the left and this would be from the back of that  
5454 house, back here, and this house is turned so that basically you have the side of this to a  
5455 rear deck, but the front is in front of this house. OK. So, this is like standing in the  
5456 backyard of this house.

5457  
5458 Ms. Dwyer - That is the rear of the house on the stem lot?

5459  
5460 Mr. West - This is the rear of the adjoining house.

5461  
5462 Ms. Dwyer - Part of their sides to the rear...

5463  
5464 Mr. West - Which just looks fine in the field and is a good example to  
5465 drive out there.

5466  
5467 Ms. Dwyer - That is what you can have on a reverse corner lot; side to  
5468 the rear, and I what I was hearing about them at the last public hearing was front to  
5469 side, which I don't think is acceptable. You and I had a discussion about that.

5470  
5471 Mr. West - Do you see where I am standing? This is 5 looking across  
5472 that house, you see where I am on this corner? This is where I was when I took this  
5473 picture. So, you can see that this house is pretty much on location. I didn't want to go  
5474 any nearer to the structure. They had their car there. And, that was what we felt was a  
5475 good, well-planned lot that maybe, if you are looking for a lot in Gayton Station, it  
5476 might be one of the first ones you'd want because the privacy of that lot is fantastic.

5477  
5478 Mr. Tyler - I did add in the stem lots under the regulations, I said I  
5479 had just looked at the matter of the flag lot ordinance, but actually I added an additional  
5480 subsection g, which is basically a proffer we have been using for the last month or two  
5481 since this issue has been pending. Because no single-family ... in the front elevation  
5482 shall be opposite any adjacent dwelling rear elevation, so we did add that additional  
5483 element into the stem lot regulations.

5484

5485 Mr. West - And I would also like for Webb to, he's got some  
5486 examples of what we think are good, and bad stem lot situations we are trying to stay  
5487 out of, and we support getting rid of those bad situations.

5488  
5489 Mrs. Wade - Do these houses always face (unintelligible)...

5490  
5491 Mr. West - No, ma'am, they always face...that is correct.

5492  
5493 Mr. Tyler - I am going to try to be brief. This has taken a little long.  
5494 Basically what this is is a copy of the Wyndham Overall Plan - the Wyndham Overall  
5495 Master Plan. I don't know if I should wait until Ms. Dwyer comes back or not.

5496  
5497 Mr. Vanarsdall - No, she said to go ahead.

5498  
5499 Mr. Tyler - Specifically, this is a concession of not only what is good  
5500 but what is bad. The green, we believe, represents good flag lot design and the pink  
5501 represents what we think to be bad flag lot design.

5502  
5503 Mr. Vanarsdall - Let me ask you a question about this. That is all right. I  
5504 answered my own question.

5505  
5506 Mr. Tyler - The green, illustration #1, represents cul-de-sac lots or  
5507 flag lots that are currently defined as flag lots that backup to Golf Hole No. 12 and in  
5508 front a private access road that goes down the pipe stem, but they front the flood plain  
5509 of the Chickahominy River. So, the rears face the golf course and the fronts face the  
5510 flood plain and actually a private road. The same is true with illustration #2 here, you  
5511 have green representing good design and the pink representing bad design, Wyndham  
5512 Master Plan. The green here in illustration #3 is represented by a common driveway  
5513 that is actually built and this is monumented and says that each of these four lots fronts  
5514 this common road. That is standing in the bubble and looking down the common road.  
5515 That is a 16 foot wide driveway and the lots front on the common road. We think each  
5516 of those lots in Traeburn back to up a golf hole or a practice hole. We think that is  
5517 good flag lot or stem flag lot design. We think what is bad design, and I want to  
5518 confirm what you don't want is illustrations #4 and #5. Four and five occur where you  
5519 have to drive between two houses down a little driveway and the rear of the or the front  
5520 of the stem flag lot faces the rear of the other lot. I think that is an illustration of what  
5521 is not what we want. That is an illustration that I, as a designer, am confronted many  
5522 times with, having to work within the existing ordinance, even though we don't really  
5523 want to do something.

5524  
5525 Ms. Dwyer - How are the roads treated? These are not public streets.

5526  
5527 Mr. Tyler - These are not public streets. They are common driveways  
5528 that are maintained by the Wyndham Foundation and, essentially, inasmuch the same  
5529 way as the common area strips abutting the major public roads are maintained,  
5530 landscaped by the whole foundation. Now in the single pipe stem, such as illustrations

5531 #4 and #5, that driveway would be maintained by that individual who owns that lot,  
5532 because it is a single driveway between two houses.

5533

5534 Ms. Dwyer - For instance, here and here, each property owner grants  
5535 each other property owner the easement to use their piece of the road.

5536

5537 Mr. Tyler - That is correct.

5538

5539 Ms. Dwyer - And everybody has access to the whole road and then it is  
5540 maintained by the Wyndham Foundation, I think.

5541

5542 Mr. Tyler - Until they actually pull off into their own individual..the  
5543 private road goes across the common stem, so it actually crosses multiple stems there.

5544

5545 Ms. Dwyer - Which is what you had off Lindsey?

5546

5547 Mr. Tyler - That is correct. It is a similar arrangement there as is on,  
5548 what you know as Lindsey Court, in the Carrington Court Subdivision. We think that  
5549 gives a pleasant appearance and the market place is telling us that those green  
5550 illustrations have a higher value than the other subdivision lots in the subdivision,  
5551 because they are perceived as being exclusive. The market place is also telling us that  
5552 the pink is bad design because the pink either never sells or sells at a greatly depressed  
5553 price.

5554

5555 Ms. Dwyer - Now what was the problem, I know in Varina they had  
5556 some problems in the past where they kind of clogged the stem, and I guess the  
5557 difference in those cases was that they did not have the crosses and a private road  
5558 maintained by the Wyndham Foundation and you just had lots of individual lots backed  
5559 up against lots of stems.

5560

5561 Mr. O'Kelly - We have to draft an ordinance that fits every situation  
5562 and, you know, these types of things that Webb has used very eloquently and have  
5563 worked very well in the Master Plan Community with the controls that are in place  
5564 when the property is rezoned, but the ordinance that we work with must apply to every  
5565 situation and every developer is not the same. These types of things work. I mean,  
5566 maybe Webb is making the case for the special or some type of exception in order to  
5567 permit this, but in most cases in northern Virginia, stem lots are only permitted in  
5568 planned communities. They are not permitted in stub roads.

5569

5570 Mr. West - I have got to go. I have a 4:30 that I have to go to. I will  
5571 be happy to answer any questions you may have. Thank you.

5572

5573 Mr. O'Kelly - The Board of Supervisors decided in 1987 after five years  
5574 of experimenting that they didn't want to experiment any more with private road  
5575 situations and they were being besieged with requests to take over the maintenance of

5576 the stubs. They decided that was no longer appropriate and that every single-family lot  
5577 in the County of Henrico should be developed on a public road.

5578

5579 Mrs. Wade - What is that now?

5580

5581 Mr. O'Kelly - Well, 20 feet for a flag lot and 50 feet for public road.

5582

5583 Mr. Tyler - If some of those issues are a concern, they could be built  
5584 into the special approval process.

5585

5586 Ms. Dwyer - Maybe you have hit upon the kinds of lots, in addition to  
5587 this kind, that we do not want, but we are also looking at the difference between  
5588 Wyndham and some guy who has 20 acres and he doesn't want to pay the costs to put  
5589 in a road, and comes up with a design like this. Only, you don't have the kinds of  
5590 amenities that you have here. You have golf courses, flood plain, undeveloped.

5591

5592 Mr. Tyler - I think that clearly part of the ordinance that we have right  
5593 now allows us to have a front against a rear. What our proposal is a stem lot, flag lot.  
5594 We have added where, Item #3, G for example, single-family dwelling front elevation,  
5595 shall be opposite or adjacent to a dwelling rear elevation. That particular clause or  
5596 section is new. I know further refinement of that example is that the common driveway  
5597 must be of a paved nature, and that it should be added and must be equal to the depth  
5598 and thickness of a County-standard road as well as meet the minimum Fire Marshall  
5599 requirements. For example, what we have in our private road development on single-  
5600 family detached condominiums where we are required to have, I believe it is 16 feet,  
5601 where we had four or less of single-family detached condominiums on a private access  
5602 road, such as Kelson Green, Ashton Park - those we can add enhancement to the stem  
5603 lots or flag lot regulations that, where they are truly a flag lot, and not a cul-de-sac lot,  
5604 and that, I am in favor, personally, of giving you all the authority to make us prove that  
5605 each one is justified. There seems to be a great deal of discussion as to whether it  
5606 should be by special exception or by subdivision standards; granted, I think the  
5607 subdivision standards would be the easiest, therefore, I think we should make them  
5608 more strenuous so that they are not economically advantageous to use, and by having  
5609 them as gravel roads, for example, economically advantageous to use. We need to  
5610 balance them economically.

5611

5612 Ms. Dwyer - It is getting late, so I am going to push this along a little  
5613 bit if that is all right. Staff recommendations and discussions, do we have... I think we  
5614 have heard from everyone from Homebuilders. Mr. O'Kelly, did you have  
5615 recommendations for us today?

5616

5617 Mr. O'Kelly - Yes, the staff does have recommendations, Madam  
5618 Chairman, keeping in mind that some of this information we have not had a lot of time  
5619 to assimilate this, but I think that what the staff has seen so far, there are very few  
5620 issues in working with the Homebuilders, and this is not just my view. I have had  
5621 several discussions with the Director and Assistant Director. The philosophical issue of



5622 the staff with this proposal is that it puts a number of lots that are permitted, either cul-  
5623 de-sac lots or flag lots, if you look at the R-2 and R-3 cul-de-sac proposal, five lots  
5624 would be permitted under the Homebuilders Associations' recommendation. In  
5625 addition to that, four flag lots may be permitted, depending on how they might be  
5626 approved and under what process, so...

5627  
5628 Mr. Vanarsdall - Dave, what are you reading?

5629  
5630 Mr. O'Kelly - So, philosophically, the Code currently defines a flag lot  
5631 as either a cul-de-sac lot or a lot having 20 feet of frontage that doesn't meet the lot  
5632 requirements, and only four are permitted, either a cul-de-sac or a flag lot. This  
5633 proposal would increase that by over 133%, so that we are dealing with possibly nine  
5634 flag lots rather than four that are currently permitted, when we started out with a  
5635 proposal to eliminate them entirely, so philosophically, we have a difference there.  
5636 The second issue that perhaps Jim didn't touch on or I missed it is the grandfathering.  
5637 The Homebuilders propose a sunset provision where the ordinance would take effect  
5638 120 days after the Board acted on it or January 1, 2000, whichever occurred first. Staff  
5639 believes that this should not be considered, that the ordinance should be effective the  
5640 day it is adopted by the Board of Supervisors.

5641  
5642 Ms. Dwyer - Which may be January 1, 2000.

5643  
5644 Mr. O'Kelly - The third issue deals with the approval process for flag  
5645 lots, stem lots, and we still need to work that out. The current proposal that the staff  
5646 received on Friday calls for a special approval. I am not sure what that is. Staff would  
5647 recommend that we use what the State code provides to us which is an option to adopt a  
5648 subdivision ordinance permitting the locality to consider unusual situations or variances  
5649 to the subdivision regulations. We have currently have in 19-4 an exception provision  
5650 which would allow the Commission to consider unusual situations in design, which  
5651 might include flag lots. And, I like Jim's idea of putting the standards down also in the  
5652 Standards Section of the ordinance, so there may be a little bit of disagreement there,  
5653 but it is not that far apart. The fourth issue, I think Jim did touch on, and we need to  
5654 move forward with this amendment as quickly as possible, so we are not in favor of  
5655 trying to tie this back in to the residential strategies, the study that is being done by the  
5656 staff, because we don't know when that will be moved forward. There is a lot of  
5657 information that has been presented to the Commission in terms of staff's  
5658 recommendations, but I don't think that we are that far apart.

5659  
5660 Ms. Dwyer - OK. In support of your review, you have prepared this  
5661 Resolution. Is that right?

5662  
5663 Mr. O'Kelly - That is correct. This Resolution would allow us to  
5664 reconsider both the zoning ordinance amendment and the subdivision amendment and  
5665 bring forth an ordinance for your consideration, either in an additional meeting, work  
5666 session, or public hearing.

5667

5668 Ms. Dwyer - But not necessarily all at once. This includes more than  
5669 flag lots. Is that right?  
5670  
5671 Mr. O'Kelly - There is no limitation. It includes everything, cul-de-sac  
5672 lots, stem lots, flag lots, and any other unusual lot design.  
5673  
5674 Ms. Dwyer - What I mean is we are not talking about density?  
5675  
5676 Mr. Vanarsdall - No, it all pertains to this. That is what I prefer to do,  
5677 Madam Chairman, is to write this off.  
5678  
5679 Ms. Dwyer - Let me just ask, what this does is directs staff to come up  
5680 with an ordinance that would examine flag lots and other unusually shaped lots that  
5681 come up for proposal to review at public hearing. And, then, I am trying to read as I  
5682 go along, did you want some sort of direction from the Planning Commission about  
5683 how to proceed on these issues in which you and the Homebuilders Association may not  
5684 be in full agreement.  
5685  
5686 Mr. O'Kelly - I think that would be very helpful and that would be Item  
5687 No. 5 on your Agenda. We have covered Item No.3, which is staff's  
5688 recommendations, then I outlined the four areas in which we have concerns.  
5689  
5690 Ms. Dwyer - OK. So, let's move on the Resolution in a moment and  
5691 let's talk about some of the issues that have been raised and just, and, of course,  
5692 nothing would be etched in stone at this point. It would just be guidance to the  
5693 Planning Department about how to get something on paper that we can advertise for  
5694 public hearing and of course, you could continue to discuss it, and we would welcome  
5695 your comments on whatever ordinance it is that we come up with. I am looking at the  
5696 letter we received from Mr. O'Kelly dated March 17 in which he lists the issues and  
5697 maybe that is a good starting point, to go through those, one by one, and maybe we  
5698 cannot take a formal vote, but just kind of get a consensus from the Commission  
5699 members about what kind of direction to give Mr. O'Kelly and we will formally vote  
5700 on the Resolution. Does that sound like a plan?  
5701  
5702 Mr. Vanarsdall - And see what the differences are. You are talking about  
5703 with him?  
5704  
5705 Ms. Dwyer - Well, not Jim personally, the Homebuilders.  
5706  
5707 Mr. Vanarsdall - Do you have what he has?  
5708  
5709 Mr. Tyler - No, I have not seen that.  
5710  
5711 Ms. Dwyer - Do we have an extra copy so they can follow along?  
5712 Well, I will just read it out.  
5713

5714 Ms. Quesinberry - Well, I will share, but I want this back.  
5715

5716 Ms. Dwyer - It says "Create a definition of cul-de-sac lots so that it is  
5717 separate from flag lots", so I guess part of that would be, do we want to continue  
5718 calling what we refer to as stem lots, do we want to continue calling those flag lots to  
5719 distinguish from what we refer to as cul-de-sac lots? So, my understanding from the  
5720 Commission is that we like the term flag lots, but we want it to now mean a stem-  
5721 shaped flag lot. Is that accurate?  
5722

5723 Mr. Vanarsdall - Well, it does not matter to me. I think Dave said  
5724 something about the flag versus the stem, and you all said it didn't matter to you.  
5725

5726 Mr. O'Kelly - Define the flag lot as a stem lot.  
5727

5728 Mrs. Quesinberry - Well, a stem lot is a kind of a flag lot.  
5729

5730 Mr. Tyler - And then you have cul-de-sac lot.  
5731

5732 Ms. Dwyer - The confusion is that now flag lot means what we are  
5733 calling cul-de-sac and flag lots, so if we now change the meaning of flag lot to mean  
5734 only stem-shaped flag lots, I guess that can cause some confusion.  
5735

5736 Mr. O'Kelly - We know that approximately 20 feet on a public  
5737 permanent cul-de-sac street and doesn't meet the lot width requirements of the  
5738 ordinance. For a stem lot, you can just simply say, in the definition section, is a flag  
5739 lot or a type of a flag lot. That is not an issue.  
5740

5741 Ms. Dwyer - OK, so you will include that as part of your ordinance.  
5742 The second one is "Provide standards for development for proposed cul-de-sac lots  
5743 which would include increased lot frontage" and that is basically what the definition is  
5744 in the material that the Homebuilders provided to us defining cul-de-sac lots, including  
5745 the table. Is that a good starting point, Mr. O'Kelly, to use that, as proposed?  
5746

5747 Mr. O'Kelly - Yes, staff is satisfied with 35 feet that was originally  
5748 brought to us as a minimum for a cul-de-sac lot. Yes, that is fine.  
5749

5750 Ms. Dwyer - But you said a starting point, recognizing that the blanks  
5751 are to filled in.  
5752

5753 Mr. O'Kelly - Between 35 feet and 50 feet would be a cul-de-sac lot.  
5754 Thirty-five would be the absolute minimum. Staff does not have any problems with  
5755 that.  
5756

5757 Ms. Dwyer - The third one says "Improve lot arrangement around a  
5758 cul-de-sac" and I believe that is addressed by the table, so I think that we can check that  
5759 one off. Four, "Not limit the number of cul-de-sac lots" and that relates to No. 6,

5760 where you say “Current building standards include four flag lots” and staff has some  
5761 concern about that. How do you see four and six relating to one another, Mr. O’Kelly?  
5762

5763 Mr. O’Kelly - Well, as we said before, philosophically, with the  
5764 ordinance proposal that has been presented, five cul-de-sac lots can be arranged around  
5765 the cul-de-sac meeting R-2 and R-3 zoning, and also go out in the current ordinance  
5766 you would have four flag lots that they would like to continue. A theoretical situation  
5767 of nine total lots where we are currently restricted to only four cul-de-sac lots or flag  
5768 lots.

5769  
5770 Mr. Tyler - With all due respect, I would take exception to that  
5771 because each flag stem lot has to have 20 feet, and so if you had four stem lots, you’d  
5772 have 80 feet, and you would lose that amount on the bubble, so you would probably  
5773 lose at least another lot or two. So, yes it is true that we may have more than four stem  
5774 lots or pie-shaped versus the actual stem, but nine I don’t think is an example. True  
5775 that is an area where we need to work together with them some more to allow some  
5776 equilibrium there to occur.

5777  
5778 Mrs. Wade - You can only have four cul-de-sac lots now?  
5779

5780 Mr. O’Kelly - You can have either four cul-de-sac lots or four flag lots  
5781 or any combination thereof. Your flag lot is a lot that does not meet the lot width or lot  
5782 frontage requirements.  
5783

5784 Mr. Tyler - If you would take a look at any C plat again, I’m holding  
5785 up the R-2 plat, when I first got involved I referred to this design on good land and we  
5786 are now talking about stem lots on it and impaired land. And Jim defined, I called it  
5787 impaired to further define it. If I were to plat this and try to get the Commission at a  
5788 tentative hearing to put a flag back here, you clearly are not going to do it. That is why  
5789 we are here today. So, I am not sure that I am following, Dave. I guess if you look at,  
5790 “Yes, there could be four flag lots” but it is only at your discretion, and they wouldn’t  
5791 be...  
5792

5793 Mr. O’Kelly - But that is not the only part of the cul-de-sac. Under the  
5794 current definition of flag lots, it could be anywhere along there, not at the terminus...  
5795

5796 Mr. Tyler - Except if we use the chart, and then in the R-2, the chart  
5797 says, (unintelligible).. needed at 57, 35 feet wide” in the R-2, 35 foot road  
5798 frontage...46 foot road frontage, you are not going to be able to do it. It is pie-shaped  
5799 is what this is creating...if you use the chart...  
5800

5801 Mr. O’Kelly - Not on the terminus of the cul-de-sac that is true, but  
5802 somewhere beyond that, along that street, there might be another little sliver of land in  
5803 there where you can get 20 feet in and put in another lot.  
5804

5805 Mr. Tyler - But only if the Planning Commission approves it.

5806

5807 Ms. Dwyer - I think we've spent a lot of time on this detail and what  
5808 we want to do is get something on paper, then we will know what we are dealing with,  
5809 and this is not etching anything in stone, but I will volunteer that I am in sympathy with  
5810 Mr. O'Kelly's concern about increasing potential flag lots in combination with cul-de-  
5811 sacs beyond what we even allow now. So, is that enough information to use? If the  
5812 Commission is in agreement, then you can proceed as you see fit.

5813

5814 Mr. O'Kelly - If I understand your recommendation, you have no  
5815 problem with the proposal that was submitted in terms of cul-de-sac wise, but flag  
5816 lots...

5817

5818 Ms. Dwyer - No, I guess I have some concern about the combination,  
5819 the potential combination for both of those being used and ending up with even more  
5820 unusually shaped lots than we even permit now. I think part of my confusion today,  
5821 and I don't think I am going to get it out today. I think I need something to look at on  
5822 paper; but now we have one term. When we said flag lots before, we all know what  
5823 that means. Now that we are breaking it out into two definitions, we don't want to say  
5824 doubling the number of flag lots in combination with cul-de-sac lots that we allow now,  
5825 and I guess that is what I am thinking. And I can understand you to be concerned about  
5826 ultimately increasing the number of flag lots and/or cul-de-sac lots beyond what we  
5827 allow now under the term 'flag lot'.

5828

5829 Mr. Tyler - We just need to understand the play between these two  
5830 terms. I have a feeling some of this will take care of itself once it gets onto paper.

5831

5832 Ms. Dwyer - Although David has raised the possibility of somewhere  
5833 else along that road, not on the...but someplace else. So, I think from the head  
5834 nodding, I think that we are all concerned about that as well. So, when you are  
5835 drafting the ordinance, keep that in mind. I am not sure how to give you any specific  
5836 information.

5837

5838 Mr. O'Kelly - It would be more simple to have a number.

5839

5840 Ms. Dwyer - Say four cul-de-sac and/or flag lots on a cul-de-sac street.  
5841 Is that what you are suggesting?

5842

5843 Mr. Tyler - If I may, that would negate what you see. If you think it  
5844 is pretty, it won't be pretty if that changes. We didn't pick the numbers. That was  
5845 what resulted geometrically, when you see C and you see five cul-de-sac lots. That  
5846 cul-de-sac was dissected by the lot area and the lot width to be a perfect radial.

5847

5848 Ms. Dwyer - I think by expanding the ordinance to be specific with a  
5849 table and to change the permissibility for stem-shaped flag lots, we may not need to  
5850 rely on that number in the future as much as we rely on it now. So, we recognize that,  
5851 but maybe we should start off with a number just to see how that works.

5852  
5853 Mr. Tyler - If you said four cul-de-sac lots, you would be jesting  
5854 every C example we have given you. Because they actually result in five cul-de-sac  
5855 lots of good design, that I think you are trying to accomplish and pick a number, you  
5856 can't get more than five.  
5857  
5858 Ms. Dwyer - OK, let's use five and see how that works once we get the  
5859 ordinance.  
5860  
5861 Mr. Tyler - And four we had already suggested on the flags or stems,  
5862 and then I think we all need to consider the interplay of the two.  
5863  
5864 Ms. Dwyer - Well, I think that is where we are all having trouble. We  
5865 can sit here and say "OK, five cul-de-sac lots, or four stem-shaped flag lots" but when  
5866 you get the combination, I think we are going to have to discuss that some more. OK.  
5867 So, now we are on Five. Now, this recommends permitting stem-shaped flag lots as  
5868 approved by special exception, and, the Homebuilders' most recent proposal to not go  
5869 to the special exception process but rather to just have it as a part of the development  
5870 standard.  
5871  
5872 Mr. O'Kelly - We don't need to expand the current exception provision.  
5873 We can work with the Homebuilders on that.  
5874  
5875 Ms. Dwyer - OK. We are in accord with that. No. 7 is "Provide  
5876 grandfathering" and that is the January 1, 2000 date, or as of the date approved by the  
5877 Board.  
5878  
5879 Mr. Theobald - I think we had suggested the later of, try to have some  
5880 period for people who had bought lots under the current assumption that they'd have  
5881 the chance to plat them, and I understand staff was not in favor of that, but that was our  
5882 proposal.  
5883  
5884 Mr. Vanarsdall - What Dave is saying is when the Board...  
5885  
5886 Mr. O'Kelly - Effective when the Board of Supervisors acts on the  
5887 ordinance.  
5888  
5889 Mr. Tyler - Are we talking about recordable plats or are we talking  
5890 about approved tentatives?  
5891  
5892 Mr. O'Kelly - Approved tentatives and you can file them up to the date  
5893 that the ordinance is amended.  
5894  
5895 Mr. Tyler - So, essentially, an approved tentative  
5896

5897 Mr. O'Kelly - Not submitted, it has got to be approved by the Planning  
5898 Commission.  
5899  
5900 Mr. Tyler - Approved by the Planning Commission before the Board  
5901 adopts the ordinance.  
5902  
5903 Ms. Dwyer - OK, so what does the Commission feel about that?  
5904 Should we go with that?  
5905  
5906 Mr. O'Kelly - I am saying that approved by a governmental body.  
5907  
5908 Mr. Tyler - But suppose I file a tentative on April 8 and then the  
5909 Board of Supervisors approves it on April 15 or May 10 at their meeting, and the  
5910 Planning Commission hasn't acted on the tentative.  
5911  
5912 Ms. Dwyer - But it has been filed.  
5913  
5914 Mr. Tyler - It doesn't vest it and I would have to withdraw that  
5915 tentative...  
5916  
5917 Mr. O'Kelly - It becomes State law under that scenario.  
5918  
5919 Mr. Vanarsdall - Could we cut the time limit in half and make it 60 to 90  
5920 days?  
5921  
5922 Ms. Dwyer - That is one option. Are there any other ideas?  
5923  
5924 Mr. Archer - Well, we only have to do it once. Hopefully, this time  
5925 next year nobody will give a darn.  
5926  
5927 Ms. Dwyer - Let's go with your suggestion, Dave. If that is OK, and  
5928 we can always change that if we are convinced otherwise. Is the Commission agreeable  
5929 to that?  
5930  
5931 Mr. Tyler - The word is on the street is enough, that something is  
5932 going to happen. I can assure you what you just said is going to expedite some  
5933 thinking.  
5934  
5935 Mr. Vanarsdall- Well, now we have got to get down to what we are going  
5936 to do next, Madam Chairman.  
5937  
5938 Ms. Dwyer - All right. We need to make a decision on the resolution.  
5939 Do we have a motion on the resolution? Will someone make a motion on the  
5940 resolution?  
5941  
5942 Mr. Vanarsdall - What are we trying to do now?

5943  
5944 Ms. Dwyer - We are directing staff to come up with an ordinance that  
5945 deals with the things that we have been discussing.  
5946  
5947 Mr. Archer - So, the seven items we have just spoken to, contemplates  
5948 the resolution, I suppose.  
5949  
5950 Ms. Dwyer - It is sort of informal direction to staff to draft something  
5951 to work with.  
5952  
5953 Mr. Archer - Well, I move that.  
5954  
5955 Mr. Vanarsdall - Second.  
5956  
5957 Ms. Dwyer - We have a motion by Mr. Archer and a second by Mr.  
5958 Vanarsdall. All in favor of the resolution say aye. All opposed say no. The motion  
5959 carries unanimously.  
5960  
5961 Ms. Dwyer - All right. Do we need to set some dates, Mr. O'Kelly?  
5962  
5963 Mr. Vanarsdall - Can we get them in April, Dave?  
5964  
5965 Mr. O'Kelly - Staff would hope that we could. We will continue to meet  
5966 with the Homebuilders and prepare draft ordinances that you could consider on April  
5967 20.  
5968  
5969 Ms. Dwyer - OK, so we will have an ordinance at our April 20  
5970 meeting?  
5971  
5972 Mr. O'Kelly - That would be two ordinances, one would be the zoning  
5973 ordinance and the subdivision ordinance amendment.  
5974  
5975 Mr. Vanarsdall - I make a motion that we choose April 20.  
5976  
5977 Ms. Dwyer - Is that a work session or is that a public hearing?  
5978  
5979 Mr. O'Kelly - Public hearing. Hopefully. We have less than 30 days to  
5980 draft something and get it into proper form and get it advertised.  
5981  
5982 Ms. Dwyer - Does that give you enough time?  
5983  
5984 Mr. O'Kelly - It is a challenge but we've been challenged before.  
5985  
5986 Mrs. Wade - We won't discuss again, will we?  
5987  
5988 Ms. Dwyer - We won't discuss it again, but I hope we will see it.



5989  
5990 Mr. O'Kelly - We will make every effort to have it in your packet.  
5991 Whether we are in agreement or not, at least there will be something in your packet that  
5992 goes out a week prior to the April 20 meeting.  
5993  
5994 Ms. Dwyer - Than the recommendations that we just made are informal  
5995 and just so that we can get something on paper?  
5996  
5997 Mr. Webb - In theory, this could come before the Board of  
5998 Supervisors by the first week of May, and so, therefore, the April 20 Planning  
5999 Commission could be the last time that subdivisions...you all just said January, and now  
6000 this could be approved in May. That is kind of an aggressive schedule, don't you  
6001 think?  
6002  
6003 Mr. Vanarsdall - No, we are aggressive people. Madam Chairman, we  
6004 would do this in the afternoon, after the meeting, right?  
6005  
6006 Ms. Dwyer - Can we say 1:00 p.m.?  
6007  
6008 Mr. Vanarsdall - Can we dream again and put 1:00 p.m.?  
6009  
6010 Mr. O'Kelly - Today you had 21 cases and the April meeting right now  
6011 is somewhere in the mid-thirties. Let us look at the preliminary agenda and we have to  
6012 advertise this in the paper, so we will check the time.  
6013  
6014 Ms. Dwyer - Either 1:00 or 2:00 p.m.  
6015  
6016 Mr. O'Kelly - Either 1 or 2:00 p.m. or something like that.  
6017  
6018 Mr. Vanarsdall - I make a motion that we adjourn.  
6019  
6020 Mr. Archer - Second.  
6021  
6022 On a motion by Mr. Vanarsdall and a second by Mr. Archer, the Planning Commission  
6023 adjourned its meeting.  
6024  
6025  
6026  
6027 \_\_\_\_\_  
6028 Ms. Elizabeth G. Dwyer, C.P.C., Chairman  
6029 \_\_\_\_\_  
6030 John R. Marlles, Secretary  
6031  
6032