

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,
3 Parham and Hungary Spring Roads at 7:00 p.m., on April 12, 2001, Display Notice
4 having been published in the Richmond Times-Dispatch on Thursday, March 22, 2001
5 and Thursday, March 29, 2001.

6
7 Members Present: C. W. Archer, C.P.C., Chairperson, Fairfield
8 Elizabeth G. Dwyer, C.P.C., Vice-Chairperson, Tuckahoe
9 Ernest B. Vanarsdall, C.P.C., Brookland
10 Allen J. Taylor, C.P.C., Three Chopt
11 Eugene Jernigan, Varina
12 David A. Kaechele, Board of Supervisors, Three Chopt

13
14 Members absent: John R. Marlles, AICP, Secretary, Director of Planning

15
16 Others Present: Randall R. Silber, Assistant Director of Planning
17 Jo Ann Hunter, AICP, Acting Principal Planner
18 Mark Bittner, County Planner
19 Thomas M. W. Coleman, County Planner
20 Lee Householder, County Planner
21 Judy Thomas, Recording Secretary

22
23 Mr. Randall R. Silber, Acting Secretary - Good evening. It looks as though we have
24 all Commission members here, so we do have a quorum, and we can conduct business.
25 The first item on the agenda would be the consideration of requests for withdrawals and
26 deferrals.

27
28 Mrs. Jo Ann Hunter, Acting Principal Planner - Good evening.

29
30 Mr. Archer - Good evening, Mrs. Hunter.

31
32 Mrs. Hunter - The first case on the agenda has actually been withdrawn.
33 It's in the Three Chopt District. It's C-41C-00.

34
35 **Deferred from the October 12, 2000 Meeting:**

36 **C-41C-00 Rev. Rick McDaniels for Glen Allen Community**
37 **Church:** Request to conditionally rezone from R-2C One Family Residence District
38 (Conditional) to O-2C Office District (Conditional), Part of Parcel 9-A-20, containing
39 approximately 1.571 acres, located on the south line of Nuckols Road at its intersection
40 with Wyndham Park Drive. A bank branch is proposed. The use will be controlled by
41 proffered conditions and zoning ordinance regulations. The Land Use Plan
42 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and
43 Environmental Protection Area.

44 That case has been withdrawn. There's no action necessary by the Commission.

April 12, 2001

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Mr. Archer - No action required.

Mrs. Hunter - On to the deferrals this evening. On the bottom of Page 2 in the Varina District, we have P-1-01.

Deferred from the February 15, 2001 Meeting:

P-1-01 John G. Chip Dicks for Telecom Consulting Group, Inc.: Request for a provisional use permit under Sections 24-95(a), 24-120, and 24-122.1 of Chapter 24 of the County Code in order to construct a 250' lighted telecommunications tower and support facilities, on part of Parcel 205-A-44, containing 4,900 square feet, located at 6929 Monahan Road, on the east side of Monahan Road approximately 1,170 feet north of its intersection with Darbytown Road. The existing zoning is A-1 Agricultural District. The site is also in the Airport Safety Overlay District.

They have requested a deferral to June 14th. That's a 60-day deferral.

Mr. Archer - Okay. Is there any one here in opposition to the deferment of this case until June 14th. No opposition. Mr. Jernigan.

Mr. Jernigan - Mr. Chairman, I make a motion that we defer Provisional Use Permit P-1-01 to June 14th per the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele abstained. The motion carries.

Mrs. Hunter - There is one other deferral this evening. That's on the bottom of Page 3 of your agenda in the Brookland District. It's Case C-21C-01.

C-21C-01 Henry L. Wilton for Wilhook, LLC: Request to conditionally rezone from R-2 One Family Residence District and R-4 One Family Residence District to O-2C Office District (Conditional), Parcels 93-A-2 and 3A, containing approximately 2.58 acres, located at the northeast intersection of I-64 and Bethlehem Road. An office development is proposed. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Environmental Protection Area.

The applicant has also requested a 60-day deferral to June 14, 2001.

88 Mr. Archer - Is there any one here in opposition to this deferment;
89 Henry L. Wilton for Wilhook, LLC?

90

91 Mr. Vanarsdall - I move that C-21C-01 Henry L. Wilton for Wilhook,
92 LLC, be deferred to June 14th at the applicant's request.

93

94 Mrs. Dwyer seconded the motion.

95

96 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mrs. Dwyer. All
97 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
98 abstained. The motion carries.

99

100 Mr. Silber - Is that all the deferrals, Mrs. Hunter?

101

102 Mrs. Hunter - Yes. It is.

103

104 Mr. Silber - We have one expedited item.

105

106 Mrs. Hunter - We do have one case on the expedited agenda. It's on
107 Page 1 of the agenda. It's the second case.

108

109 **Deferred from the March 8, 2001 Meeting:**

110 **P-3-01**

111 **Eisenberg Architects for Panera Bread:** Request for a
112 provisional use permit under Sections 24-58.2(d) and 24-122.1 of Chapter 24 of the
113 County Code in order to provide outdoor dining for a bakery/cafe, on part of Parcel 48-
114 A-38, containing 1,500 sq. ft., located at 10301 West Broad Street, on the south line of
115 West Broad Street (U. S. Route 250) at its intersection with Gaelic Lane (The Gables
Apt. complex). The existing zoning is B-2C Business District (Conditional).

116

117 Mr. Archer - Is there any one here in opposition to this case? We have
118 opposition.

119

120 Mrs. Hunter - We can just pull it off. It's the first case.

121

122 Mr. Silber - Yes. It needs to come off.

123

124 Mr. Archer - All right, the case will come off the expedited agenda and
125 will be heard in the order in which iT appears on the regular agenda.

126

127 Mr. Silber - Which will be the next case.

128

129 Mr. Vanarsdall - It didn't move any spaces.

130

131 Mr. Silber - Since it is not being considered as an expedited agenda
132 ITEM, it will be considered on the regular agenda and it happens to be the next case on
133 the agenda. So, we will go ahead and take that case. I don't know if its necessary that
134 I call the case. I think Mrs. Hunter just called the case for me. So, I think we can go
135 ahead and turn it over to Mr. Householder who will present the staff's position.

136
137 Mr. Archer - Mr. Householder, how are you, sir?

138
139 Mr. Lee Householder, County Planner - Thank you, Mr. Chairman, members of the
140 Commission. The Panera Bread Restaurant has requested a Provisional Use Permit to
141 allow the construction of an outdoor dining area adjacent to their restaurant. The site is
142 located in the Summit Shopping Center which is 10301 W. Broad Street.

143
144 A plan of development has been approved for the Summit Shopping Center and the
145 shopping center is planned to be built in three phases. Phase 1 has been recently
146 completed. The approved plans provide for 156 parking spaces, which is 21 more than
147 what's required by the Ordinance.

148
149 The proposed use would be placed upon an existing patio on the site, and it will be a
150 1,000 square foot outdoor dining area. This would include 60 seats.

151
152 The additional area would require 10 parking spaces, which would meet the
153 requirements, since they are already 21 over.

154
155 Other outdoor dining facilities in the area that have recently been approved, include
156 Apollo's Pizza, Red Hot & Blue Restaurant, and the Franco's Restaurant in the past 2
157 and one-half years.

158
159 The applicant has submitted a proposed layout for this site that shows the seating
160 arrangement. Also, which was not included in your staff report, they have a number of
161 other diagrams, which I'll bring up now, to give you an idea of the appearance of this
162 outdoor dining area with railings. And we also have this view (referring to slide) kind
163 of a three quarter angle of the site.

164
165 The proposal is consistent with the commercial concentration designation of the site.
166 And the conditions that are listed in the staff report, we think will ensure compatibility
167 with nearby offices and retail uses. Staff does recommend approval of this request. I'll
168 take any questions that you may have.

169
170 Mr. Archer - All right, thank you, Mr. Householder. Are there
171 questions from the Commission?

172
173 Mr. Silber - Mr. Householder, could you go back to that last slide. I
174 was under the impression that a portion of this site was under roof.

175 Mr. Householder - No.
176
177 Mr. Silber - No. It's not?
178
179 Mr. Householder - It is not.
180
181 Mr. Silber - Okay.
182
183 Mr. Kaechele - What are the hours of operation for outdoor dining?
184
185 Mr. Householder - The hours of operation are, I know the latest is Midnight.
186 I'm not positive...
187
188 Mr. Kaechele - During regular dining hours, whenever its open?
189
190 Mr. Householder - Yes. It's pretty much similar to, I would say, a coffee
191 house atmosphere inside. I don't know if you've been there. There's pastries and that
192 sort of thing.
193
194 Mr. Vanarsdall - They don't have breakfast, because I called up to find out
195 what time they cut off breakfast last Saturday. And they said they didn't cut it off.
196 They didn't cut it on. They had just bagels. I said, "Well, how did you know I didn't
197 want a bagel?"
198
199 Mr. Taylor - Mr. Householder, which end is towards Broad Street?
200 Are we looking from Broad Street there? Okay. That's Broad Street? So the other
201 side faces the Westerre valley?
202
203 Mr. Householder - Correct.
204
205 Mr. Taylor - Which actually is quite a scenic overlook, frankly.
206
207 Mr. Householder - This pad is existing right now, this area here (referring to
208 slide).
209
210 Mr. Taylor - And the briefing notes, there is entrance only directly
211 from the dining area itself, not from the outside? Correct?
212
213 Mr. Householder - Correct. We discussed that. It's labeled as "emergency
214 exit." So, there is a way to get out, but all entrants would come through the restaurant.
215
216 Mr. Taylor - That entrance, which would really be a fire exit, is right
217 where you're indicating (referring to slide). That would normally be closed?
218

219 Mr. Householder - Yes.
220
221 Mrs. Dwyer - Is metal fencing proposed?
222
223 Mr. Householder - They're proposing this would is an aluminum...
224
225 Mr. Taylor - I believe that's a 3-foot high aluminum sectioned black
226 painted fence?
227
228 Mr. Householder - Correct.
229
230 Mr. Taylor - That type of fence was the same type of fence put in at
231 Red, White and Blue, as I remember, fairly close.
232
233 Mr. Householder - I'm not positive it's the exactly same type, but it's similar.
234
235 Mr. Archer - Any further questions of Mr. Householder? Okay, Mr.
236 Taylor, do you need to hear from the applicant?
237
238 Mr. Taylor - Would the applicant like to present his case, or is the
239 applicant here?
240
241 Mr. Householder - I was told the district manager was going to be here this
242 evening.
243
244 Mr. Taylor - There's the district manager right there. Would you like
245 to make some remarks, sir?
246
247 Mr. Archer - While he's coming, I guess we should, Mr. Secretary, go
248 over the rules concerning time.
249
250 Mr. Silber - Yes sir. Before you begin, let me remind those present
251 tonight that the Planning Commission's Rules and Regulations stipulate that with public
252 hearings for each case, the applicant is given 10 minutes to present his or her case.
253 Some of that 10-minute period can be reserved for rebuttal. All the opposition is
254 provided 10 minutes cumulatively to voice their opposition, and then the Commission
255 will take action.
256
257 Mr. Adam Miller - I just wanted to make a comment on the time. He said
258 Midnight. It closes at 7:00 o'clock on Sunday nights, and 9:00 p.m. the other nights.
259
260 Mr. Archer - Sir, would you identify yourself for the record?
261

262 Mr. Miller - Sure. My name is Adam Miller. I work for Panera
263 Bread.
264
265 Mr. Vanarsdall - What are your hours again?
266
267 Mr. Miller - 7:30 to 7:00 on Sundays, and 6:30 a.m. to 9:00 p.m. the
268 rest of the week.
269
270 Mr. Vanarsdall - The latest you stay open...
271
272 Mr. Miller -is 9:00 o'clock. It will probably never go higher than
273 that. That was the only comment that I had.
274
275 Mr. Taylor - Thank you, Mr. Miller.
276
277 Mr. Archer - Any other questions for Mr. Miller before he takes his
278 seat? Thank you, sir. Okay, I guess its time to hear from the opposition.
279
280 Mrs. Emily Nuckols - Hi. I'm Emily Nuckols. I live at 4181 Innesbrook Road.
281 Innesbrook Road enters Broad Street across from one of the entrances into this
282 shopping center. It's the entrance that has to be used by anyone who is going west and
283 wants to go into the shopping center or anyone in the shopping center who wants to
284 come out and go west.
285
286 I can't say that I'm greatly opposed to this. I am very much concerned about traffic.
287 Panera is immensely popular. And its not unusual when I'm going east on Broad Street
288 and want to make a left turn into Innesbrook Road to have four or five cars waiting to
289 make a left turn into that shopping center. And people get impatient because I wait.
290 It's a playing game. Whose going to stick their neck out first and make a left turn? It's
291 not me, but others do.
292
293 When this property was first rezoned, we were told that the County would work on the
294 traffic situation at the time of the POD. There was considerable discussion on this
295 issue at the POD hearing on October 9, 1997. We are waiting for some positive
296 response to our concern.
297
298 Residents in our neighborhood are very concerned about the lack of safe entrance to
299 and from Innesbrook Road and Broad Street for many hours of the day. I leave home
300 at 6:30 in the morning to go teach, I have no problem. But come around 7:30, 8:00,
301 9:00, 10:00, 11:00, 12:00, 1:00; the other day when I came home at 3:00, I waited. I
302 didn't have to wait but a minute to make my left turn. In that time I saw three cars take
303 action which I thought was dangerous. I wouldn't have thought of doing it.
304

305 Mr. James Plotkin, who is with Seven Properties, who owns it, I guess, said he is
306 willing to help pay for a light signal at this intersection. VDOT was counting the
307 traffic at this intersection last week. I do not know the results of that.

308

309 My husband talked to Mr. Tim Foster, and he told him that he would ask Robert
310 Prezioso, whose VDOT's resident engineer at the Sandston office to call us. We have
311 not heard anything from him. I called him this morning, but we didn't make a
312 connection.

313

314 I know that VDOT makes the decisions about signals on Broad Street, as it's a State
315 highway. We also know that Henrico County Government makes decisions about
316 development; both business and residential; thus, setting up a lot of traffic. Somebody
317 told us many times that we wouldn't have to worry on Innesbrook Road about the
318 traffic, they were all going out Cox Road. Well, that's a bunch of baloney. They
319 didn't know we were going to be there, I guess.

320

321 Our County government should feel responsible for helping either by persuasion or
322 with money to provide a safe intersection at Innesbrook and Broad Street. I know the
323 Henrico County Traffic Engineers feel that this particular zoning would not add
324 significantly to the already heavy traffic burden. A lot of small rocks makes a very
325 heavy bucket. And, in addition to the through traffic on Broad Street, the shopping
326 center traffic and new homes, school buses, and Innesbrook office workers, who use
327 Innesbrook Road, we are hassled by U-turns, really hassled by U-turns from Universal
328 Ford, Kinko's, and the Gable Apartments. None of them should have to make a U-turn
329 there. Of course, they have other ways of getting out to Innesbrook to Broad Street
330 with the light.

331

332 We hope something can be done without waiting for a tragic accident. I have friends
333 who don't want to visit me because of this intersection. There are times when I do not
334 go to activities at my Church because of the trauma of getting out of the area. Should
335 we have to live this way? Thank you.

336

337 Mr. Archer - Thank you, Mrs. Nuckols.

338

339 Mr. Kaechele - Do you perceive the problem more difficult coming out of
340 Innesbrook Drive and going east on Broad, or is it coming...

341

342 Mrs. Nuckols - Its both ways. Its very hard for us to cross over to get
343 into the intersection. Occasionally, at 6:30, I can do it, but most of the time...To make
344 a left turn into Broad Street from our street, we have to go into the middle and wait.
345 You have to angle your car just so, so that you're not hanging over to be hit.

346

347 Mr. Kaechele - Okay.

348

349 Mrs. Nuckols - And with the traffic coming to make a left turn, a lot of
350 times you just can't do it. You've either just got to wait, or you have to right turn. Its
351 hard to make right turns a lot of the time because of the traffic. Sometimes I do go up
352 to the light at Cox and U-turn and come back. But, there again, I have three lanes of
353 traffic to cross and that's not always good.

354
355 Mr. Kaechele - Right.

356
357 Mrs. Nuckols - Norwood says, "Well, just go up and get on the interstate
358 at Short Pump?" Well, I don't always want to get on the interstate.

359
360 Mr. Kaechele - Well, Broad Street probably has 30,000 to 40,000 traffic
361 per day in that area, I would think.

362
363 Mr. Silber - Yes sir. At least that.

364
365 Mr. Kaechele - 40,000 or 50,000 maybe.

366
367 Mr. Taylor - I know that's under active study now by Todd Eure and
368 VDOT. Thank you for the call last night. I'm sorry I didn't get back to you today. I
369 was kind of rushed. But, I knew what the call was. I thought that Mr. Eure would be
370 here tonight and we would get an idea of what the results are, because it is under active
371 count at this moment. And I received another call today from Mr. Plotkin who wished
372 you well and said that he would try to be here tonight.

373
374 Mr. Kaechele - He's here.

375
376 Mr. Taylor - Is he here? Oh, I'm sorry. I didn't see you come in, Mr.
377 Plotkin. I won't speak for him. He will speak for himself. And besides it being under
378 active study and VDOT counting, our hope is that something will be done. Right now,
379 as you know, there are four traffic lights between Gaskins and Cox. And one more
380 will just, perhaps, compound it unless they are adequately sequenced to move traffic as
381 a group and then stop and allow the cross traffic to occur.

382
383 But, I think that the County and VDOT, and certainly the staff, are aware of the
384 problem. And our hope is that it will be resolved fairly quickly by either re-sequencing
385 the lights or adding another light. But, it is under active study and we should see some
386 results. I'll ask, Mr. Chairman, if I might,

387
388 Mr. Archer - Sure.

389
390 Mr. Taylor - I'd ask Mr. Plotkin if he'd like to come up here because
391 he and I have had even separate discussions this afternoon on the traffic situation on
392 that section of Broad. Mr. Plotkin.

393 Mr. James Plotkin - I'm James Plotkin, developer of The Summit, and I'm just
394 here to answer any questions that you might have. I will add to what's already been
395 said the fact that my traffic engineer has also studied very recently, in fact, this week,
396 the traffic count coming in and going out of The Summit Shopping Center.

397

398 Mr. Vanarsdall - Let me ask, have you any results of the count?

399

400 Mr. Plotkin - The results are not very encouraging.

401

402 Mr. Vanarsdall - Not enough for VDOT to put a light?

403

404 Mr. Plotkin - About 20 percent at this point of the warrants that are
405 required. So, it would take some time and, of course, the completion of the project
406 with high traffic generators for the project to be able to qualify, making application to
407 VDOT for a signal. So, as I explained earlier, I'm hopeful that we'll be able to have a
408 continuing dialogue and explore ways in which we can accelerate the point in time
409 when a signal can be established at this particular intersection.

410

411 Mr. Archer - Well, Mr. Plotkin, and maybe you're not the one to
412 answer this. But considering the capacity of the restaurant, and looking at the fact that
413 the traffic is already heavy now, is it considered that this addition would generate
414 additional traffic, or would the people who eat inside when the weather is not inclement
415 simply move outside to eat? Has that been taken into consideration?

416

417 Mr. Plotkin - I really can't make a projection except to, I would defer to
418 the restaurant, to Panera Bread personnel. I'm not sure which way that would play. In
419 nice weather I think some people would opt to eat outdoors. Whether more people
420 would come, I don't know for sure.

421

422 Mr. Silber - Mr. Archer, I can't speak to whether it would generate a
423 substantial amount of traffic. But, from a parking calculation standpoint, we do require
424 additional parking for this additional square footage. So, it would be considered to be
425 additional square footage of restaurant space onsite, so that would presume that would
426 be additional traffic coming from the site.

427

428 Mr. Plotkin - That would be the intention, we hope, that there would be
429 additional customers coming in attracted by the outdoor dining.

430

431 Mr. Kaechele - Mr. Plotkin, are you hearing any traffic and safety
432 concern from the general customers coming into the shopping center when they're
433 going west on Broad, and want to crossover? Are you getting complaints?

434

435 Mr. Plotkin - I can't say that I've had anything reported to me,
436 personally. You can see if you try to get out and make a left turn, it takes a longer
437 time to get out.
438
439 Mr. Kaechele - You just have to time it right.
440
441 Mr. Vanarsdall - Did they take a traffic count by the counter on the street,
442 or by sight?
443
444 Mr. Plotkin - By sight.
445
446 Mr. Vanarsdall - Did they do it in the peak traffic in the mornings and in
447 the evening?
448
449 Mr. Plotkin - My understanding that it was done from, I believe, 6:30
450 in the morning until about 9:00 at night.
451
452 Mr. Vanarsdall - Three days a week?
453
454 Mr. Plotkin - Over a two-day period?
455
456 Mr. Vanarsdall - Two-day period.
457
458 Mr. Taylor - Do you know, Mr. Plotkin, what those lights are now
459 sequenced to, in harmony with one another to move traffic through there as a group?
460
461 Mr. Plotkin - As I understood, this was a verbal report from the traffic
462 engineer. As I understood what he said, the sequencing is such that it would favor the
463 introduction of a signal at this intersection without disrupting the normal flow that's
464 presently experienced at the other signals. So, they would not have to be an
465 interruption.
466
467 Mr. Taylor - Which is to say now four are sequenced? Then we could
468 put another one in there and sequence it so it would work with the present sequencing.
469
470 Mr. Plotkin - That's correct. That's my understanding of what I was
471 told to do.
472
473 Mr. Taylor - Well, certainly, that's a part of this study that we really
474 need to talk to Traffic and find out what they're doing. And I would think that we
475 would follow up with traffic to find out what we can do. The question in the short
476 term, is, "Is it, in your judgment, that this is reasonably safe that it would not affect the
477 operation of Panera Bread even in its wildest most successful moments?"
478

479 Mr. Plotkin - I would address that by saying, I would hope that this
480 would not be a case where casualties and, Heaven forbid, fatalities would have to be
481 experienced before the light could be justified. I can only say if you're very, very
482 careful and very lucky and not impatient, and wait until the traffic clears, you can
483 probably proceed okay. It's just an inconvenience and somewhat of a deterrent over a
484 period of time. I don't know how that would play out.

485
486 Mr. Taylor - Well, I think it's certainly something that needs a great
487 deal of study, and I'm convinced from what I hear that it is being studied. And I will
488 work with the staff and with Traffic to try to encourage them to do additional studies.
489 But, my thought at the moment with regard to this additional provisional use permit for
490 Panera Bread, is that I think that we can go ahead and approve that without serious
491 impact on the traffic along Broad.

492
493 Mr. Plotkin - I leave that to your judgment. I think that would be okay.
494 Only, we're counting on, hopefully, leasing the rest of the property. I would hate to
495 think that it would be unsafe for anybody to open a store there. I don't think it's at that
496 point, but I do feel we ought to continue...

497
498 Mr. Taylor - And we wish you every success in your development.
499 And we also wish all of the travelers happy trails if they go from Cox to Gaskins.

500
501 Mr. Plotkin - Absolutely.

502
503 Mr. Silber - Mr. Plotkin, could you tell me, on the ultimate
504 development of your property, do you intend to have access back to Westerre Parkway?

505
506 Mr. Plotkin - We have studied that pretty carefully, and you know the
507 elevation of Westerre Parkway, and the elevation of the interior of the undeveloped
508 portion of our site can probably support a connection to Westerre Parkway. But, I
509 think, at such point in time as we find end users for Phase 2, where the undeveloped
510 portion of our site, we ought to address that, you know, directly.

511
512 Mr. Silber - Well, I think that has a large impact on the concern the
513 Nuckols have expressed, because people coming out of your property trying to make a
514 left onto Broad Street, many may opt to go out the back door onto Westerre and then
515 left onto Cox Road. So, I think that will alleviate that intersection, if there's a
516 backdoor connection to Westerre. In fact, when that connection is made, I think it
517 would help quite a bit.

518
519 Mr. Plotkin - Well, so far, we have not been able to develop the second
520 phase of our project. And, I think, serving the public; the customers that are coming in
521 the front door is a very high priority in making it easy and safe for them to come and
522 go, and also to help the residential community across the street with their problems also

523 is a high priority for us. So, I think what you're talking about is probably off in the
524 future. We don't really know when that will develop and when that connection would
525 be made.

526

527 Mr. Archer - Well, Mr. Plotkin, considering the developable part that's
528 not been developed yet, and what additional traffic, I guess we're assuming this outdoor
529 dining is going to bring, then it would seem that, at some point, we would approach a
530 time when the traffic studies would dictate that a signal is necessary. But, if we don't
531 develop any further, then maybe we won't reach that point. So, it's kind of between
532 the devil and deep blue sea. And, you know, Mrs. Nuckols did say she wasn't in
533 opposition to what's happening here, but the traffic is what her concern is. So, we are
534 kind of "Darn if we do and darn if we don't". I don't know the answer. I just thought
535 I'd make that observation.

536

537 Mr. Plotkin - Right. You're exactly right. The more traffic that is
538 generated by the project, the more likely it is that we would qualify for a traffic signal.
539 But, at only 20 percent of the warrants at this moment, even if another restaurant were
540 to be built at the project, that was just as active as Panera Bread, that would put the
541 warrants at approximately 50 percent. Beyond that, it would just depend on the actual
542 merchants or occupants of the rest of the property as to how large a volume of traffic
543 was attracted.

544

545 Mr. Taylor - Mr. Chairman, I think the concern is that, right now,
546 everything is working okay. But, we need to be cognizant of what to do in the future to
547 allow for further growth, and I think that's what highways is doing. And when Mrs.
548 Nuckols called me, and I think her statement was to the effect that, she is not
549 necessarily concerned about this project with Panera Bread, but she wanted to look at a
550 little bit longer term in terms of the study and do something with those lights to
551 improve traffic. Am I correct in that regard in trying to make that constrains from the
552 conversation? So, my thought would be, we would some how officially request that
553 VDOT or Highways look at alternatives available in those four lights to take a look at
554 present traffic, and forecast traffic and look at what we might achieve through a
555 sequencing approach or some kind of other traffic expediting mode and just go ahead
556 and move on this project, and let the two go parallel, but each on its separate track
557 towards success.

558

559 Mrs. Dwyer - Mr. Taylor, I'd like to amplify Mr. Silber's observation,
560 which is, rather than relying on VDOT's studies, and the point in the future which
561 seems unlikely for the long term of getting a signal at this intersection, it looks like Mr.
562 Plotkin has the ability to provide access to Westerre which could funnel traffic away
563 from Broad onto Westerre where they could go to Broad or out to Cox. So, that seems
564 to me that might be an option that is worth looking at sooner, rather than later, given
565 the concern of the residents about entry onto Broad Street Road.

566

567 Mr. Vanarsdall - I agree. This is not a new subject, tonight. Mr. Nuckols
568 and Mrs. Nuckols can tell you that they have been here as many times as anyone we've
569 ever had on this one intersection. It has always been abused by Universal Ford. When
570 the salesmen take people to test a car, they come down. They make a U-turn there.
571 They do have a way to get on Cox Road. They will have to come down there. Mr.
572 Nuckols asked one time that we try to get a "No U-turn sign" there. And, it seems like
573 that every time he's ever asked anything, he always gets the same answer. "We're
574 going to study it. We're going to look at it" or something. And it's still a problem.
575 It's has always been a problem.

576

577 Mr. Taylor I would suggest that between now and the Board time that you find out
578 from traffic what the study is and how many more numbers we have to have to do
579 something with it. Let me ask Mrs. Nuckols, "Do you think a stoplight would take
580 care of the problem there?"

581

582 Mrs. Nuckols - Yes sir. I do. I would say, like you mentioned,
583 Universal can go out a back way. People at the Gables can go back to Ft. McHenry.
584 It's now Lexus and Drop Farm Drive, and have access to Broad Street with a light
585 which is so much safer. I've even seen the new car carriers come down and make a U-
586 turn there. I just don't think the people who come into this restaurant, unless they
587 come often and really know the area, will bother to go out the back. So, I think the
588 light would be a whole lot better, even though I think that would be a good, you know,
589 not a replacement, but it would be a good supplement to that.

590

591 Mr. Vanarsdall - Well, I agree with Mrs. Dwyer and Mr. Silber. As I sit
592 here thinking about it, I don't know why a back entrance wasn't suggested before that
593 land was ever zoned and anything was ever put on it.

594

595 Mrs. Nuckols - I'd like to make one comment when you talk about
596 synchronizing the lights. I have been from Lexington Farm Drive down to St. Mary's
597 and only stop by a light when I got to Bremo and Monument. Done that several times.
598 A lot of times I get stopped by one or two lights. But somebody has done a terrific job
599 with synchronizing those lights. I don't know who it is. I wish I could be that smart.

600

601 Mr. Vanarsdall - We have lights now everywhere but an alley. So, one
602 more won't make any difference.

603

604 Mr. Plotkin - May I make one other point?

605

606 Mr. Silber - Go ahead, Mr. Plotkin.

607

608 Mr. Plotkin - In response to the suggestion that we make a connection to
609 Westerre Parkway, I think we all need to understand that, in the language of the traffic
610 engineers and in the State's terminology, if there's a connection to Westerre Parkway, I

611 think we can kiss good bye any chance of getting a signal at that intersection. The
612 reason being, when they count for the warrants, those who slip away through the back
613 and so forth, you know, will be removed from the count. And the Traffic Engineer has
614 told me that, "If you don't want a light there, the best way to get it is a back door to
615 Westerre Parkway." On the other hand if the safety factor and the other considerations
616 for traffic trying to move west from the Summit Shopping Center, and if you want to
617 eliminate the hazard of U-turns being made by, you know, customers of Universal Ford
618 and so forth, with a signal, or control it better with a signal, you know the light is
619 probably the best way to go. But, if we do connect, I don't think there will be a signal.

620

621 Mr. Archer - Okay. Other questions of Mr. Plotkin? Thank you, sir.

622

623 Mr. Plotkin - Thank you.

624

625 Mr. Archer - All right, Mr. Taylor.

626

627 Mr. Taylor - Well, Mr. Chairman, suffice to say someway somehow
628 we need to encourage VDOT and our transportation people to make a very careful
629 study of this. And I wonder if a motion by me to have the staff, is in order, a motion
630 to have the staff study this and report back to us within 90 days? Is that an appropriate
631 motion?

632

633 Mr. Archer - I don't know that we need to make a motion to do that.

634

635 Mr. Silber - Mr. Taylor, I think that's under the realm of the
636 Department of Public Works traffic engineers. I don't know if we should be
637 committing them to a certain time period. What I can tell you, we will get with them
638 and we will have them study this and we can formally get back with you as to what they
639 have found. I'd rather you not, maybe without them being here, set a timeframe for
640 which they need to study it.

641

642 Mr. Taylor - That's fine, sir. That will work. With regard to Panera
643 Bread, I recognize all of the issues. But, this is a 1,000 square foot pad to allow
644 outdoor dining, and I don't know that this will materially add to the traffic load. And I
645 think this will probably, in fact, be several months in the development and the
646 construction, and the use. So, I will move approval of Provisional Use Permit 3-01
647 Panera Bread as to allow an outdoor dining area.

648

649 Mr. Archer - Is there a second?

650

651 Mr. Jernigan seconded the motion.

652

653 Mrs. Dwyer - Excuse me. Do we need to mention the conditions, Mr.
654 Silber?

655 Mr. Silber - I just assumed that included all of the conditions. Yes
656 ma'am.

657
658 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Jernigan. All
659 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
660 abstained. The motion carries.

661
662 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Jernigan, the Planning
663 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors
664 **grant the requested revocable provisional use permit**, subject to the following
665 conditions:

- 666
- 667 1. No outside, amplified live music performances shall be permitted.
 - 668 2. Any outside speakers or sound system shall comply with following standards:
 - 669 a. Sound systems must be equipped with controls permitting full volume
670 adjustment.
 - 671 b. Sound from the system shall not be audible beyond 100 feet from the
672 source.
 - 673 c. Sound systems may be used only when outside dining is permitted.
 - 674 3. The outdoor dining area shall be limited to 1000 square feet and constructed as
675 shown on the "Proposed Outdoor Seating, Panera Bread" dated March 12,
676 2001.
 - 677
 - 678 4. Trash receptacles shall be provided and properly serviced to control litter
679 generated by this use.
 - 680 5. Access to the outdoor dining area shall be available only through the restaurant;
681 patrons may not gain access directly from the adjacent parking area except that
682 an emergency exit may be provided.
 - 683 6. Revision and administrative approval of POD 17-96 for this site shall be
684 obtained to reflect the proposed outdoor dining area and related ordinance
685 requirements, including revised parking calculations.
 - 686 7. The hours of operation for the outdoor dining area shall be limited to 10:00pm.
 - 687

688 The Planning Commission's recommendation was based on the fact that the conditions
689 should minimize the potential impacts on surrounding land uses, and it would not be
690 expected to adversely affect public safety, health or general welfare.

691
692 Mr. Silber - That was our expedited case, right?

693
694 Mr. Archer - Yes, it was.

695
696 **Deferred from the March 8, 2001 Meeting:**
697 **C-7C-01 Curtis D. Gordon for West End Developers, L.L.C.:**
698 Request to conditionally rezone from A-1 Agricultural District to R-3C One Family

699 Residence District (Conditional), Parcels 56-1-A-1 (Winngate Subdivision) and 56-A-4,
700 described as follows:

701

702 Beginning at a point on the N. line of Church Road, said point being 200' west of the
703 W. line extended of Abbey Lane; thence continuing along the N. line of Church Road
704 N. 64° 49' 06" W., 368.46' to a point; thence leaving the N. line of Church Road N.
705 51° 35' 53" E., 998.47' to a point; thence N. 50° 14' 32" E., 167.43' to a point;
706 thence S. 39° 07' 56" E., 202.98' to a point; thence S. 51° 35' 05" W., 855.36' to a
707 point; thence S. 54° 48' 38" E., 50.80' to a point; thence S. 25° 11' 22" W., 191.76'
708 to the point and place of beginning, containing 5.550 acres.

709

710 Mr. Archer - Is there opposition to C-7C-01? We do have opposition.
711 All right, Mr. Householder.

712

713 Mr. Householder - Thank you. At the Planning Commission on March 8,
714 2001, concerns were raised with regard to proffered buffered areas along lots adjacent
715 to the Glen Gary Subdivision, which would be here where I'm kind of waiving this
716 hand around (referring to slide).

717

718 The Planning Commission deferred this case to April 12th to allow additional time to
719 review and amend these proffers to address this area and other parts of the proffers.
720 The applicant has revised Proffers 4 and 12 to try and address the Planning
721 Commission's concerns. These proffers would require a 20-foot buffer area where
722 trees with a 5-inch caliper or greater would be preserved. As written, the proffers
723 would apply to a developer or initial homebuilder at the time of the development of the
724 proposed subdivision. And they would not apply to lots sold after the subdivision or to
725 an individual property owner.

726

727 Other changes made from the March 8th meeting was they deleted a proffer that
728 required an attractive low maintenance fencing and signage at an entranceway and they
729 deleted a proffer allowing maximum of 7 lots to have gravel driveways.

730

731 Staff did recommend additional changes to the proffers which were handed out to you
732 tonight; Proffers 9 and 10, the black line version. These were reworded in order to
733 clarify their intent.

734

735 Overall, staff feels this proposal is consistent with the recommendation of the 2010
736 Land Use Plan. Staff feels the proposed single-family use is reasonable on this site.
737 The revised proffers adequately address the remaining concerns with this case.
738 However, we do feel the language, in some places, could be improved or clarified still.
739 But we're prepared to recommend approval of this request. And I'll take any questions
740 that you may have.

741 Mr. Archer - Thank you, Mr. Householder. Are there questions from
742 the Commission? Mr. Householder, what language, in particular, do you think we
743 could tighten up a little bit?
744
745 Mr. Householder - There's about five or six. An example would be Proffer 2
746 where it says, "Lots shall be offset." Our County Attorney feels its vague.
747
748 Mr. Archer - Okay.
749
750 Mr. Householder - What does that really mean? The reason for the proffer
751 was a direct result to address community concerns that the lines would be offset from -
752 and this master plan is proffered already. In these areas the lines don't line up. The
753 community thought that was important. But that language is vague. Proffer 3,
754 "attractively landscaped dry pond...", instead of "attractively landscaped." We
755 typically like to have some particular...
756
757 Mr. Archer - Some specifics. Okay.
758
759 Mr. Householder - And I think that is kind of a consistency in some of the
760 proffers where you have some of those vager statements. And I have mentioned those
761 to the applicant.
762
763 Mr. Archer - All right.
764
765 Mrs. Dwyer - Mr. Householder, I had mentioned to you a couple of
766 concerns I had too. Have those been mentioned to the applicant?
767
768 Mr. Householder - They have not been communicated to the applicant, yet.
769 No.
770
771 Mrs. Dwyer - I'll just mention those, briefly, then. In Proffer 7, it
772 requires a common area between the subdivision and Waterford. And, actually, the
773 common area is not between the subdivisions. It's a part of the new subdivision. So,
774 its kind of a technical point. But the language is awkward and makes it appear as
775 though we have some stretch of land in between the two developments.
776
777 Mr. Householder - Okay.
778
779 Mrs. Dwyer - The other is in the same paragraph, mention of "landscape
780 plan review," which we typically do with POD's but not subdivisions. So, my thought
781 would be to repeat the language that we have in Proffer 12.
782
783 Mr. Householder - In the last sentence of Proffer 12.
784

785 Mrs. Dwyer - ...which refers to final subdivision review.
786
787 Mr. Householder - Okay.
788
789 Mr. Archer - Okay. Any further questions or comments from the
790 Commission? All right, thank you, Mr. Householder. Mr. Taylor, we'll hear from the
791 applicant, I suppose?
792
793 Mr. Taylor - Yes, Mr. Chairman.
794
795 Mr. Curtis Gordon - Members of the Commission, my name is Curtis Gordon.
796 I'm here on behalf of the applicant. The comments just made are well taken. And I
797 will certainly be happy to work with staff between now and the Board of Supervisors
798 meeting to make those changes to Paragraph 12, as pointed out by Mrs. Dwyer.
799
800 Further, in speaking to Mr. Shumate, who is here today representing the vast majority
801 of the homeowners of the Glen Gary Subdivision, prior to this meeting, I had also
802 agreed, prior to the Board of Supervisors meeting, to add into the proffered conditions
803 that the mandatory homeowners association that will be formed for this subdivision
804 must give approval for any cutting of trees 20 feet along the back line, if you will, of
805 these lots as they border Glen Gary.
806
807 As the Commission may remember, there was some prolonged discussion last time of
808 the advisability or practicality of making a prohibition against cutting trees. My
809 understanding of the Commission's position was that, that was not acceptable.
810
811 A compromise, I believe, has been reached with the adjacent landowners is that, as
812 written, neither the developer or the builder will cut any trees in that 20-foot area, nor
813 will homeowners be allowed to cut trees without their subdivision's approval to remove
814 trees in that area. And I believe that's an acceptable compromise to the Glen Gary
815 Subdivision Homeowners, but I'll let Mr. Shumake address that point.
816
817 Also, I had agreed to proffer that we would have no rear loaded garages on the lots that
818 border Glen Gary. And, with the staff's approval, reinsert the proffer concerning the
819 driveways. I'll be happy to answer any questions.
820
821 Mr. Archer - Thank you, Mr. Gordon. Are there questions from the
822 Commission?
823
824 Mr. Gordon - Thank you.
825
826 Mr. Archer - All right, I guess we'll hear from the opposition.
827

828 Mr. William Shumake - May it please the Commission, my name is William
829 Shumake. I represent a vast majority of the Glen Gary residents that adjoin this
830 development. And I would just like to take a moment to discuss this case; the
831 negotiations, and why we think that the previously agreed upon proffer, especially as it
832 relates to the buffer, should be accepted.

833

834 This was a very, very difficult case, as you can imagine. It was infill. This is an
835 extreme skinny piece of property. So, when my folks were buying there, it looked to
836 them that you couldn't build another subdivision in there. And, as you can imagine, a
837 lot of real estate agents who probably honestly believed that, too, assured them that,
838 "Yes, " that was probably the case.

839

840 Now, that was not any representation made by the owner of this property, but, people
841 bought based on this. Most of these houses along this piece of property are some of the
842 better homes in Glen Gary, and have the largest setbacks. A number of them have a 50
843 to 70 foot setback, and have larger lots than what's being proposed. So, obviously, this
844 was a very difficult case when it first came forward.

845

846 But, I will say with Mr. Gordon and his partners, we sat down, the neighborhood, and
847 the applicant and worked very hard together to come up with a compromise that would
848 allow them to maximize the number of lots they could have. Make them premium lots
849 that would attract a premium price, and have quality homes, and protect the
850 neighborhood. And that was the atmosphere that we negotiated with. And that was the
851 basis of the agreed upon proffers that were submitted last month.

852

853 And the single biggest thing that my clients wanted was the furthest setback they
854 could, and the 20-foot buffer. And the way these negotiations, basically, went, and
855 Mr. Taylor was involved in many of them, and helped to guide us, was that our clients
856 steadfastly said that 20-foot buffer is so important that they gave on a lot of issues. So,
857 for example, there are no ranchers in Glen Gary. And, as Mr. Taylor had indicated,
858 they wanted to be comparable. So, initially, there were going to be no ranch homes.
859 And the applicant said, "Well, I'd like the flexibility to have three or four." And my
860 clients said, "Well, if we have a tree buffer that allows you to put fences or birdhouses,
861 and underbrush, take that out, but we have a 20-foot tree buffer, that'd be okay.

862

863 They wanted at least 2,400 square feet on the houses, which would be consistent with
864 the houses that are next to this subdivision. Indeed, some of them are in excess of
865 3,000, 3,500 square feet. And we came down off that, provided we can get the buffer.
866 I know, on the very end where the cul-de-sac is, technically, those are side yards. So,
867 those houses could be within 15 feet without a proffered condition. And, as proffered,
868 we agreed to 30 feet, which is much less than a rear yard, so you have a whole house
869 right next to the line. But, Mr. Gordon, if he did a 40-foot setback on those side yards,
870 he'd lose a lot. And the neighborhood worked with him and said, "Well, that's not our
871 intent. We can go with 30, if we have a 20-foot buffer." And that was the consistent

872 theme of the negotiations, and that's how we've gotten it there. Because, initially, we
873 had wanted the 20 feet in the back and we also went less than 60 feet on the setbacks.
874 And we wanted the 20 feet to be common area to make sure they wouldn't be cut, just
875 like it is on the other side of the road. Mr. Gordon said, "No. I want the appearance
876 of as large a lot as I can. That'll be a premium for the lot." And, we said, "That's
877 fine. That makes a lot of sense, because we want quality homes, provided we have a
878 tree save area."

879

880 And this is a proffer that I know has been accepted in numerous jurisdictions. So, that
881 was probably the most important proffer of my clients and I coming together with Mr.
882 Gordon. And, to Mr. Gordon's credit, as he indicated before, he was willing to stand
883 by that deal, because we both made compromises as part of that.

884

885 And I would simply say that, prospectively, if the Planning Commission doesn't like
886 tree save buffers in residential neighborhoods, I know that's an acceptable protocol in
887 commercial cases when you're buffering other properties. But, for some reason, that's
888 a problem. I would ask that be applied prospectively. Because I think it can be a
889 concerning precedent if the people come together as a neighborhood. And the owner of
890 the property who could put an outdoor easement on it, if he wanted. And they'd
891 voluntarily place restrictions on the property working together to resolve an issue so
892 that the neighborhoods are happy, the applicant's happy, and its on the consent agenda.
893 If, after everyone's in agreement, we come to the Planning Commission and certain
894 proffers are taken out, which were very important and represented a lot of concessions.
895 And, so the deal is materially altered, that will affect the ability to negotiate subsequent
896 cases, I would respectfully submit. Because it would be very hard for developers, and I
897 represent a number of them, and the neighborhood to feel confident that they can give
898 these concessions, if they don't know the concessions will be upheld, even though
899 everybody is in agreement.

900

901 So, I would respectfully submit that the old proffer, as it relates to the tree buffer,
902 should be reinstated. But I will say that, Mr. Gordon and his partners, to their credit,
903 when we came to this issue, I've tried to work with this to come as close to our deal as
904 we could, with acceptance from the Planning Commission. And that's why he
905 identified the language of the developer and the builders not cutting down the trees, and
906 to have a restrictive covenant requiring that homeowners associations must give
907 approval.

908

909 I'll tell you one particular lot I'm concerned of; that 30-foot lot which is a side yard. If
910 those trees are cut down, you've got a house right on the property line. It's a material
911 condition. But I will say that Mr. Gordon has worked hard with us to try to meet the
912 spirit of our joint agreement and I commend them.

913

914 So, I would ask that the old deal be upheld. But, if not, that the proffers submitted by
915 Mr. Gordon today be accepted. He's also indicated, between the Planning Commission

916 and the Board, he'll do restrictive covenants that are consistent with the Glen Gary
917 Subdivision. And we thank him for that.

918

919 So, those are my concerns on this case. And this was a very, very difficult case.
920 Emotions were very, very high. But we were able to work them out. And I think that
921 the County and its representatives got a great deal of credit for that. And this was a
922 very material provision. And it wasn't done lightly.

923

924 One question that I would have, and, as it relates to Proffer 9 with the changed
925 language, when it says, "a 55-foot setback on any principal structure..." One of my
926 clients has a concern of, "Well, does that mean, how close could you build a pool or
927 something like that; major structure to the property line?" That isn't specifically
928 addressed in this proffer currently worded. I would kindly ask for an opinion on that.

929

930 But I thank the Commission for the time. I'd be glad to answer any questions that you
931 might have.

932

933 Mr. Archer - I was just going to ask can anybody answer that question
934 concerning the proffer?

935

936 Mr. Vanarsdall - What was the one thing that derailed this last time we met
937 on this last month?

938

939 Mr. Shumate - As I understand it...

940

941 Mr. Vanarsdall - What proffer was it that derailed us?

942

943 Mr. Shumate - The proffer was the 20-foot tree save area; Proffer No. 4.
944 There was concern that subsequent homeowners who would take these properties, even
945 though they'd be notified that this was a restriction.

946

947 Mr. Vanarsdall - Is it worded any different tonight than it was last month?

948

949 Mr. Shumate - Yes. It is. It allows someone else like the one on Lot
950 No. 12. If he decides to cut down all his trees in the side yard, he can clear them.

951

952 Mrs. Dwyer - The proffer last month prohibited any homeowner in
953 perpetuity from being able to cut any trees down within that 20-feet of their backyard.
954 But this month, the proffer has been changed to say that, the developer and the builder
955 may not cut down trees within that 20-foot area? But it is not binding on subsequent
956 purchasers?

957

958 Mr. Shumate - That's right. They can cut down anything less than 5 inch
959 caliper. They can remove any dead or dying or damaged trees. They can put

960 structures in; bird houses, or fences. We are simply trying to have a tree save area to
961 try to maintain the character of this neighborhood, while not affecting the number of
962 lots that they could have.

963

964 And, quite frankly, I think Mr. Gordon was able to agree to this because those trees, in
965 effect, if they are maintained by all the owners, will add value to the subdivision itself.
966 So, we were able to come together with him on that issue. But, if you have one owner
967 decides, "I'm going to build a pool, and I'm going to put it right in the back, okay."
968 And this seems to be a reasonable condition. A zoning restriction in and of itself, any
969 zoning has restrictions. So, that, for example, if you have a 40-foot setback, you
970 cannot, as a property owner, build an addition that invades the 40-foot setback from the
971 house. I mean that's a restriction. I think the issue is, if the current landowner is
972 willing to restrict their property this way, I don't think the County should stand in the
973 way of the landowner doing what they want with the property, which is to give this
974 proffer. And he's gotten many other things in exchange for that, and to their credit.
975 They recognize that. And that's why they said they're willing to stand by what we had
976 negotiated, because they realize that was so important to my clients. And they realize
977 that they were able to get considerable concessions in exchange for that. And, to Mr.
978 Gordon's credit, he asked for the deferral, when I couldn't be here. And he's willing
979 to maintain to that connection. And that speaks very well of him and I praise him and
980 his partners for that.

981

982 But we do tree saves on other contexts in other cases. And, since this was a negotiated
983 condition, and materially changed our position in this case, I would ask that you
984 reinstate that condition.

985

986 Mr. Kaechele - Mr. Shumate, do you or the homeowners feel that a
987 restrictive covenant is strong enough?

988

989 Mr. Shumate - It's better than nothing at all, Mr. Kaechele. But, the
990 problem is, with a restrictive covenant, it's twofold: One is, my clients will not have
991 standing to enforce it. It will only be the other owners.

992

993 And the other thing is, I think you'll find the other landowners in this subdivision will
994 want a zoning condition. Because if it's a restrictive covenant, they have no force other
995 than to personally sue. They can't say it's a zoning violation. So, I think you would
996 actually find that the other residents of this subdivision, once they come in, would be
997 grateful for a zoning condition, the vast majority. The one person who wants to ripe all
998 his trees down, obviously, will have disagreements with his neighbors, but he'd have
999 disagreements anyway, if that's the kind of neighbor he was going to be.

1000

1001 Mrs. Dwyer - Mr. Shumate, you and I talked about this on the phone.
1002 So, we have agreed to disagree on this point. But, I just, for the record, wanted to
1003 respond. One is, I think trees are valued by homeowners and I doubt very seriously

1048 developed, given the topography, I would respectfully submit that, that could be a
1049 consensus.

1050

1051 So, when we're in negotiations, and we're discussing this with the Planning
1052 Commissioner whose district it lies and staff, then we know that those are the
1053 parameters. And that will shape the settlement. I think this is a unique situation. You,
1054 very forcefully, and I understand your arguments. I think there are powerful arguments
1055 on both sides. And I recognize some of the merits of what you're saying. But, there's
1056 also a principle of being able, when the parties come together, and they agree, they're
1057 able to work it out, and they've made material concessions that that's something that
1058 should be approved. Because, if its not, and while they're negotiating they aren't
1059 advised this is going to be a problem. It will make subsequent cases and, perhaps,
1060 much larger cases, difficult to come to resolution, because everybody will be afraid.
1061 These are legal proffers. We've agreed, but if we go up, we may lose the proffer and
1062 we will have given up many things that we wouldn't have had to give up in exchange
1063 for that. I think that is a concern. And I think there will be a problem with goodwill,
1064 no matter what happens if all those trees come down. I mean...

1065

1066 Mrs. Dwyer - Well, I think its wonderful that the developer and the
1067 neighbors have reached an accord. And we always encourage that. You know, 99
1068 percent of the time, its acceptable to the Commission. Sometimes in a rare case, it
1069 isn't. And I guess one last point I'd like to make is that there was one group of people
1070 who were not at the table during these negotiations. And those are the homeowners
1071 who will live in these houses who will pay their mortgages and pay their taxes. I think
1072 part of what the Commission is looking at is, all the parties that are in play, not just
1073 the homeowners in Glen Gary and not the developer who will develop his homes and
1074 then leave, but the people who will be owning these homes for many, many years. And
1075 my comments address their interests.

1076

1077 Mr. Shumate - Well, in response to that, I think we are protecting the
1078 interests. Because you have to admit, when this first came forward, what was going to
1079 happen was, there was going to be a 40-foot setback with no trees. And that's what
1080 they were going to have. And what we've effectively negotiated on their behalf is,
1081 basically, a bigger lot, with trees, which will command a premium. So, I think the
1082 choice is, one, given those are the two alternatives, I think most people would say,
1083 "We are better served," on balance. I think the second thing is, if you buy property,
1084 and I represent clients all the time who have bought property who the previous owner
1085 has put all kinds of restrictions on. And restrictive covenants themselves. Every
1086 subdivision has a bevy of restrictive covenants. And some homeowner associations are
1087 very adept at enforcing those restrictive covenants. They're every bit has the force of
1088 law as a proffered zoning case. The only issue is, who has standing to enforce them?
1089 And people buy it. There's notice, and they're buying a lot that they know or should
1090 know has restrictions. And, so, I think people should be able to voluntarily make that
1091 decision. Thank you.

1092 Mr. Archer - Mr. Shumate, before you sit down, I think in, during the
1093 time that I've served on this Commission, probably all of us have had cases where there
1094 has been a request from an adjoining neighborhood to buffer itself from a new
1095 neighborhood. And, my understanding it is not a rule as such, but it is policy that we
1096 don't buffer one neighborhood from another. And I think one of the things that we fear
1097 most about this is that, that's a precedent that would be set. We relied on that quite
1098 heavily. I know I've had cases in my district where people have wanted us to put a
1099 fence or a tree save area or something in between one neighborhood and another. And,
1100 in order to be consistent with the way in which we've settled cases, we opt not to do
1101 that. And I think that is really what is concerning us in this particular case is that this
1102 would be precedent setting to some degree, if we allow that to happen. And, I fully
1103 understand exactly what it is that the people in Glen Gary have come to think is
1104 something that would not happen. And that has happened quite a few times. In fact, its
1105 even happened in my neighborhood. Things that we thought would never happen, did
1106 happen. And, even though, there were, to some degree, restrictive covenants, they
1107 didn't quite cover the issue that was at hand. So, I just wanted to make that
1108 clarification. That this is how I understand, and I'm sure you do now too, after your
1109 discussion with Mrs. Dwyer. But this is how I understand what our concern is about
1110 this.

1111
1112 Mr. Shumate - I guess, Mr. Chairman, I would have two responses to
1113 that. One is, I think every case, while you can have a general public policy, every case
1114 is unique. And a lot of times you'll have a case where its obviously a lot of land any
1115 reasonable person is going to assume at some point, that's going to be developed. My
1116 folks feel so strongly about it, as Mr. Gordon can say. They've made offers to buy this
1117 entire piece of property at fair market value. That's how strongly they feel about it.

1118
1119 Mr. Archer - I'm not disagreeing with you. I do understand exactly
1120 what you're saying.

1121
1122 Mr. Shumate - And, so, this is such a unique case that, if you go out and
1123 look at it, it's hard to believe you can fit a subdivision. Technically, you can, but at
1124 first glance, it would not occur to you that you'd be able to get a subdivision down
1125 there.

1126
1127 The other is, that's one reason why we gave up on a lot of things that we thought that
1128 we reasonably could achieve in the zoning case. Because I didn't necessarily think that
1129 we could get this buffer unless we negotiated out and gave things to the developer that
1130 he would want and he wouldn't be necessarily assured of getting. So, its kind of a
1131 trade when you're negotiating. There's a chance, and I told my folks. There's a
1132 chance you're not going to get this buffer. You might get the setback. You might not.
1133 If that's so important, give up this, this, this, and this. I think there's a difference
1134 when there's no agreement and you have to decide you rely on that public policy, as

1135 opposed to, as in this case, when both sides work so hard together to come up with a
1136 common solution that I think that changes the equation just a little bit. Thank you, sir.
1137
1138 Mr. Archer - Thank you, sir. I think your time is about up. We've
1139 kind of stretched this a little bit, but...
1140
1141 Mr. Vanarsdall - Well, Mr. Shumate, would you be satisfied if the
1142 Commission did, recommend approval, and delete No. 4, and let the Board settle that?
1143
1144 Mr. Shumate - At this point, what I would ask that the Planning
1145 Commission, if the Planning Commission is not inclined to have the previous proffer,
1146 at the very least, I will say that what Mr. Gordon has submitted is better than no
1147 proffer at all.
1148
1149 Mr. Silber - Mr. Chairman, if I can add, this debate has been healthy.
1150 But I think its time to move on. What's before us is a set of proffered conditions that's
1151 been offered by the applicant. I think the Commission needs to vote these proffered
1152 conditions up or down. We are debating a proffer that's not even before the
1153 Commission. I would suggest that we move on.
1154
1155 Mr. Archer - I agree with the Secretary. I think we're getting a little
1156 repetitious here. So...
1157
1158 Mr. Shumate - I appreciate the Commission...
1159
1160 Mr. Taylor - We appreciate everything you've done.
1161
1162 Mr. Shumate - Thank you.
1163
1164 Mr. Archer - All right, Mr. Taylor. Did you want to have some
1165 rebuttal, sir? You did have some time left.
1166
1167 Mr. Silber - He had about 7 minutes.
1168
1169 Mr. Gordon - I have no rebuttal, other than I would like to echo Mr.
1170 Shumate's kudos to Mr. Taylor and the staff for all the hard work that they put into
1171 reaching, what I hope will be, and trust will be, a satisfactory resolution to this
1172 situation for all concerned. Thank you.
1173
1174 Mr. Archer - Okay. Now, Mr. Taylor.
1175
1176 Mr. Taylor - Thank you, Mr. Chairman. And I don't want to elongate
1177 the proceedings whatsoever accept to say, that this has been a very difficult case. We
1178 have come up with various and different approaches to the development. And I think

1179 both the Glen Gary people, the Waterford people and the people that will live in this
1180 subdivision are well served by the efforts of Mr. Shumake and Mr. Gordon.

1181
1182 In going along, it is certainly a difficult project for infill. We know that. It is always
1183 difficult. The narrowness of this one doesn't make it any easier. But, basically, when
1184 you look at it, it's nothing more to an extent as one row of houses adjacent another row
1185 of houses. And that exists in many of our communities today when they're all built at
1186 one time. And this is about an artful job of fitting a linear project into a very narrow
1187 linear plot. And I want to commend the architects, the engineers, and the lawyers for
1188 all of the work. I actually hope that all of the changes that have been made to date on
1189 these proffers work to everybody's approval.

1190
1191 With regard to the issue of the trees, it has been difficult and I think the way we have in
1192 the proffers right now allows us the opportunity at the subdivision stage to include some
1193 additional wording that works for both the Waterford people and the Glen Gary people
1194 as well as the people in this subdivision with regard to the protection of the trees and
1195 the buffers. And I'm convinced that working together in harmony, as we have in the
1196 past, that the two neighborhoods will grow together and prosper. And, with that, I will
1197 move to waive the time limits on the proffers.

1198
1199 Mrs. Dwyer - Which proffers are we...
1200

1201 Mr. Taylor - These are the proffers we just received tonight which are
1202 dated April 6th.
1203

1204 Mr. Vanarsdall - They're dated the 6th.
1205

1206 Mr. Householder - The proffers you have handed out were received in time.
1207 It's not necessary.
1208

1209 Mr. Taylor - Okay. Then we do not waive the proffers. So, we refer
1210 to these as the new proffers or the current proffers?
1211

1212 Mr. Householder - Current proffers.
1213

1214 Mr. Taylor - Just the current proffers.
1215

1216 Mrs. Dwyer - May I just make an inquiry? There was mention of a
1217 driveway proffer and some other factors that I believe the applicant stated they wanted
1218 to put in the proffers. But, that's not in the set we're voting on right now?
1219

1220 Mr. Householder - They would like to put those in between now and the
1221 Board of Supervisors, what I have been told.
1222

1223 Mr. Taylor - But, not tonight?
1224
1225 Mr. Householder - Not tonight.
1226
1227 Mr. Taylor - Okay. So, these proffers are correct and in time.
1228
1229 Mr. Householder - They are the current proffers.
1230
1231 Mr. Taylor - Okay.
1232
1233 Mr. Silber - So, we need a motion simply on the case, Mr. Taylor.
1234
1235 Mr. Taylor - Yes sir, I understand that. And my question is whether to
1236 mention anything in my motion toward the subdivision stage, but I think that I will not.
1237 So, with that, Mr. Chairman, I will move for approval of Case C-7C-01 West End
1238 Developers, LLC as proffered.
1239
1240 Mrs. Dwyer seconded the motion.
1241
1242 Mr. Archer - Motion by Mr. Taylor, seconded by Mrs. Dwyer. All
1243 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
1244 abstained.
1245
1246 Mr. Taylor - I wanted again to thank Mr. Shumate and Mr. Gordon for
1247 all the hard work over the months.
1248
1249 REASON: Acting on a motion by Mr. Taylor, seconded by Mrs. Dwyer, the Planning
1250 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors
1251 **grant** the request because it conforms to the recommendations of the Land Use Plan; and
1252 it reflects the type of residential growth in the area.
1253
1254 **Deferred from the March 8, 2001 Meeting:**
1255 **C-18C-01 Richard Vass for Kevin B. Spector:** Request to
1256 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence
1257 District (Conditional), Parcel 57-A-33, described as follows:
1258
1259 Beginning at the intersection of the south line of Church Road and the east line of
1260 Guyana Drive; thence along the south line of Church Road S 76°42'03" E a distance of
1261 217.74 feet to a point; thence along a curve to the right having a radius of 1171.30 feet
1262 and an arc length of 101.70 feet to a point; thence departing the south line of Church
1263 Road S 11°27'45" W a distance of 646.30 feet to a point; thence S 83°37'16" W a
1264 distance of 130.03 feet to a point; Thence N 76°29'58" W a distance of 220.00 feet to a
1265 point on the east line of Guyana Drive; thence along the east line of Guyana Drive N
1266 13°30'02" E a distance of 684.57 feet to the place and point of Beginning containing

1267 5.16 acres, (224,644 sq. Ft.)

1268

1269 Mr. Archer - Thank you, Mr. Secretary. Is there any one here opposed
1270 to C-18C-01 Kevin B. Spector? We have opposition. All right.

1271

1272 Mr. Mark Bittner, County Planner - Thank you, Mr. Chairman. There are several other
1273 R-3, as well as R-3A developments in the immediate area, including the Church Run,
1274 Morgan Run, Church Grove, and Cedar Station Subdivisions.

1275

1276 The proffers submitted with this proposal are comparable with proffers of other
1277 subdivisions in the vicinity. They include brick or stone foundations; a minimum house
1278 size of 1,500 square feet for ranchers, and 2,000 square feet for two-story homes. No
1279 driveway access to Church Road; 25-foot buffer along the Church Road frontage; and no
1280 rear yards facing Guyana Drive.

1281

1282 Church Road is planned to be re-aligned in this area in conjunction with improvements to
1283 Cox Road to the west. That can be seen here on this Land Use Plan map. Church is
1284 going to be realigned to come into new Cox when it is extended through here (referring to
1285 slide) at a right angle. And it will require some right of way on this property. And the
1286 applicant is aware of that and he's incorporating it into his subdivision plan.

1287

1288 Construction is planned to begin in the spring of 2002. It is estimated that all planned
1289 improvements will be completed in approximately one year, although traffic could be
1290 using the new roadways prior to that time. When completed, it is anticipated that current
1291 traffic levels on Guyana Drive would be significantly reduced.

1292

1293 In summary, the proposed zoning is consistent with the Land Use Plan designation for this
1294 property, and is comparable to several subdivisions in the vicinity. The current proffers
1295 provide for several positive items. Staff recommends approval of this application. I'd be
1296 happy to answer any questions you may have.

1297

1298 Mr. Archer - Thank you, Mr. Bittner. Are there questions from the
1299 Commission?

1300

1301 Mrs. Dwyer - Mr. Bittner, there were two schematic designs for the
1302 subdivision. The proffers prohibit rear yards facing or adjacent to Guyana Drive. So, the
1303 first one's that's in our package would be prohibited by the proffer. Is that correct?

1304

1305 Mr. Bittner - Correct. Yes. This was submitted originally with the case,
1306 and then the proffer came in later.

1307

1308 Mrs. Dwyer - Okay.

1309

1310 Mr. Bittner - And, again, both of these are just conceptual. They're not
1311 proffered at all. This would show side yards for homes facing Guyana Drive. And, I
1312 believe this is the avenue the applicant is pursuing, but I'll let him speak to that.
1313
1314 Mr. Archer - Any further questions? Comments? Okay, Mr. Taylor, I
1315 guess we need to hear from the applicant?
1316
1317 Mr. Taylor - Yes, Mr. Chairman, I believe we might want to hear from
1318 the applicant.
1319
1320 Mr. Vanarsdall - Is there any opposition?
1321
1322 Mr. Taylor - Yes. There is opposition.
1323
1324 Mr. Silber - Let me remind you, you have 10 minutes total. Would you
1325 like to reserve any of your time for rebuttal?
1326
1327 Mr. Kevin Spector - I'm okay. I'm all right. I'm Kevin Spector. I'm the
1328 person, the applicant, trying to get the rezoning here. Basically, as you mentioned before,
1329 this is the site that we'd like to go with right now, with the two exits actually entering onto
1330 Guyana. There will be a stub road that actually enters the Tran property, so at some
1331 future date that could actually be developed. We have 15 lots. We plan on doing single-
1332 family homes of similar, if not better caliber of the neighboring neighborhoods. And, if
1333 you have any questions, I'd be glad to answer them.
1334
1335 Mr. Archer - Thank you. Are there questions?
1336
1337 Mr. Taylor - Mr. Spector, would you state for the record what you think
1338 the future Cox Road? Is that one year away?
1339
1340 Mr. Spector - I believe it is.
1341
1342 Mr. Taylor - Is that what we discerned from the Comp Plans?
1343
1344 Mr. Spector - Yes sir.
1345
1346 Mr. Silber - Mr. Taylor, are you talking about the re-aligned Cox Road?
1347
1348 Mr. Taylor - Yes sir.
1349
1350 Mr. Silber - Yes. That will be finished by spring of 2003.
1351
1352 Mr. Taylor - That is the present alignment? That is pretty much locked
1353 now?

1354 Mr. Silber - Yes sir, it is.
1355
1356 Mr. Taylor - And the road that shows on here that is unnamed, Mrs.
1357 Dwyer said would go through, that would go all the way through this developed and
1358 through that dotted line over to Cox Road at some future date?
1359
1360 Mr. Silber - Well, I think the applicant, in this case, is proposing a stub
1361 road to the edge of his property. There's no commitment at this time that road would go
1362 through the adjacent property and tie into Cox road, as there's already a house on that
1363 large piece of property. I think they're just showing a possible layout if that were to
1364 connect through.
1365
1366 Mr. Taylor - That's all I have.
1367
1368 Mrs. Dwyer - I have a question, sir.
1369
1370 Mr. Archer - Mr. Spector, just a minute.
1371
1372 Mrs. Dwyer - Just one. I noticed in Proffer No. 4, there's a mention of a
1373 25-foot buffer adjacent to Church Road. Recently, we've been concerned about
1374 proliferation of tall, maybe six-foot board-on-board fences along major roadways. It
1375 creates sort of a tunnel effect. So, what we've been looking for are commitments to
1376 remove fences from the edge of the roadway. Sometimes its typically 15 feet. Sometimes
1377 its more. Had you given any thought to having that...
1378
1379 Mr. Spector - Yes. We have. And we've actually spoke with Mr. Taylor
1380 here twice already. We plan on getting together before we do the Plan of Development
1381 and so forth...concerns that about what the County wants.
1382
1383 Mrs. Dwyer - Okay.
1384
1385 Mr. Archer - Any thing else before he takes his seat? Thank you, Mr.
1386 Spector. Okay, will the opposition come forward, please, and state your name clearly for
1387 the record?
1388
1389 Mr. Michael Compton - My name is Michael Compton. I live at 2815 Guyana
1390 Drive. I've lived there just over three years just before the birth of my second child. And
1391 I have a daughter in first grade at Jackson Davis Elementary. I'm one of many in the
1392 area that's opposed to this development. I was noticing in the previous development it
1393 was bigger, but had fewer lots. One of my issues, of course, is just the number of lots
1394 there. But, related to this is the design issue. None of these lots are fronted onto Guyana
1395 Drive. Every other house on either side of the street now is facing Guyana Drive. But,
1396 under the two proffers I've seen, its either a rear yard or a side yard, no front yards. And

1397 I think this needs to be seriously considered so that this new development would match the
1398 current houses already on Guyana Drive. That was the first of my concerns.

1399
1400 The second of my concerns was already mentioned by the staff; the schools that would
1401 service this development. The elementary and high schools are already overtaxed for the
1402 students. Staff projects that the elementary school would receive a further six students
1403 which doesn't sound like a lot, but when they already maxed out, six students can mean a
1404 lot, and that's just a projection. The high school would also receive three, by projection,
1405 three more students which would put them further overtaxed. The middle school, Byrd
1406 Middle, is all right about that, but, of course, the projection is to create more students
1407 there, as well.

1408
1409 I've got a first-grader, and I've got a second child who will be in elementary school soon.
1410 And, it is a concern of mine that the schools are already beyond capacity. And, by all
1411 guesses, this would only add to that.

1412
1413 My third concern is that the developments are accessing Guyana Drive, maybe, maybe not
1414 they would access new Cox some day. But right now, they would dump out onto Guyana
1415 Drive. And, quite frankly, we can't handle the traffic.

1416
1417 I talked with Ancher Madison. I remember his figures. Guyana Drive is already carrying
1418 10 times the rated capacity. This is one of the reasons why new Cox is needed, because
1419 everyone is coming from Cox Road, from Ridgefield Parkway onto Guyana Drive, onto
1420 Church Road and then onto Cox Road into Innesbrook.

1421
1422 My front yard faces that, and I can tell you that, during from roughly 7:00 o'clock to
1423 10:00 o'clock in the morning, and a similar three hours in the afternoon, it is grand
1424 national parkway up there. People are just zipping by. And its not just the number of
1425 cars, it's the speed of the cars. Guyana Drive is 25 mph. But, we have people going by
1426 there 40 and 45 mph with children nearby. I don't have Police data, but I'm sure the
1427 Police could tell you that they've been out there ticketing left and right. It's "shooting fish
1428 down a barrel."

1429
1430 Quite frankly, Guyana Drive can't handle the estimated, I believe its 180 trips a day that
1431 would be added onto Guyana Drive. It's just not possible. This might sound crazy, but
1432 fourth, if you're going to develop this property, and it probably will be developed after all
1433 its good grass that doesn't have any houses on it. We can't stand that in Henrico County.
1434 We've got to build houses on it.

1435
1436 If its developed, let the developer wait until Cox Road is finished. The new Cox Road is
1437 designed to alleviate traffic from Guyana Drive. If this new development is not going to
1438 access Church Road directly or access new Cox Road directly, then, have them wait. If
1439 it's going to dump out onto Guyana Drive, wait until we can handle it. When those
1440 people live on Guyana Drive and they have a right to come out on Guyana Drive. They

1441 won't have to put up with the people cutting through that we have to put up with right
1442 now.

1443

1444 I was listening, tonight, the discussion about Panera Bread. Everything seems to be okay
1445 now. Let's wait and see what happens. Well, everything is not okay now on Guyana
1446 Drive. It's not. I think I speak for just about everyone on Guyana Drive currently, on the
1447 cul-de-sac across the street from me. We don't want another 15 houses. We don't even
1448 want another 7 houses. We don't want any more houses coming off Guyana Drive at this
1449 time. I propose the developer wait a year, or two years until Cox Road is completed.
1450 And, at the very least, I ask this Commission to consider deferring this 60 or 90 days until
1451 we have adequate reports, traffic counts, from the Police, that, you, the Commission, can
1452 see the results that would already add to an overly congested Guyana Drive. Thank you
1453 very much.

1454

1455 Mr. Archer - Thank you, Mr. Compton. Are there questions for Mr.
1456 Compton?

1457

1458 Mr. Vanarsdall - Have to talked to Mr. Taylor about this?

1459

1460 Mr. Compton - I beg your pardon?

1461

1462 Mr. Vanarsdall - Have to talked to Mr. Taylor about what you were talking
1463 about?

1464

1465 Mr. Compton - No sir.

1466

1467 Mr. Vanarsdall - You haven't contacted the Planning Commissioner?

1468

1469 Mr. Compton - I talked with Mr. Bittner.

1470

1471 Mr. Vanarsdall - Okay. Thank you.

1472

1473 Mr. Neal Riddick - Good evening. My name is Neal Riddick. I live at 2811
1474 Guyana Drive. I'm Mike's neighbor. I've been there about three years. And we have a
1475 one-year old daughter.

1476

1477 I'm not so opposed to the construction of the development, other than, as he had
1478 mentioned earlier, the facing of the houses. I'm from Norfolk, and my wife's from
1479 northern Virginia. And the majority of the houses there are row houses or townhouses. If
1480 they can squeeze a house in somewhere, they'll do it. And that's what the backyards
1481 going onto Guyana Road are like. I wanted to avoid that.

1482

1483 My biggest issues would be traffic, noise, and the completion of Cox Road. When we
1484 moved in here, much as many of our neighbors have mentioned, they were promised, or it

1485 was mentioned that, "Oh yeah, Cox will go through in the next few years." Some
1486 neighbors saying as long as 20 years ago, that Cox was going to go through, and now this
1487 is coming.

1488

1489 I just wanted to give you a little bit of my day on Cox Road. Starting at 7:00, 7:30, it
1490 becomes I-95 outside. I usually leave for work around 8:00 o'clock in the morning. And
1491 I have to sit parked in my driveway for almost 10 minutes sometimes just to get out onto
1492 Guyana Drive. I can't back out onto Guyana Drive, because I've had four close calls of
1493 getting "T-boned" with people coming around a blind curve, or people coming the other
1494 way.

1495

1496 There is daily road rage, towards me daily, getting the finger, turning into my driveway,
1497 because I'm slowing down. I'm not going the 50, 60 miles an hour like the people behind
1498 me. So, just trying to get in and out of my driveway is an issue.

1499

1500 I talked to Officer Maurice from Uniform Operations. And last year they ran radar at the,
1501 I guess, it's Church Grove cul-de-sac. They ran it for 10 months. During that 10-month
1502 time, there were 352 speeding citations issued. All of them were speeding. Of 352, three
1503 of them were 15 miles an hour or faster. So that would put them 40, 45 mph fast.

1504

1505 Aside from, like I said, trying to get out of my driveway in the morning or the evening, I
1506 would just ask and urge that Cox Road be allowed to be completed before any
1507 construction be done on Guyana Drive. The lot is being proposed, there are no trees.
1508 There's not a whole lot of trees on our side of Guyana Drive. It's a very wide open area.
1509 Noise travels. As it is, I can hear my neighbor 300 feet away building a deck. It's just
1510 like he's next door. So, the added noise of 15 houses being built is only going to add to
1511 the noise of the already heavy traffic flow outside, as well as the ambient noise.

1512

1513 We ended up buying new windows for our house, because the traffic noise was so bad on
1514 Guyana, it was waking up my daughter trying to sleep; as her bedroom fronts Guyana
1515 Drive.

1516

1517 So, I don't feel safe checking my mail. I have to go out onto Guyana Drive to open my
1518 mailbox. I don't feel safe having her play in the front yard. And watching Mike and
1519 some of the other neighbors fetch their kids from across the street at the bus stop, it's like
1520 he said, it's "fish in a barrel" trying to just take your life in your hands getting across the
1521 street. So, I would ask that the development be postponed until Cox Road is finished,
1522 because, as he said, we just can't handle the traffic. I don't enjoy coming home, because I
1523 know what issue it is just turning onto Guyana. People trying to turn left onto Church
1524 Road, backing traffic up for 10 or 15 cars. Thank you for your time.

1525

1526 Mr. Taylor - Before you go, may I ask a question? On this map which is
1527 on the last page, where exactly do you live? Do you live right on Guyana Drive, or do
1528 you live on Cox Road?

1529 Mr. Riddick - Let's see. That's neighbor one is Mike and I'm this house
1530 right here (referring to slide). This blind curve is right here where I'm talking about
1531 where I've almost gotten "T-boned (referring to slide)."
1532
1533 Mr. Taylor - Have you noticed an appreciable increase in traffic on
1534 Guyana lately?
1535
1536 Mr. Riddick - Yes.
1537
1538 Mr. Taylor - Is that due to the traffic that's ongoing on Ridgefield?
1539
1540 Mr. Riddick - Guyana is considered a cut through for people living back
1541 say Cross Keys, or some of the developments back there as far back as Deep Run Park,
1542 Ridgefield, Church Road, etc. The traffic; its spring, the weather is warm, and now the
1543 kids driving with their windows down, boom, boom with the radios going down Guyana
1544 Drive. That's increased as the weather has gotten warmer.
1545
1546 Mr. Taylor - Because I understand what you're saying. I use Guyana
1547 two or three times a day. So, I do recognize the problem in the morning access from
1548 Guyana onto Cox. In the evening access from Cox to Guyana.
1549
1550 Mr. Riddick - Right.
1551
1552 Mr. Taylor - But, you must realize that when Cox Road is extended to
1553 presently Church, that will become the primary route and that will significantly reduce the
1554 advantages that people now use Guyana. Guyana is the only, only access to Church for
1555 that drainage system, if you will.
1556
1557 Mr. Riddick - Right.
1558
1559 Mr. Taylor - And that future Cox Road, according to the plan that I
1560 understand, Mr. Silber you may know this better than I. They are now in the early phases
1561 of construction. They are moving the utilities. They moved the public utilities. Then
1562 they'll next move the County utilities and construction will start. And I think construction
1563 on that is probably slated for the next year or so.
1564
1565 Mr. Silber - Next spring.
1566
1567 Mr. Taylor - For sure. That will greatly diminish the traffic that you see
1568 along Guyana. I understand the problem, because the times that I go through there,
1569 invariably, there is a patrol car issuing a ticket, somebody who has just failed to complete
1570 the transit.
1571

1572 Mr. Riddick - With the amount of people, as Innsbrook expands, and as
1573 more homes and more people move in, yes, Cox Road will alleviate a lot of that problem.
1574 But, I guarantee you, that the people who use Guyana are not going to be Guyana
1575 residents. They're going to be people who, much like, if you've traveled down Gaskins
1576 Road. In the past three years during rush hour, its just a parking lot. So, if the traffic
1577 flow increases where it starts getting heavy on Church or new Cox Road, they're going to
1578 say, "Hey, Guyana is still there. I can still cut through." So, yes, there may be a ebb and
1579 flow at first. But, I guarantee you, people are going to, just like I said, I don't travel
1580 down Gaskins Road anytime near a rush hour, especially with the construction they're
1581 doing now. It will alleviate, but it won't be just resident traffic on Guyana, even when
1582 Cox is finished.

1583
1584 Mr. Taylor - Well, I think that's right. I think it will still be a cut
1585 through for people going from Church over to Ridgefield. And I am guilty of that
1586 because I go over that way frequently.

1587
1588 Mr. Richard Vass - Well, Mr. Taylor, do I understand you're making my case
1589 for me? But since, the new Cox Road is so short in the future, that the developers really
1590 wouldn't mind waiting until its completed?

1591
1592 Mr. Taylor - I'm trying to work a suitable compromise in determining in
1593 my own mind whether we need to have adequate traffic studies. And we have no traffic
1594 studies that I know of on Cox Road now or on Guyana and then what the future loading
1595 will be when Cox Road is completed. In lacking that, the vignette, the stories that you
1596 give, I have experienced. I do know there's a tremendous amount of traffic on Guyana,
1597 especially around rush hour. And my first review of this with Mr. Spector was to move
1598 the entrances from close to Church Road further down the property. Because my concern
1599 was that the residents would not be able to get out on Guyana to get to Church to get to
1600 Broad Street. And we went into this new arrangement that you have in the package. But,
1601 no one has called me and I'm just going on very limited data.

1602
1603 Mr. Vass - The response I've gotten from traffic engineering when this
1604 first started about a year ago, I probably had 8 calls into the police officers who run radar.
1605 I called traffic engineering and said, "Hey, can we get a speed sign? Can we put up some
1606 speed bumps? Can I go out and make a pothole in the middle of the road?" And the
1607 gentleman said, "No sir. We've done studies on that. There's enough traffic signs. We
1608 don't do speed bumps in Henrico. If you have a problem with the speeders and the
1609 amount of traffic, call the Police and they'll run radar. "I don't know if that lends any
1610 credence, but traffic engineering says, "No. Everything's fine for the traffic flow."

1611
1612 Mr. Taylor - Well, they have run radar and they do give out a large
1613 number of summons. And there is one individual who may be one of you two, who
1614 steadfastly parks his car right on the traffic lane going up the hill. And I marvel that car
1615 has survived for two years without getting hit at least once. But, I understand what you're

1616 saying in terms of traffic. What I'm having difficulty with, is while I can see that traffic, I
1617 am not sure to what degree Cox Road will relieve that entire problem.

1618
1619 And, in fact, the second development in here which goes from Guyana to the future Cox
1620 Road, I pointed out to Mr. Spector, for a lot of people that's going to be a very handy
1621 effort, to come up Guyana, and turn right through the new neighborhood.

1622
1623 Mr. Bittner - Are you referring to this drawing (referring to slide), Mr.
1624 Taylor?

1625
1626 Mr. Taylor - Yes. I am. That's in the package...

1627
1628 Mr. Bittner - Again, I'd like to point out this is all conceptual. And,
1629 while it does show a potential stub road connection from the rezoning site through the
1630 neighboring property, I don't know that Public Works and probably Planning would not
1631 support another entrance onto Cox in this area, because Cox and Church is going to be
1632 a major intersection.

1633
1634 Mr. Taylor - I quite agree with you.

1635
1636 Mr. Bittner - I just wanted you to be aware. I think I heard you saying,
1637 you thought there was going to be a connection all the way through to Cox. There's no
1638 proposal at this point.

1639
1640 Mr. Taylor - At this point?

1641
1642 Mr. Bittner - Right.

1643
1644 Mr. Taylor - But, I mean, on here, it is and we would hope that...

1645
1646 Mr. Bittner - Again, this is just a sketch.

1647
1648 Mr. Taylor - I understand.

1649
1650 Mr. Kaechele - Mr. Bittner, does traffic have any counts at all on
1651 Guyana?

1652
1653 Mr. Bittner - If they do, I don't have them with me. And I would like
1654 to point out also, in terms of Cox, I don't know that there's any actual construction
1655 taking place on that at this moment. There are public hearings scheduled for this
1656 summer.

1657
1658 Mr. Taylor - There are some utilities I think that the utilities...I don't
1659 think there is any County contracts.

1660 Mr. Bittner - Right...
1661
1662 Mr. Taylor - The utilities are being moved either because of this or
1663 looking forward to it, and now deciding now is an opportune time to move them...
1664
1665 Mr. Kaechele - I believe we have an approved plan for Cox Road, do we
1666 not, although there may have to be public hearings under the new State guidelines?
1667
1668 Mr. Bittner - There is an engineered plan for construction. I don't
1669 know that its actually approved, because, as I said, there has to be some public hearings
1670 before construction...
1671
1672 Mr. Kaechele - We've had public meetings, but under the new State
1673 guidelines, we may have to have others.
1674
1675 Mr. Bittner - Right. But, yes, there is an engineered plan.
1676
1677 Mr. Taylor - I really think we need a significant amount of additional
1678 study here. Okay, thank you, John. Mr. Chairman, in view of the fact of what we've
1679 heard and I've experienced, I think the best thing to do here is for me to at my request,
1680 the request of the Commissioner, a deferral of this project for two months to give
1681 traffic an opportunity to look at the Police reports, look at the traffic patterns, and then
1682 bring this back for developmental approval, because I am most concerned about the
1683 traffic and what maybe a compounding of problems, even as we see this plan.
1684
1685 Mr. Silber - Excuse me, Mr. Taylor. I think the applicant may want to
1686 say something.
1687
1688 Mr. Spector - Let me just say something real quick. I spoke with Mr.
1689 Bittner about the traffic might be a problem and so forth. I called the Traffic
1690 Department of the County. I tried to get a letter, or have one of those people meet with
1691 us today. Unfortunately, they said that they cannot give that and can't meet here with
1692 you until you actually request that. They did say that, when they looked at the site and
1693 so forth like that, and the impact of the extra cars and so forth, it meets all the
1694 guidelines of the County. It does not go in excess.
1695
1696 And, also, I own a property which is, basically, directly across the street on Guyana -
1697 2832 Guyana. And my property actually faces this property. So, according to Traffic,
1698 everything does meet the guidelines of what we have proposed.
1699
1700 Mr. Silber - Mr. Spector, do you have any timing of when you'd
1701 propose to develop this, and who would be building houses and may they be
1702 completed?
1703

1704 Mr. Spector - Completion would probably be sometime, gosh, very far
1705 and, basically, toward the end of this year, I would assume. You know, between fall
1706 and the end of the year, before the first house could have occupancy.

1707
1708 Mr. Silber - When would the development be fully developed out?

1709
1710 Mr. Spector - Well, basically, on studies, it looks in the neighborhood of
1711 about 18 months is what the studies show that we have done.

1712
1713 Mr. Silber - Mr. Taylor, I understand where you're coming from, and
1714 I think we can get some additional input from the traffic engineers. My guess would be
1715 they probably do not have any traffic counts on Guyana, because of it being, basically,
1716 a residential road. We, perhaps, can ask them to study this during the next month, and
1717 have them provide us with counts and an assessment of the situation as they view it. I
1718 guess my view of this is, we're only talking about approximately 15 lots. The traffic
1719 volumes on this road are heavy, as has been indicated. And there is considerable
1720 backup here in the mornings trying to make the right hand turn, even on Church Road
1721 in the evenings trying to make a left onto Guyana from Church. It's often delayed and
1722 backing up. So, I'm not trying to minimize the traffic concerns, but we're not talking
1723 about a large volume of lots here. The applicant may even want to consider proffering
1724 a phasing to that, if that's a concern to the Commission. He may want to build up to a
1725 certain number of homes prior to the completion of the Cox Road realignment. If it's
1726 the Commission's desire to defer this, you know, I certainly can get with the Traffic
1727 Engineers and see if they can give us a further assessment of their view of the impact.
1728 Obviously, single-family homes generate about 10 trips a day. So, there are 15 lots
1729 here, you're talking about 150 trips a day. I think they will probably say this road can
1730 handle that, especially, in light of the improvements that are expected in the near
1731 future.

1732
1733 Mr. Taylor - Well, it may be true, but the difficulty, though, is from
1734 my observations, I think of myself and others, its something I'd rather study and review
1735 than compound. And I understand what you're saying about the time. My thought
1736 would be aswayed somewhat if I knew that the traffic wouldn't compound the problem
1737 and result in, perhaps, an injury or some additional disaster here. So, I would feel
1738 comfortable with just deferring it 30 days to have those studies in hand before we went
1739 ahead with it.

1740
1741 Mr. Archer - Okay.

1742
1743 Mr. Taylor - If you think that's apace with the development, we could
1744 do it. But, my thought is, hearing what we've heard, Transportation should be
1745 requested to look at this and us have that information in hand in the next 30 days to
1746 render a reasonable decision.

1747

1748 Mr. Kaechele - Right. Mr. Chairman, I think, in addition, that if we
1749 don't have pinpointed the construction time and public hearings required for that new
1750 intersection that we try to pinpoint that as well.

1751
1752 Mr. Silber - Okay.

1753
1754 Mr. Archer - All right, Mr. Taylor, we'll entertain a motion.

1755
1756 Mr. Taylor - Well, I am in support of the project, but insofar as its safe
1757 and its wholesome, and its good for the County. So, with that, I will move a 30-day
1758 deferral, at the request of the Commissioner on project C-18C-01.

1759
1760 Mr. Vanarsdall seconded the motion.

1761
1762 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All
1763 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
1764 abstained.

1765
1766 Mr. Vanarsdall - So, May 10th?

1767
1768 Mr. Silber - Yes. May 10.

1769
1770 **C-19C-01 James W. Theobald for H. H. Hunt Corporation:**
1771 Request to conditionally rezone from A-1 Agricultural District, O/S-2C Office Service
1772 District (Conditional), R-6C General Residence District (Conditional), and R-5C
1773 General Residence District (Conditional) to R-5AC General Residence District
1774 (Conditional) and R-3C and R-2AC One Family Residence Districts (Conditional),
1775 Parcels 27-A-10, 37-A-1, 37-A-2, part of Parcels 27-A-7, 27-A-8, 27-A-9A, and part
1776 of Parcels 37-A-10, 11, 12, and 13, described as follows:

1777
1778 Parcel 1
1779 Beginning at a point in the centerline of proposed Twin Hickory Lake Drive, Phase 2,
1780 said point being 2,367.37' along the centerline of proposed Twin Hickory Lake Drive,
1781 Phase 2 from the centerline terminus of Twin Hickory Lake Drive Phase 1, thence from
1782 said point of beginning S 8°40'5" E, 218.78' to a point; thence S 30°00'00" E, 110.67'
1783 to a point; thence S 41°00'00" E, 243.95' to a point; thence S 14°36'39" E, 250.80' to
1784 a point; thence S 5°15'00" W, 392.74' to a point; thence N 65°59'25" E, 474.68' to a
1785 point; thence S 24°00'35" E, 110.00' to a point; thence S 65°59'25" W, 15.00' to a
1786 point; thence S 24°00'35" E, 560.76' to a point on the northwest line of I-295 off-
1787 ramp, thence along I-295 off-ramp on a curve to the right having a delta of 2°41'28", a
1788 radius of 1,065.86' and a length of 50.06' to a point on the I-295 off-ramp north line,
1789 thence continuing along the north line of the I-295 off-ramp S 71° 45'23" W, 549.76'
1790 to a point; thence N 83°36'20" W, 634.48' to a point; Thence N 2°7'5" W, 699.94' to
1791 a point; thence N 1°50'45" W, 867.39' to a point; thence N 1° 44'20" W, 60.87' to a

1792 point on the centerline of proposed Twin Hickory Lake Drive Phase 2, thence along the
1793 centerline of proposed Twin Hickory Lake Drive Phase 2, N 80°45' 40" E, 290.73' to
1794 the true point and place of beginning, containing 27.488 acres.

1795

1796 Parcel 2

1797 Beginning at a point in the centerline of future Twin Hickory Lake Drive, Phase 2, said
1798 point being 1,069.88' ± southwest of the southwest terminus of Twin Hickory Lake
1799 Drive, Phase 1, thence from said point of beginning S 32°00'00" E, 427.32' to a point;
1800 thence N 51°45'00" E, 88.45' to a point; thence S 29° 40'00" E, 385.44' to a point;
1801 thence N 65° 59' 25" E, 125.93' to a point; thence N 37°40'00" E, 431.90' to a point;
1802 thence S 52°20'00" E, 392.30' to a point on the northwest line of Interstate I-295,
1803 thence along the northwest line of Interstate I-295 on a curve to the left with a delta of
1804 3°4'21" on a radius of 11,608.59' for a length of 622.54' to a point; thence continuing
1805 along the northwest line of I-295 S 38°44'00" W, 908.93' to a point; thence continuing
1806 along I-295 northwest line S 39°12'54" W, 275.88' to a point of the I-295 off-ramp,
1807 thence along the northwest line of the off-ramp on a curve to the right with a delta of
1808 15°19'55" and a radius of 1,065.86' for a length of 285.22' to a point; thence N 24°
1809 00'35" W, 560.76' to a point; thence N 65°59'25" E, 15.00' to a point; thence N 24°
1810 00'35" W, 110.00' to a point; thence S 65°59'25" W, 474.68' to a point; thence N 5°
1811 15'00" E, 392.74', thence N 14°36'39" W, 250.80' to a point; thence N 41°00'00" W,
1812 243.95' to a point; thence N 30° 00'00" W, 110.67' to a point; thence N 8°40'05" W,
1813 218.78' to a point on the future centerline of Twin Hickory Lake Drive, Phase 2,
1814 thence along the future centerline of Twin Hickory Lake Drive, Phase 2 N 80°45'40"
1815 E, 293.37' to a point; thence continuing along the future centerline of Twin Hickory
1816 Lake Drive, Phase 2 on a curve to the left in a northeasterly direction having a delta of
1817 31°40' 39", a radius of 1,816.17' for a length of 1004.12' to the true point and place of
1818 beginning containing 53.764 acres.

1819

1820 Parcel 3

1821 Beginning at a point in the center line of Twin Hickory Lake Drive, Phase 1, said point
1822 being at the southwestern terminus of Twin Hickory Lake Drive, Phase 1; thence from
1823 said point of beginning S 40°00'35" E, 50' to a point; thence S 9°03'50" E, 8.88' to a
1824 point, said point being the existing 100 year flood plain (C-1); thence southwesterly and
1825 southeasterly along the 100 year flood plain 1873' + - to a point on the northwest line of
1826 Interstate I-295; thence along the northwest line of Interstate I-295 along a curve to the
1827 left with a delta of 3°35'32", radius of 11,608.59' for a length of 727.83' to a point;
1828 thence North 52°20'00" W, 392.30' to a point; thence S 37°40'00" W, 431.90' to a
1829 point; thence S 65°59'25" W, 125.93' to a point; thence N 29°40'00" W, 385.44' to a
1830 point; thence S 51°45'00' W, 88.45' to a point; thence N 32°00'00" W, 427.32' to a
1831 point on the future centerline of Twin Hickory Lake Drive, Phase 2; thence along the
1832 future centerline of Twin Hickory Lake Drive, Phase 2 along a curve to the left with a
1833 delta of 10°28'36", a radius of 1,816.17' for a length of 332.09' to a point; thence
1834 continuing along the proposed centerline of Twin Hickory Lake Drive, Phase 2 N
1835 38°36'25" E, 156.28' to a point; thence continuing along the future centerline of Twin

1836 Hickory Lake Drive, Phase 2 along a curve to the right having a delta of 11°23'00'
1837 radius of 2,508.25' for a length of 498.33' to a point; thence continuing along the
1838 future centerline of Twin Hickory Lake Drive Phase 2, N. 49°59'25" E., 83.18' to the
1839 true point and place of beginning, containing 20.208 + - acres.

1840

1841 Mr. Archer - Is that any opposition to C-19C-01? No opposition. Mr.
1842 Bittner.

1843

1844 Mr. Bittner - Thank you, Mr. Chairman. This picture you're looking at
1845 (referring to slide), is a picture of the overall TwinHickory development. The rezoning
1846 site, in question, tonight, is in the lower left corner. I'd just like to quickly orient
1847 everybody; to the bottom is Interstate 295. On the left side is Pouncey Tract Road
1848 (referring to slide).

1849

1850 This proposal would amend the Twin Hickory Planned Community by converting
1851 approximately 72 acres of Office/Service property to single-family residential. This
1852 could have a significant impact on the economic development opportunities in the area.
1853 However, there are, perhaps, opportunities for this type of development on adjacent
1854 property near the Nuckols Road/Interstate 295 interchange.

1855

1856 The proffers submitted with this request provide some quality items, and are
1857 comparable to the proffers in the rest of TwinHickory. And I'd like to point out, we
1858 just got some new proffers in tonight, which we handed out to you. You would need to
1859 waive the time limit to accept them.

1860

1861 These proffers have been revised so that most of the issues in the staff report have been
1862 addressed, including the following: a 35-foot buffer, in addition to required setbacks,
1863 has been proffered along Interstate 295. A fence along the western edge of the site,
1864 adjacent to the VDOT maintenance facility has been provided. That would be in this
1865 area right here (referring to slide).

1866

1867 Staff had recommended a 25-foot buffer in this area. However, the applicant is
1868 considering acquiring the VDOT facility for future expansion of TwinHickory. If this
1869 were to occur, a buffer may not be necessary.

1870

1871 As long as this area were to develop residentially, staff feels that the fence would be an
1872 acceptable compromise. If it were to develop non-residentially, however, staff would
1873 recommend a buffer instead of a fence.

1874

1875 The applicant has also proffered that no Certificates of Occupancy shall be obtained
1876 until TwinHickory Lake Drive is extended to Pouncey Tract Road. That would be
1877 from approximately here (referring to slide) to here onto Pouncey Tract Road. And,
1878 we actually have a subdivision plan in for that extension right now.

1879

1880 Median landscaping on TwinHickory Lake Drive has been proffered. And standard
1881 curb and gutter or 3-foot roll face curbing has been proffered instead of the 2.5-foot
1882 roll face curbing.

1883
1884 Staff had also recommended wider lot widths in the proposed R-3 and R-5A districts.
1885 The applicant has proffered a minimum lot width of 80-feet for R-3, which is also the
1886 minimum required by the Zoning Ordinance. The rest of TwinHickory has a proffered
1887 85-foot minimum for R-3. The applicant should consider increasing the minimum R-3
1888 lot width to 85 feet to match the rest of the planned community.

1889
1890 Staff also strongly recommended increasing the minimum R-5A lot width to at least 65
1891 feet. The applicant has revised the proffers. You probably saw in a version a couple
1892 days ago. He's revised them further tonight to say that, "All R-5A lots will be at least
1893 60-feet in width." This is an improvement, but staff still recommends 65-foot wide lots
1894 in the R-5A District.

1895
1896 Wider lots provide an improved house to lot relationship; greater separation between
1897 houses; more opportunities for side and rear entry garages, and more opportunities for
1898 variations and housing design.

1899
1900 In summary, the proposed zoning is compatible with previous development in
1901 TwinHickory. Although Office/Service type development would be removed, there are
1902 other opportunities for this type of development on properties close to the I-
1903 295/Nuckols Road interchange.

1904
1905 Proffers are comparable to proffers for the rest of TwinHickory and do provide several
1906 positive items. However, staff cannot recommend approval at this time because the R-3
1907 and R-5A lot widths have not been increased as recommended. If the applicant were to
1908 address this issue, staff could recommend approval. I'd be happy to answer any
1909 questions you may have.

1910
1911 Mr. Archer - Thank you, Mr. Bittner. Are there questions from the
1912 Commission?

1913
1914 Mr. Taylor - With regard to the lot widths, how does those compare to
1915 the ones that currently exist for the same category on the average?

1916
1917 Mr. Bittner - On the average of what?

1918
1919 Mr. Taylor - On the ones that have already been built?

1920
1921 Mr. Bittner - In TwinHickory?

1922
1923 Mr. Taylor - Yes.

1924 Mr. Bittner - I don't know what the average lot width would be in
1925 TwinHickory. There's various zoning districts throughout the development. I do know
1926 the R-3A currently in TwinHickory has a proffered minimum lot width of 85 feet.
1927 Staff is recommending that continue with this portion, although the applicant has
1928 proffered to meet the zoning ordinance minimum which is 80 feet. Then, in the R-5A
1929 zoning classification, the minimum required by the Ordinance is 50-feet. The applicant
1930 has proffered 60 feet. Staff is recommending 65.

1931
1932 Mr. Taylor - And the R-2A is 90?

1933
1934 Mr. Bittner - He's proffered 90. We feel that is acceptable.

1935
1936 Mr. Archer - Any further questions? Good evening, Mr. Theobald.

1937
1938 Mr. James Theobald - Good evening, Mr. Chairman, ladies and gentlemen. My
1939 name is Jim Theobald. I'm here this evening on behalf of H. H. Hunt. With me this
1940 evening is Dan Schmidt, whose Vice-President for H. H. Hunt, and Webb Tyler, our
1941 Engineer, with Youngblood, Tyler and Penny Koch, my legal assistant.

1942
1943 This is a request to rezone about 107 acres of land in TwinHickory from A-1, O/S 2,
1944 R-6 and R-5 to R-6 and R-5, two three residential categories; that being, R-5A, R-3
1945 and R-2A.

1946
1947 Why are we changing from our original plan? Well, we thought, given the location
1948 along Interstate 295, and its proximity to Pouncey Tract Road, that this might be an
1949 ideal place for some office/service quasi-light industrial uses. But, after putting it out
1950 to the market and getting feedback from existing TwinHickory residents, who weren't
1951 there when we started, it appears that really transportation issues for that type of traffic
1952 are somewhat of a concern, and that you really can't conveniently get back up to the
1953 Interstate, particularly going out to Pouncey Tract Road. We do have some other
1954 opportunities that Mr. Bittner alluded to for moving some of this office component,
1955 perhaps, not Office/Service and our retirement communities to another area that's under
1956 acquisition. We've shared these plans, in some detail, with Mr. Kaechele and Mr.
1957 Taylor, members of staff, but believe that this change is very appropriate.

1958
1959 This will be, perhaps, the only case presented to you this evening where the traffic
1960 actually is reduced from the existing proposal. Your staff report indicates that some
1961 3,000 fewer trips will be generated by this proposal than under the current
1962 Office/Service 2 zoning.

1963
1964 And you might recall from the original TwinHickory zoning that we had a density cap
1965 of some 1,400 residential units proffered under TwinHickory. But, even when we
1966 convert this 107 acres to additional residential, based on already platted lots in
1967 TwinHickory, and the already approved POD for the multi-family in TwinHickory, we

1968 will still be some 138 units under the original cap. So, we are well within all the
1969 assumptions made by the County as to traffic, school capacity, utility availability, etc.

1970
1971 You recall that TwinHickory is H. H. Hunt's newest planned community. It's been
1972 enormously successful because of the quality of design and amenities. It has pedestrian
1973 access ways throughout, recreational amenities set to open next month, in addition to
1974 being within a half mile, or three-quarters of a mile to the YMCA, the new elementary
1975 school, the proposed high school, which will be open in 2002, a County park; Striker
1976 Park; and the middle school.

1977
1978 There's three basic products to this case: the R-2A product is one that will have homes
1979 for sale in the \$400,000 to \$500,000 range. Those lot widths have been proffered at 90
1980 feet. The Code minimum is 80 feet. Original TwinHickory proffered the R-2A lots at
1981 85 feet. So, we are 5 feet in excess of the original case in this regard. Proffered a
1982 minimum 2,200 square feet of finished floor space. Maximum density of 2.2 units per
1983 acre. And these homes will sit on a lake that will exist between the recreational area
1984 and this R-2A. These are going to be some of the highest end homes in TwinHickory.

1985
1986 Our R-3 product is a \$300,000 to \$400,000 product. It is on 80-foot lot widths. Two
1987 thousand (2,000) square foot minimums; 2.75 units per acre maximum density. This
1988 provides an alternate price point, and alternate residential product to the R-2A in order
1989 to differentiate these two communities.

1990
1991 The R-5A product, which is your zero lot line, but detached product, those will sell in
1992 the \$200,000 to \$250,000 range. They've been proffered to all have a minimum of
1993 one-car garage. We have increased our square footage of livable area from 1,400 to
1994 1,600 in our proffers you received a few days ago. And, as Mr. Bittner indicated
1995 today, we took all of our lot widths to 60 feet minimum width. We'd also previously
1996 provided the 25 percent of the fronts of units would be brick. The difference between
1997 the case, as filed, 50-foot minimum widths for the R-5A, and the current 60-foot,
1998 resulted in a net reduction of 22 lots in the R-5A product from our original filing.

1999
2000 The other proffers are consistent with the TwinHickory proffer, that being a greenbelt
2001 along TwinHickory Lake Drive. Some three acres of this request before you is in that
2002 greenbelt. Again, proffering pedestrian and bike access ways, recreational amenities.
2003 This will be part of TwinHickory, and these people will access to the recreational
2004 amenities at TwinHickory. Median landscaping has been provided. We did, at staff's
2005 request, provide a 35-foot buffer along Interstate 295, which is in addition to yard
2006 requirements. We have to complete TwinHickory Lake Drive before we can get any
2007 CO's for homes in this development. And we have agreed to the curb and gutter
2008 sections recommended to you by staff.

2009
2010 Again, the Transportation Department has suggested that this will, basically, result in a
2011 3,000 trip per day decrease in traffic over the current Office/Service 2 zoning, R-5, and

2012 R-6. And, as such, believe that it represents a lessening of intensity of use. And with
2013 that, I would respectfully request your recommendation for approval to the Board of
2014 Supervisors. And, I'd more than happy to answer any questions.
2015

2016 Mr. Archer - Thank you, Mr. Theobald. Are there questions from the
2017 Commission?
2018

2019 Mr. Vanarsdall - I believe this is the first case this evening that decreased
2020 the traffic.
2021

2022 Mr. Theobald - Maybe I just should have said that and asked for a motion.
2023

2024 Mrs. Dwyer - Maybe that's because you didn't have a 5-acre parcel.
2025

2026 Mr. Taylor - Or 5-inch trees.
2027

2028 Mr. Kaechele - Mr. Theobald, the products going up now in the other R-3
2029 Districts of TwinHickory, what size are those homes running in terms of square
2030 footage? Do you have an idea? It's more than 2,000, isn't it?
2031

2032 Person from Audience - (Comments Unintelligible).
2033

2034 Mr. Kaechele - They're in that same \$300,000 to \$400,000 price range?
2035

2036 Mrs. Dwyer - Mr. Theobald, I guess I'm pondering why the R-3 lot
2037 width for this parcel cannot equal the existing 85-foot lot width that has been proffered
2038 in the earlier case, particularly when I look at the fact that when the whole
2039 TwinHickory was proposed several years ago we had 107 acres that were not producing
2040 single-family homes and lots of school children that would then put a burden on public
2041 services and school systems? In taking that into consideration, it seems that we should,
2042 at least, meet the existing standards set by your own development.
2043

2044 Mr. Theobald - Well, two points, Mrs. Dwyer, the first, I guess, being,
2045 the impact on schools, etc. What the Board of Supervisors approved with the original
2046 TwinHickory rezoning was a development that could accommodate up to 1,400
2047 residential units. It is not developed out to that density. And, even with this request
2048 will only be at 1,232 or 1,240 units. So, in fact, the impact on County infrastructure is
2049 less than originally approved by the Commission and by the Board of Supervisors. So,
2050 we're actually providing a less of an intense impact than the County predicted, or that
2051 we had a right to develop, frankly.
2052

2053 With regard to your point about the R-3 lot width, what the developer does is try to
2054 provide alternate product so that there are different priced products for sale at any given
2055 time rather than a lot of the same product in terms of the demand for different price

2056 points to the public.

2057

2058 With our R-2A product being a 90-foot lot width, you end up with, basically, when you
2059 apply your side yard setbacks, a 60-foot building envelope, if you will. With an R-3
2060 proffered at an 80-foot width, you have a 50-foot building envelope, 10 feet less of
2061 house width. And, therefore, a distinction in price points that suggests to the public
2062 that "I can buy here, or I can move up, and buy over here." When we add another 5-
2063 feet to the R-3 and go to an 85-foot lot width, you blow that distinction, and you blow
2064 that product line, thereby, impacting absorption and having that different product out to
2065 the public.

2066

2067 So, while we've increased the size of the lots above the original TwinHickory for R-
2068 2A, we've stayed with the Code requirements for R-3, and we've increased the R-5A
2069 by some 10 feet. So, we have three distinct products; the 60-foot lot width, the 80-
2070 foot lot width, and the 90-foot lot width coming on line at the same time.

2071

2072 Mr. Vanarsdall - Is that it?

2073

2074 Mr. Taylor - With those three, please give me again the price range of
2075 the R-5A, the R-3, and the R-2A?

2076

2077 Mr. Theobald - R-5A, looking at \$200,000 to \$250,000 house and lot; the
2078 R-3 product, \$300,000 to \$400,000, and the R-2A, \$400,000 to \$500,000.

2079

2080 Mr. Taylor - How do those figures compare with the current mix of
2081 housing in TwinHickory? Do you have any statistics as to...

2082

2083 Mr. Theobald - I don't honestly know the answer to that.

2084

2085 Mr. Taylor - Well, the R-2A would be 90 feet. Is that consistent with
2086 what you have there?

2087

2088 Mr. Theobald - No. Earlier TwinHickory was only 85 feet.

2089

2090 Mr. Taylor - Was only 85? And the R-3 is consistent?

2091

2092 Mr. Theobald - The R-3 is five feet lower. The original TwinHickory
2093 was 85. And the R-5A, I don't think we had any R-5A product in TwinHickory. We
2094 had some R-5A product, originally, at Avery Green up near the YMCA which is now
2095 part of TwinHickory, and those are 50-foot lots. Avery Green being up just off of
2096 Nuckols Road, across from the YMCA.

2097

2098 Mr. Taylor - Tell me again the amenities that are going to be included
2099 here?

2100 Mr. Theobald - Well, as you know, TwinHickory, overall, is a master
2101 planned community with inter-connected pedestrian access ways. The idea being to
2102 create a sense of community, a place where people can work, live, play, within a
2103 relatively close area. You have a level of schools soon to be available within probably
2104 a half mile. You have a YMCA, a planned County library, a planned County park,
2105 central recreational amenities, active recreational amenities, with a pool and tennis
2106 courts opening in May, open space, green space, greenbelts along the roads, median
2107 landscaping, very, very strict architectural review covenants. What a developer or
2108 builder has to go through to build a house in TwinHickory is very significant. And its
2109 literally down to the number of plants and shrubs that are planted as a part of
2110 landscaping. But, here we've proffered hard surfaced driveways in the R-5A product,
2111 garages. We've proffered similar mailbox design. We've proffered brick stoops. If
2112 you drive out to Wyndham or TwinHickory, you'll see the level of quality demanded
2113 by the developer is really among the highest anywhere in the metropolitan area.

2114
2115 Mr. Kaechele - Your pedestrian and bicycle access, and all that, would be
2116 kind of consistent through whatever zoning you have. Is that right?

2117
2118 Mr. Theobald - Yes sir. We connect neighborhoods. We've got
2119 sidewalks on TwinHickory Lake Drive. As part of original TwinHickory, we have to
2120 file a pedestrian access way master plan. I believe that will be amended with inclusion
2121 of this.

2122
2123 Mr. Kaechele - It would be in the R-5A as well as the...

2124
2125 Mr. Theobald - You'll be able to connect from neighborhood to
2126 neighborhood through cul-de-saced streets or when you hit a main road along a
2127 sidewalk.

2128
2129 Mr. Taylor - I think, at one stage, we had talked, too, about nature
2130 trails within the different neighborhoods. This plan is rather small scale to see those.
2131 But are those included within the amenities?

2132
2133 Mr. Theobald - We have trails and bike paths all through TwinHickory
2134 that have been part of each subdivision plan. What you see before you has not been
2135 finally engineered, but, clearly, that was the Number 1 amenity that the Wyndham
2136 residents voted when asked what amenities were most important to them. And, so that
2137 is one that Hunt is a big believer in, and they will thread throughout.

2138
2139 Mr. Archer - Okay, any further questions or comments?

2140
2141 Mr. Taylor - Let me just ask one question. You may not have the
2142 figure, but it would be interesting to see if you had any feel for this figure. And, with
2143 the lot sizes and the widths, what percentage of lots would you attribute to amenities

2144 that are not adjacent to, but associated with, the lots? Do you have any feel for that
2145 figure?

2146
2147 Mr. Theobald - You know, I do, for TwinHickory proper prior to this.
2148 And, so the numbers should, you only be...

2149
2150 Mr. Taylor - Would be kind of a pro-rata share of additional
2151 recreational space, over and above these lot sizes that you're paying taxes on.

2152
2153 Mr. Theobald - We had in TwinHickory proper, under the original
2154 zoning, we had some 125 acres of open space amenities, lakes, ponds. This does
2155 include right of way, I should add, buffers, transitional buffers, school sites, slivers we
2156 sold to the County, wetlands, cemeteries set aside, etc. I think the original
2157 TwinHickory was some 400 acres? Does that sound right? So, we had, you know,
2158 almost a fourth or more attributable to these non-lot related things. So, there's a
2159 significant amount of land in TwinHickory, which will only get bigger devoted to
2160 something other than just sticks and bricks.

2161
2162 Mr. Taylor - That's sort of common used space.

2163
2164 Mr. Theobald - Well, a lot of it certainly is. In a very lengthy set of
2165 protective covenants and homeowner's association documents that control all of that and
2166 provide, you know, absolute legal access to the residents to all of that. That's what
2167 sells TwinHickory. TwinHickory is one of the most successful developments
2168 anywhere. That's because of the amenities and the attention to detail and the quality.
2169 Obviously, the ranges I gave you earlier, those are not inexpensive homes. Any other
2170 questions? Thank you.

2171
2172 Mr. Kaechele - The high school question of when these students or when
2173 these homes would be built out versus the opening of the new high school. Is there
2174 likely to be a conflict there?

2175
2176 Mr. Theobald - 2002 is my understanding of the opening of the new high
2177 school. I think these first homes will be on line about then? A little sooner? Okay, the
2178 middle of 2002.

2179
2180 Mr. Kaechele - There's not likely to be a conflict.

2181
2182 Mr. Theobald - No sir. And remember, too, there is another elementary
2183 school coming online on TwinHickory road on the Chappell property in 2003, as well.

2184
2185 Mr. Kaechele - Right.

2186
2187 Mr. Archer - Mr. Theobald, I have one slight observation. In Proffer

2188 17 it reads, “No certificates of occupancy shall be obtained...” Would you object to
2189 changing that to, “issued or granted” instead of “obtained?”
2190
2191 Mr. Theobald - Sure. That’s not a problem.
2192
2193 Mr. Archer - Okay.
2194
2195 Mr. Theobald - “No certificates of occupancy shall be issued...rather than
2196 the word ‘obtained,’ for homes?”
2197
2198 Mr. Archer - Okay. Anything further? We didn’t have any opposition
2199 I don’t believe?
2200
2201 Mr. Taylor - No.
2202
2203 Mr. Theobald - Thank you.
2204
2205 Mr. Archer - Mr. Taylor.
2206
2207 Mr. Taylor - Mr. Chairman, looking over the case, I continue to be
2208 impressed by the quality of the development going on in TwinHickory, in particular
2209 with regard to the open space, or the space dedicated to community use. This is space
2210 outside of a person’s yard, but its within the opportunity to use so that the entire public
2211 benefits. But these come at some expense to the developer, significant expense, yet, it
2212 adds to everybody’s enjoyment and effectively, in my mind, it adds area, as well as
2213 character as the nature of the development. I know, over the years, the Hunt
2214 development has endeavored to increase continually the quality of the work. And I’ve
2215 been impressed with what I see. And I’ve been impressed with what I understand is
2216 planned. And I think that Henrico County is very fortunate to have a development of
2217 this character and nature within it. So, I am going to move for approval of Case C-
2218 19C-01 as proffered. I need to waive the proffers. Let me do it again. I’m sorry, Mr.
2219 Chairman. With that I will move to waive the time limit on the proffers.
2220
2221 Mr. Vanarsdall seconded the motion.
2222
2223 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All
2224 in favor to waive the time limit, say aye—all those opposed by saying nay. The vote is
2225 5-0, Mr. Kaechele abstained. The time limit is waived. All right.
2226
2227 Mr. Taylor - And, now, Mr. Chairman, I’ll move approval of C-19C-
2228 01 H. H. Hunt- TwinHickory as proposed.
2229
2230 Mr. Archer - Is there a second?
2231

2232 Mr. Jernigan seconded the motion.

2233

2234 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Jernigan. All in
2235 favor of the motion, say aye—all those opposed by saying nay. The vote is 5-0, Mr.
2236 Kaechele abstained.

2237

2238 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Jernigan, the Planning
2239 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors
2240 **grant** the request, because it is appropriate residential zoning at this location; and it
2241 continues a similar level of single family residential zoning as currently exists in the
2242 area.

2243

2244 **P-5-01 Steven Muscarella for Richmond 20MHz, LLC, t/a**
2245 **nTELOS:** Request for a provisional use permit under Sections 24-95 (a), 24-120, and
2246 24-122.1 of Chapter 24 of the County Code in order to construct a 199' wireless
2247 telecommunications tower and support facilities, on part of Parcel 153-A-22ND,
2248 containing approximately 2500 sq. ft. of leased area, located on the west side of
2249 Masonic Lane at its intersection with I-64. The existing zoning is M-2 General
2250 Industrial District. The site is also in the Airport Safety Overlay District.

2251

2252 Mr. Archer - Thank you, Mr. Secretary. Is there anyone in opposition
2253 to P-5-01? No opposition.

2254

2255 Mr. Silber - I don't know if everyone remembers Mr. Coleman. I
2256 think he was introduced at the last meeting. Tom Coleman is new to the
2257 Comprehensive Planning Staff section. I think this is probably his first presentation
2258 before the Planning Commission, or one of the first. So, welcome, Mr. Coleman.

2259

2260 Mr. Archer - Thank you. Mr. Coleman. We'll be gentle.

2261

2262 Mr. Thomas M. W. Coleman, County Planner - Thank you. Mr. Chairman, members
2263 of the Commission, this Provisional Use Permit request is to construct and operate a
2264 wireless telecommunications tower up to 199 feet in height along Masonic Lane. The
2265 proposed tower will replace an existing 100-foot tower located nearby at 1003 Masonic
2266 Lane.

2267

2268 This property is zoned M-2 General Industrial District. The Zoning Ordinance permits
2269 communication towers up to 100 feet in height in the M-2 District. Towers can exceed
2270 this limit with a Provisional Use Permit granted by the Board of Supervisors.

2271

2272 The Ordinance requires a minimum 50-foot setback from the base of the tower to all
2273 property lines, and a setback equal to 110 percent of the tower's height to residentially-
2274 zoned property and dwellings.

2275

2276 The proposed tower is a monopole style tower. Support equipment would be placed on
2277 the ground within a 2,500 square foot leased area at the tower's base. The leased area
2278 is located on a vacant 2.96 acre parcel immediately south of BMG Metals. There is no
2279 existing access to this site, and the tower would be located approximately 412 feet west
2280 of Masonic Lane, 50 feet north of Interstate 64, and 50 feet south of the BMG Metals
2281 property.

2282

2283 The tower site property is adjacent to industrially-zoned property on all sides. The
2284 nearest residentially zoned property is over 700 feet away to the northeast. The
2285 proposed tower would be highly visible from Interstate 64, and visible to each of the
2286 adjoining properties.

2287

2288 This exhibit (referring to slide) shows the network coverage of the existing tower. The
2289 applicant has indicated that the proposed tower is necessary to replace the tower at 1003
2290 Masonic Lane. Due to its height, ground elevation, and the surrounding terrain, the
2291 existing tower is not able to provide contiguous coverage in the Intelos network.

2292

2293 Staff reviewed alternatives with the applicant to determine if the tower could be
2294 constructed at a lower height. The applicant provided the following information:

2295

2296 The coverage gap, at 150 feet, closes a gap along Interstate 64, but leaves other
2297 coverage gaps. The coverage area, at 187 feet, provides additional coverage, thereby
2298 possibly reducing the number of future towers required to complete the Intelos network
2299 coverage.

2300

2301 Intelos currently has communication facilities at the intersection of Crump Street and
2302 Magnolia Street, and at Old Oakley's Lane and Interstate 64.

2303

2304 The applicant has indicated that the proposed tower is necessary to complete the
2305 coverage network and provide contiguous coverage between these two existing
2306 facilities.

2307

2308 The applicant evaluated two nearby communication facilities along Interstate 64 for
2309 collocation potential. VDOT has a structure in the right of way at Interstate 64 and
2310 Nine Mile Road. Sprint PCS has a structure at 4101 S. Laburnum Avenue. The
2311 applicant indicated that collocating at either of these locations would not close all the
2312 coverage gaps.

2313

2314 As with all requests for this type of facility, the FCC will regulate the system, and the
2315 site will broadcast at a very low power. All operations are passive and pose no known
2316 environmental or health risks to the public.

2317

2318 The unmanned site does not require water, or sewer and would generate almost no
2319 traffic.

2320 As part of the Federal licensing procedure, proposed communication applicants are
2321 required to submit locational information to the FAA for air traffic safety analysis.
2322 This analysis, among other things, determines whether the tower will need obstruction
2323 marking and lighting. If marking and lighting is required, recommended Condition No.
2324 3 requires Planning Commission approval for either lighting or painting.

2325
2326 Staff recommends that a determination by the FAA on these matters be available before
2327 consideration for final approval by the Board of Supervisors.

2328
2329 Overall, the site is not objectionable for a tower, and the applicant has demonstrated a
2330 need for a tower up to 199 feet.

2331
2332 The proposal is consistent with the County's policy to look for tower sites zoned or
2333 planned for industrial or commercial uses. The site plan submitted by the applicant
2334 meets zoning setback requirements.

2335
2336 The applicant has submitted a letter of agreement to the County committing the
2337 applicant to remove existing offsite tower at 1003 Masonic Lane within 180 days of
2338 issuance of a building permit for the proposed tower.

2339
2340 Should the Board of Supervisors decide to issue a Provisional Use Permit for this
2341 proposed tower, it is recommended the request be granted, subject to the conditions for
2342 wireless communication towers included in the staff report. However, the applicant has
2343 indicated a desire for the Planning Commission to review and approval lighting for the
2344 tower this evening. That may necessitate a change in those conditions. I would be
2345 happy to answer any questions.

2346
2347 Mr. Archer - Thank you, Mr. Coleman. Are there questions from the
2348 Commission?

2349
2350 Mr. Jernigan - Mr. Coleman, the reason for the lighting is for the
2351 helicopter traffic coming down I-64, and staff is okay with that if we put that in?

2352
2353 Mr. Coleman - If the lighting is required by the FAA, then we're okay
2354 with it.

2355
2356 Mr. Jernigan - What we want to do is put it in the approval. There will
2357 not be a light put on it unless it is required by the FAA. In that way they won't have to
2358 bring it back through again.

2359
2360 Mr. Coleman - Correct. If the Planning Commission were to review the
2361 lighting and were to approve that, then we would have to change Condition No. 3.
2362 We'll go ahead and do that.

2363

2364 Mr. Silber - So, the applicant is requesting that the tower be lit at this
2365 time and, if that's the case, if the Commission wishes to grant that as a part of this
2366 request, we'd need to modify Condition 3. Is that what we're saying?
2367

2368 Mr. Jernigan - They want permission to light it. They're not going to
2369 light on construction, only if FAA requires it.
2370

2371 Mr. Silber - Right. And the condition would have to be modified to
2372 say that.
2373

2374 Mr. Jernigan - Yes.
2375

2376 Mr. Silber - Okay.
2377

2378 Mrs. Dwyer - So, how would that be modified, Mr. Silber?
2379

2380 Mr. Silber - I think what we'd need is a condition that would say,
2381 "Lighting will be required on the tower if FAA requires such lighting,..." or something
2382 along those lines. In other words, if its not required, its not going to go on. But the
2383 Commission is considering, up front, the fact that this tower could be lit.
2384

2385 Typically, the way it happens is, at this point, we don't know about FAA requirements.
2386 And, typically, we prefer they not be lit. And the applicant would have to come back
2387 later to the Planning Commission and seek that approval. So, Condition 3, the way its
2388 worded is sort of a standard wording for that. So, we need to modify that so it is
2389 addressed up front.
2390

2391 Mrs. Dwyer - I guess if we know in advance that it would be okay to
2392 have it lit if the FAA requires it and there's no problem with going ahead and
2393 approving it now?
2394

2395 Mr. Silber - That's correct.
2396

2397 Mrs. Dwyer - Would they be required to submit something official from
2398 the FAA to the County?
2399

2400 Mr. Silber - I would think that would be preferable? Now, will we
2401 know something, Mrs. Freye, before this goes to the Board of Supervisors?
2402

2403 Mrs. Gloria Freye - No sir. Probably not. They are running about three to
2404 six months from those filings to getting official answers back.
2405

2406 Mr. Vanarsdall - They always are.
2407

2408 Mrs. Freye - And that's why we will, typically, will hire a consultant to
2409 give advice about whether its indicated for it to be lighted or not. And, typically,
2410 anything 200 or less is not going to be required to be lighted. But, the agent for the
2411 FAA in the northeast region, fairly often in situations where a tower is situated close to
2412 an interstate or even a four-lane divided highway, where there's helicopter traffic has
2413 been asking for people to put a light on. And we will not be a bit surprised if the FAA
2414 says, "We'd like to have a light on this one." So, rather than come back, we just as
2415 soon go ahead and have you consider that now as being an appropriate location for
2416 lighting a tower, because it is an industrial area. It's not going to have an impact on a
2417 residential neighborhood, and its right next to the interstate.

2418
2419 If they require us to do it, we will certainly abide by that. We just didn't want to have
2420 to come back to the Planning Commission for that, and ask that you consider it an
2421 appropriate location for a lighted tower now.

2422
2423 So, you know, one of the ideas we had was just to strike just the first sentence of
2424 Condition No. 3. We certainly have no problem with the condition being reworded to
2425 say that the tower would not be lighted unless required by FAA. And then we would
2426 abide by notifying the County of that.

2427
2428 Mr. Silber - Mr. Coleman, have we worked on a condition that might
2429 address this?

2430
2431 Mr. Coleman - "The applicant will not place standard obstruction
2432 marking and lighting, i.e. red lighting and the orange and white striping on the tower
2433 unless required by the FAA. The applicant shall notify the Director of Planning prior
2434 to making any changes to the original galvanized finish of the tower."

2435
2436 Mrs. Dwyer - Could we add something? Prior to putting the lighting on
2437 there, as well?

2438
2439 Mr. Silber - Right. I guess we need; I mean, did that speak to the
2440 aspect that they would notify us, in writing, to provide us with documentation that the
2441 FAA required it? I don't know if that was in that condition.

2442
2443 Mr. Jernigan - We can put it in there.

2444
2445 Mr. Silber - Okay.

2446
2447 Mrs. Freye - What we could do, Mr. Silber, is at the end of that
2448 condition is to say, "...The applicant shall notify the Director of Planning prior to
2449 making any changes in the original galvanized finish of the tower, and if the FAA
2450 requires the tower to be lighted."

2451

2452 Mr. Silber - Okay.
2453
2454 Mr. Archer - Mrs. Freye, may I ask a question?
2455
2456 Mrs. Freye - Yes sir.
2457
2458 Mr. Archer - The staff report indicates that this would complete the
2459 network that nTELOS would require. So, does that mean that you would not need to
2460 construct any more towers to operate in that particular area?
2461
2462 Mrs. Freye - In that particular area, we can say that. Yes sir.
2463
2464 Mr. Archer - So, what is that particular area, is the question.
2465
2466 Mrs. Freye - You don't have a map that shows the whole area that
2467 those towers serve. It doesn't give them coverage down to Route 5. That's still a
2468 problem area. It gets them closer to that area, but it doesn't cover that.
2469
2470 Mr. Archer - Okay. So, you would say, then, that from the vicinity of
2471 Route 5 back toward Richmond, that coverage would be complete, and we wouldn't
2472 need any more towers, except in an easterly direction?
2473
2474 Mrs. Freye - I think that would be accurate.
2475
2476 Mr. Archer - Okay.
2477
2478 Mrs. Freye - Yes.
2479
2480 Mr. Archer - Any further questions?
2481
2482 Mrs. Freye - I'd be glad to answer any other questions.
2483
2484 Mr. Archer - I don't think we had any opposition. Mr. Jernigan.
2485
2486 Mr. Jernigan - All right, Mr. Chairman, at this time, I'd like to make a
2487 motion to approve Provisional Use Permit P-5-01 for nTELOS with additional approval
2488 on Condition 3 for a red beacon light, if required by FAA, and notification from
2489 nTELOS to the County must be made in writing before installation.
2490
2491 Mr. Archer - Okay.
2492
2493 Mr. Vanarsdall seconded the motion.
2494

2495 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall. All
2496 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
2497 abstained.

2498
2499 REASON: Acting on a motion by Mr. Jernigan, seconded by Mr. Vanarsdall, the
2500 Planning Commission voted 5-0, (one abstention) to recommend that the Board of
2501 Supervisors **grant the requested revocable provisional use permit**, subject to the
2502 following conditions:

- 2503
- 2504 1. If the use of the tower for communication purposes is discontinued for 180 days,
2505 the tower and all related structures shall be removed from the site within ninety
2506 (90) days. Within ten (10) business days after written request by the County, the
2507 owner of the tower shall provide the County with written confirmation of the
2508 status of the tower, the number of and identity of users on the tower, available
2509 collocation space on the tower and such additional information as may be
2510 reasonably requested.
 - 2511
 - 2512 2. Application for a building permit to install the tower must be made within one
2513 year after the Provisional Use Permit is granted by the Board of Supervisors,
2514 unless an extension of time is granted by the Director of Planning upon a written
2515 request by the applicant.
 - 2516
 - 2517 3. The applicant will not place standard obstruction marking or lighting on this tower
2518 unless required by the FAA. If the FAA requires lighting, the applicant will
2519 request dual lighting consisting of red lights at night and flashing white lights
2520 during the day. The applicant shall notify the Director of Planning if the FAA
2521 requires the tower to be lighted and prior to making any changes to the galvanized
2522 finish of the tower.
 - 2523
 - 2524 4. When site construction is initiated as a result of this Provisional Use Permit, the
2525 applicant shall complete requirements prescribed by Chapter 10 of the Henrico
2526 County Code. In particular, land disturbance of more than 2,500 square feet will
2527 require that construction plans include a detailed drainage and erosion control plan
2528 prepared by a professional engineer certified in the State of Virginia. Ten (10)
2529 sets of the construction plans shall be submitted to the Department of Public
2530 Works for approval.
 - 2531
 - 2532 5. The applicant shall allow the collocation of at least 3, and as many additional
2533 users as technically possible at this site in accordance with the provisions of the
2534 Letter of Intent to Permit Co-Location on Communications Tower, filed by the
2535 applicant with this request.
 - 2536
 - 2537 6. A landscaping plan for the purpose of screening the base of the tower from view
2538 shall be submitted to the Planning Office for approval prior to the issuance of a

2539 building permit for the tower. The Director of Planning may waive the
2540 enforcement of this condition if it is deemed unnecessary.

2541 7. If ownership of the lease is transferred to another provider, the applicant will
2542 need to submit a Transfer of Provisional Use Permit.

2543
2544 The Planning Commission's recommendation was based on the fact that the proposed
2545 tower is consistent with the policy to locate towers in industrial areas.

2546
2547 **C-20C-01 Robert L. Stout for FDS Management:** Request to
2548 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence
2549 District (Conditional), Part of Parcel 192-A-5, described as follows:

2550
2551 Beginning at a point marked by a rod in the southern line of Old Oakland Road, said
2552 point also being the northwest corner of the 16.5 ± acre property acquired by the Clara
2553 M. Ingram Trust, then south 3°49'42" west for a distance of 92.23' to a rod, then south
2554 3° 51'59" west for a distance of 176.36' to a rod, then south 3°16'31" west for a
2555 distance of 844.64' to a rod, then north 64°42'01" east for a distance of 621.42' to a
2556 rod, then south 20°53'54" east for a distance of 18.00' to a rod, then northeast for a
2557 distance of approximately 370' ± along the centerline of a creek to a rod, then north
2558 83° 33'57" west for a distance of 166.41' to a rod, then north 6°17'54" east for a
2559 distance of 147.92' to a rod, then north 83° 7'53" west for a distance of 64.41' to a
2560 rod, then north 1°56'08" east for a distance of 80.41' to a rod, then north 85°17'52"
2561 west for a distance of 55.24' to a rod, then north 4°6'11" west for a distance of 318.33'
2562 to a rod, then along the south line of Old Oakland Road south 87°36'46 west for a
2563 distance of 432.82' to a point marked by a rod and the place of beginning, containing
2564 12.7± acres.

2565
2566 Mr. Archer - Is there any one here in opposition to C-20C-01? We
2567 have opposition. Is there someone else? Thank you, ma'am. We'll get to you. All
2568 right, Mrs. Hunter.

2569
2570 Mrs. Hunter - Thank you, Mr. Chairman. This subject request would
2571 rezone 12.7 acres from A-1 Agricultural District to R-3C One Family Residence for a
2572 32-lot subdivision. The property is located on the south line of Old Oakland Road,
2573 approximately 600 feet west of Oakvale Street.

2574
2575 On the western boundary of the property is Foxboro Subdivision, which is an existing
2576 subdivision, developed probably sometime in the seventies. To the south is Foxboro
2577 Downs, which is a subdivision that is currently being constructed. The roads are being
2578 cut in and some houses are under construction now.

2579
2580 To the north is Old Oakland Road, which is characterized by predominately larger lots
2581 than the R-3 typically allows with homes fronting Old Oakland Road. And then to the
2582 east, you have some vacant R-5 zoning.

2583 The requested zoning classification of R-3 would allow lot sizes of 11,000 square feet,
2584 and a minimum lot width of 80 feet.
2585
2586 The 2010 Land Use Plan designation is for Suburban Residential, which allows 1.0 to
2587 2.4 units per acre. The applicant has not proffered this conceptual plan, but it does
2588 show 32 lots.
2589
2590 The R-3 District could allow densities up to 3.96. The 32 lots would be a density of
2591 2.52, which is slightly above the recommended density of the Land Use Plan.
2592
2593 The School Planner has indicated that Baker Elementary School is over capacity at this
2594 time, and, therefore, staff recommends that the density should fall within the
2595 recommended range of 1.0 to 2.4 units per acre.
2596
2597 Staff also believes that this would help blend the subdivisions between the R-3 on the
2598 north and the south, and the larger lots along Old Oakland Road.
2599
2600 The applicant did submit revised proffers to which the standard language has been
2601 included regarding cantilevered chimneys, and slab construction.
2602
2603 Most rezoning cases also include a proffer for brick foundations. A majority of the
2604 homes in the area have brick foundations and this would help to ensure consistency of
2605 quality with adjacent development.
2606
2607 Staff would also recommend deletion of Proffer No. 8, which states that there would be
2608 uniform mailboxes. Staff believes this is best addressed in restrictive covenants, and
2609 not as a proffer.
2610
2611 Overall, residential development of this site is appropriate. However, staff has
2612 concerns with the density, the lack of brick foundations, and would recommend
2613 deletion of Proffer 8. If the applicant can address these staff concerns, staff could
2614 recommend approval of this request. I'd be happy to answer any questions.
2615
2616 Mr. Archer - Thank you, Mrs. Hunter. Are there questions?
2617
2618 Mr. Vanarsdall - What's the date of these revised proffers?
2619
2620 Mrs. Hunter - They came in on Monday, so we don't have to waive the
2621 time limit.
2622
2623 Mr. Vanarsdall - Monday?
2624
2625 Mrs. Hunter - April 8th.
2626

2627 Mr. Vanarsdall - Okay. Thank you.
2628
2629 Mr. Jernigan - All right, Mrs. Hunter, they have said that they would put
2630 in brick foundations?
2631
2632 Mrs. Hunter - I have not seen that yet.
2633
2634 Mr. Jernigan - Well, we've got a verbal. Mr. Davis is here.
2635
2636 Mrs. Dwyer - What specific density changes are you recommending in
2637 terms of the proffer language? Is there anything that you can specify the number of
2638 lots?
2639
2640 Mrs. Hunter - I would encourage they proffer a number of lots. Right
2641 now, they're showing 32. If they dropped it to 31 lots, that would get it to 2.44. My
2642 recommendation would be for 30 lots, which would put it under the 2.4. And it also
2643 would help improve the layout. Some of the lots have smaller building envelopes.
2644
2645 Mr. Jernigan - They told me you had trouble with three lots on there.
2646 One, two, and 24, I believe is the other one you said?
2647
2648 Mrs. Hunter - You can see (referring to slide) the applicant was kind
2649 enough to draw in building envelopes for us, since this issue has come up. You can see
2650 this one, the way its on the corner. It has a very tight envelope. These lots, 1 and 2,
2651 this is a RPA line here (referring to slide), so their entire backyard would be within
2652 that. There's also some concerns with this here (referring to slide) being a blind curve
2653 and having a driveway here (referring to slide). So, the reduction of two lots could do
2654 a lot to improve the layout of this subdivision.
2655
2656 Mr. Jernigan - You're saying Lot 32 is blind? Being blind, those
2657 driveways would have to be where they pull out, not backing out on Oakland Road.
2658
2659 Mrs. Hunter - I'm not sure if we could regulate how people back out. I
2660 mean, ideally, I guess it would be a circular entrance or something like that.
2661
2662 Mr. Jernigan - Well, it doesn't have to be circular. You can just have an
2663 area to where you can back up, you know, a little extra gravel or a hard surface
2664 whichever is over there. You're not supposed to back out onto a County road anyway.
2665
2666 Mr. Silber - Really? I think it would be hard to regulate. I agree with
2667 you, Mr. Jernigan. I think that would be the preferred way of doing it, especially with
2668 that curve. I don't know, even at time of subdivision, if we should be trying to require
2669 that. We certainly can talk to the applicant and there may be some ways of addressing
2670 that.

2671 Mr. Jernigan - Mrs. Hunter, what is the density in the other two
2672 subdivisions?
2673
2674 Mrs. Hunter - Both of these are R-3 subdivisions. The ones along Old
2675 Oakland, as you can see, those are much larger lots and these are developed fronting on
2676 Oakland. I have not gone and figured out the density of all these. I think the applicant
2677 has figured out the density of Foxboro Downs, and Foxboro, and they're about 2.5 and
2678 2.6. But, I think, if you looked at Old Oakland, that density would be much lower.
2679
2680 Back in the 70s, this was zoned back at that time, also. So we had no control at that
2681 time over the density on those subdivisions.
2682
2683 Ms. Dwyer - Are you suggesting that this be a transition between those
2684 two densities?
2685
2686 Ms. Hunter - Yes.
2687
2688 Mr. Silber - Mr. Jernigan, when the two existing subdivisions were
2689 zoned and subdivided, or certainly zoned, we had a different Land Use Plan at that
2690 time. The Land Use Plan for single family was just called low density residential and
2691 allowed you to go to a density of about 4-1/2 units per acre. So, we now have a
2692 different land use plan that recommends SR-1. There are two types of Suburban
2693 Residential densities, and this is the lower of the two, so this allows a density of up to
2694 2.4.
2695
2696 Ms. Hunter - There is some SR-2 designations in this area up here, but
2697 this area is all now SR-1.
2698
2699 Mr. Silber - You might want to go to the Land Use Plan and show
2700 that.
2701
2702
2703 Mrs. Hunter - Yes, this is the SR-2 here (referring to slide).
2704
2705 Mr. Archer - Okay. Any further questions? All right, we need to hear
2706 from the applicant. Mr. Silber, I guess we better remind everyone about the time rules
2707 again.
2708
2709 Mr. Silber - Mr. Stout, maybe just to remind you, we are keeping a
2710 clock, and you will have 10 minutes. Do you want to save some of that time for
2711 rebuttal?
2712
2713 Mr. Stout - Yes sir.
2714

2715 Mr. Silber - How much time would you like to save?
2716
2717 Mr. Stout - Just go along with me here for a second, and I will try to
2718 be as quickly as possible. I just want to address the questions brought up, and move
2719 right along and give the protestants an opportunity to speak.
2720
2721 Mr. Silber - Okay.
2722
2723 Mr. Stout - I am a little nervous because I haven't spoken before you
2724 all before. I would like to first address the density issue. I would begin by reiterating
2725 what JoAnn said that the property to the north is zoned R-3. The property to the west
2726 is zoned R-3. The property to the south is zoned R-3. The property to the southeast is
2727 zoned R-5, and then directly to the east, where the residue parcel is left is A-1. So the
2728 property is surrounded by higher density properties, except for the A-1 that's directly to
2729 the east of the property.
2730
2731 What we did was we took the subdivisions around there, and I have a copy (gives
2732 copies to the Commission). The average density when all of the properties, the lowest
2733 density around us is 2.5, and we are proposing 2.52. It really is 2.51, so we are very
2734 compatible. The other densities are 2.66, 2.87, and 2.61. So the proposed density
2735 being proposed is very compatible with the existing residential subdivision around the
2736 proposed project. So, therefore, we have requested the 32 lots, which is compatible
2737 with the existing, and I am stating existing subdivisions around us. And, of course, the
2738 properties to the southeast, which is zoned R-5, would be even greater yet. So, it
2739 would even bring the density up higher.
2740
2741 The offered lots and the reason that I put the concept up here, this is just up here as a
2742 concept to show you all how houses could fit on the property. I have given you some
2743 example houses. Up in through here (pointing to map), they are typically 40 x 30, 40 x
2744 28, 40 x 26, just to show you. We had building envelopes shown on there. And, what
2745 I have done is, I have placed houses in the general nature, and these houses are
2746 compatible with the size of houses all around in the neighborhood. And I have placed
2747 houses in everyone of the envelopes that has been proposed.
2748
2749 The minimum width permitted, and I thought that this lot here was tight (referring to
2750 slide), and the lot here tight (referring to slide). I will give you that number. I am
2751 sorry I can't see it from here. I thought I would be able to.
2752
2753 Anyway, the minimum envelope is 30 foot in depth, so Lot 1 has a depth of 30 feet.
2754 Lot 24 that's a concern is 30 feet. And then the lot here, Lot 18, I believe it is,
2755 because I have a different concept plan, is also 30 feet. So that typical houses in the
2756 area can fit on the envelopes.
2757

2758 And I would also point out that this is conceptual. This is before we've done actual
2759 engineering on it. So, with that, and actual location of the boundary and the RPA line
2760 and the curvatures of the road, we'll be able to possibly even increase the building
2761 envelope. So, I would point all of this out. That is why we are asking for the 32 lots,
2762 which would make it compatible with the existing neighborhood.

2763
2764 With regard to the foundation, we have talked this evening. and we would proffer that
2765 the foundations be brick.

2766
2767 With regard to the mailboxes, we can put that as part of the covenants. I have no
2768 problem with removing that from the proffers, as being proposed. And with that, I'd
2769 answer any questions.

2770
2771 Mr. Archer - Thank you, sir. Are there questions from the
2772 Commission?

2773
2774 Mr. Jernigan - All right. On Lots 1 and 2, the RPA line comes up close
2775 to the back of the house.

2776
2777 Mr. Stout - Yes, sir. And this is an approximate location of the
2778 stream, so that I don't know the exact location. That is approximate based off of the
2779 County topo map, which could have been changed by now.

2780
2781 Mr. Jernigan - I don't have any more questions.

2782
2783 Mr. Archer - Does anybody else have any questions?

2784
2785 Mr. Stout - Just one last point. The density that I gave you, the
2786 average density, the comp plan calls for 2.4. R-3 permits the 3.9. But we are closer to
2787 both the general development plan and the existing density in the area. And that is all
2788 that I have.

2789
2790 Mr. Archer - Thank you, sir. You have about five and a half minutes
2791 left for rebuttal if you need it. All right, we will hear from the opposition, and please
2792 remember that the same rules apply, ten minutes for the opposition. If there is more
2793 than one speaker, kind of reserve your time.

2794
2795 Mr. Jeremy Rowan - Good evening. My name is Jeremy Rowan, and my wife,
2796 Stephanie Rowan, is here. And also Mrs. Porter and her father graciously allowed me
2797 to speak in opposition of this proposal. I have a petition here, as well, which I would
2798 like to give you all copies of and the signatures.

2799
2800 Of course, some of the data that we are arguing over has changed since I first drew up
2801 this petition, and I would like to read it, if I can. "This petition hereby opposes the

2845 definitely productive. Just because you have to have a house there doesn't necessarily
2846 mean that this is productive.

2847

2848 So, I have spoken about the environmental impact. I am also very concerned about the
2849 schools that are already over capacity in this area. As the lady already stated, Baker
2850 Elementary School is over capacity and by their count it is 388, and right now it is 394.
2851 And the minimum we are talking about here is a yield of 14 that would increase. And I
2852 think that number is on the low end.

2853

2854 I also think that the quality of the subdivision here that we are talking about, we have
2855 used words here, tonight, like "areas of open space" and "character." And this area
2856 has a lot of character, but no one is really speaking to that. And, what we are talking
2857 about here are houses that are going to be built on the maximum side of the density that
2858 is proposed, over 2.4 acres rather than any of the minimums.

2859

2860 This proposal doesn't even consider any of the acreage on Oakland Road where my
2861 wife's house is and where the lady's house is, as well. We bought these homes,
2862 maintained them, pay our taxes, pay our mortgage. And none of that is taken into
2863 consideration; the fact that we bought properties intact with large acreage, and that is
2864 not considered here. It is as if our homes don't even exist in the plan because it wasn't
2865 considered it whatsoever.

2866

2867 The road, which is going to enter from Oakland Road, is directly in front of my home.
2868 The lights that would shine in the evening coming out of that subdivision would go
2869 directly into my bedroom window. So, it is as if that has not even been considered
2870 whatsoever. Neither have the safety concerns of the 90 degree bend or the EPA impact
2871 here.

2872

2873 Of course, there is going to be runoff coming from the subdivision. There is going to
2874 be soil degradation and loss there. And my land is going to be directly downstream
2875 from that, so I am affected by it. My way of life is affected by it. And I have the
2876 signatures here of 27 other landowners on this road that are also affected by it that
2877 could not be here tonight because some of them are 90 years old. My neighbor, for
2878 instance, his wife can't even leave the home. So, they are not able to be here tonight.
2879 I speak for them.

2880

2881 So, I plead with the County, tonight, to consider us in this plan, because nobody
2882 contacted us to ask us what we thought of this proposed subdivision. We were not
2883 contacted whatsoever.

2884

2885 I only got a letter from this two and a half weeks ago to try to form some opposition
2886 against it. That is really not enough time. I noticed the actual proposal here. The date
2887 on it is March 1st. So, within a month and a half time, we are here deciding the fate of
2888 this land for good.

2889 And, I am worried that, what we are talking about here, this low income-type housing
2890 that are going to be built now, in 30 years, are going to be slums that we are all going
2891 to have to deal with, because they are houses of the lowest standard possible. Not like
2892 these houses that we are talking about with TwinHickory, where they are \$300,000 to
2893 \$400,000. Unfortunately, they don't build those kinds of houses in my neighborhood.
2894 They build the bare minimum, and we have to deal with that.

2895
2896 So, I hope we can take all of these things into account, tonight, in the decision that's
2897 made. And, I hope that more time can be taken to consider it all. I don't think the
2898 proffers really address what is needed here, or the impact on the environment in this
2899 area. And I have no idea, really, what these houses truly are going to look like or the
2900 end result. And there are no proffers considering landscaping, or trees, or how these
2901 things are going to be laid out and how they relate to us. It is only considering
2902 Foxboro; that Subdivision, and their high density.

2903
2904 And I will tell you, if you drive through that neighborhood, those houses were built in
2905 the 1970s. They are falling apart. They are a disgrace. There isn't one tree, one
2906 bush, one shrub, one flower, planted on any of that land. It is scorched earth. And
2907 that is what is going to become this land here that was once productive land.

2908
2909 Unfortunately, Mr. Stout and the development here don't consider this productive land.
2910 But I have to speak for it in terms of it and its character and the integrity that it has.
2911 What we decide tonight, decides the fate of it all.

2912
2913 Unfortunately, we don't see the whole development plan here in Varina. You don't see
2914 I-895 that's being built through. You don't see the subdivisions surrounding us in
2915 every direction. I feel like, you know, it is sort of like a cannon is forced at us; the
2916 guns, you know. It is the retreat of Richmond all over again.

2917
2918 Mr. Archer - Excuse me, Mr. Rowan, was there anyone else who
2919 wanted to speak, because you only have about a minute left.

2920
2921 Mr. Jernigan - A lady back here.

2922
2923 Mr. Rowan - I'd like to ask questions of the developer when he comes
2924 up.

2925
2926 Mr. Archer - We can handle that part of it. But is there somebody else
2927 who wanted to speak.

2928
2929 Mr. Rowan - And I don't know if you have any questions for me.

2930
2931 Mr. Archer - We very well may, but I didn't want you to use up all of
2932 your time without being aware of it.

2933 Mr. Rowan - Okay.
2934
2935 Mr. Archer - You don't need to speak, ma'am? Okay. Thank you.
2936
2937 Mr. Jernigan - Mr. Rowan, what you would like to see happen to the
2938 land?
2939
2940 Mr. Rowan - Well, I kind of feel like this has already been decided
2941 tonight. This is just a formality of sorts. Obviously, the developer, they have money
2942 and I don't. They have all the power and I don't. So, what we are talking about here
2943 is the maximum development of this land that they can possibly squeeze into it. And
2944 we are asking for consideration of our land on Oakland Road and larger acreage that we
2945 have. So, I am asking that the homes that are fronting it be eliminated; that the
2946 driveways that would be fronting it and creating that hazard not be a consideration at
2947 all. I think, you know, we are not talking about paved driveways here. We are talking
2948 about rock and gravel that is going to spew out onto the road and create a hazard as
2949 well.
2950
2951 We talked about driveways a little bit, and I don't know anything in terms of the quality
2952 of these homes; how they are going to relate to the qualities of our homes. They are all
2953 brick. They are all masonry. They are all on large lots. They are well landscaped.
2954 They have mature trees. Is any of that going to be considered in this plan, I wonder?
2955
2956 Mr. Jernigan - When I spoke to you earlier today, you had concerns that,
2957 before we saw this last plan, you'd be looking at the backs of the houses.
2958
2959 Mr. Rowan - Right.
2960
2961 Mr. Jernigan - Now, with the new plan, you are looking at the front of
2962 the houses.
2963
2964 Mr. Rowan - To be honest with you, what I was concerned about, I
2965 wanted them to be on a cul-de-sac that didn't enter into Old Oakland at all. There are
2966 already two entrances from Foxboro and the other subdivision here. I don't really
2967 understand why they need a third entrance. I don't know too many subdivisions that
2968 have that many entrances and exits.
2969
2970 Mr. Jernigan - I don't think fire and rescue and the police are going to go
2971 with just that entrance coming in through the other subdivision.
2972
2973 Mr. Rowan - Well, if it has to be there, then I hope it can be relocated
2974 in a center area, not directly fronting my property or my neighbor's property.
2975

2976 Mr. Jernigan - I mean, do you have an objection for the subdivision
2977 altogether?

2978
2979 Mr. Rowan - Well, yes, I do. Essentially, I do, for that altogether. But
2980 we are already talking where the subdivision is going to happen. Well, I have to have
2981 concerns about how that subdivision is going to be placed; how it is going to be laid
2982 out, and how it relates to my property.

2983
2984 When my wife and I built this, there was corn growing over there that we are talking
2985 about. It wasn't homes. If I had to consider it all over again, I am not sure whether I
2986 would have bought a house and having lived in it 10 years, and spent \$50,000 trying to
2987 restore an old Spanish Mission house, if I knew this was going to be here. I don't think
2988 my neighbor here who bought her house within the recent months would have bought it
2989 if she had known this subdivision was going to be here.

2990
2991 So, what we are asking for is some relief. We are asking for more time, that we have
2992 some input on how this is going to be laid out and how it relates to us, not just
2993 Foxboro, because those people have been there since the 1970s. They are accustomed
2994 to the higher density living. We moved out there for a different quality of life, a
2995 different character, and that's disappearing. This is the last tract of land for miles that
2996 we are talking about here. Once its gone, its gone.

2997
2998 Mr. Jernigan - As I explained to you earlier today, Varina has the raw
2999 land in this county and it is going to be improved. I can see where you're coming
3000 from.

3001
3002 Mr. Rowan - But we are asking for a little bit of relief. And those
3003 houses being removed on Oakland Road, that would be a consideration to us. That
3004 would give us a little bit of breathing space that we might be able to live with.

3005
3006 Mr. Jernigan - The houses being what now?

3007
3008 Mr. Rowan - We were talking about the houses being too high density
3009 for this area.

3010
3011 Mr. Jernigan - Okay.

3012
3013 Mr. Rowan - Proposed 2.4. I am asking that the houses that are
3014 fronting on this proposal for Old Oakland Road be removed from that plan; not be
3015 considered. And I ask that the road that is coming off of Old Oakland be moved over
3016 to a center point where it is not directly in front of either of our homes, because I don't
3017 think that is fair to us having to deal with the traffic barreling straight out in front of
3018 our house. Every time we come in and out, we are also going to fight that traffic.

3019

3020 Mr. Archer - Mr. Rowan, you did indicate you did not have an
3021 opportunity to talk with anyone at all about this?
3022

3023 Mr. Rowan - No one talked to us whatsoever.
3024

3025 Mr. Archer - Not the developer?
3026

3027 Mr. Rowan - It was sprung on us at the last possible minute. I had
3028 hardly any time to even get this petition together to get signatures.
3029

3030 Mr. Archer - Yes. I noticed that there are about 15 households
3031 represented on the petition and probably 27 names, I believe.
3032

3033 Mr. Rowan - That's right.
3034

3035 Mr. Archer - Do you all have any kind of an Association that you could
3036 get together to...?
3037

3038 Mr. Rowan - There is an environmental association. If you notice, they
3039 are on the receiving list of this mail, and I have been trying to contact them.
3040

3041 Mr. Archer - I am talking about people in your neighborhood, the ones
3042 that signed this petition.
3043

3044 Mr. Rowan - No. Unfortunately it is a rural area. And, being so, they
3045 generally don't have these associations. People know each other as neighbors and
3046 friends. They don't feel like they have to have a formal relationship like that. They
3047 stick together when need be like in these circumstances.
3048

3049 But, obviously, we need an association badly, because no one is really representing us.
3050 I think we are the people the County forgot for a long time until this land became
3051 valuable to build on. The west end is maxed out. There is nowhere left to build there.
3052 We joke everyday. It is east Charlottesville, you know. I wonder sometimes where
3053 Short Pump is. It is cleared to the point that I might be able to see Monticello one day.
3054 And, now, I am wondering, on our end of town, maybe we will be able to see the
3055 Chesapeake Bay, because it is all going to be leveled. I am asking; I am begging for
3056 relief here.
3057

3058 Mr. Silber - Mr. Rowan, if I can maybe just comment on a couple of
3059 your points, tonight. I think there are a few basic things you need to know, and then I
3060 would make a recommendation that you meet with the developer. Whether this goes on
3061 to the Board or if it is deferred tonight, let me say that this is not the final action. The
3062 Planning Commission is a recommending body. They will be making a
3063 recommendation to the Board of Supervisors. There will be another public hearing and

3064 another opportunity to express yourself. If it gets deferred tonight, there may be an
3065 opportunity for you to work with the developer and, perhaps, have him address some of
3066 your concerns.

3067
3068 But, let me point out a couple of observations. One is that, there is R-3 zoning on three
3069 sides of this piece of property. That is a fact. In R-3 zoning they have a right to
3070 develop that piece of property up to approximately 2.4 units per acre. It's 11,000
3071 square feet per lot. In fact, your property is zoned R-3, and your property may be
3072 much larger than 11,000 square feet, but you, in fact, could subdivide your property
3073 and have 11,000 square feet per lot.

3074
3075 Mr. Rowan - But in all honesty, it wouldn't be realistic to do that
3076 whatsoever. My property is on a slope facing a creek and marshland. It has an open
3077 spring which percolates from the ground, which is also all the water that people drink
3078 in that area is directly related to the aquifer.

3079
3080 Mr. Silber - Okay. Let me finish, if I could, please. So, you do have
3081 zoning on your property. And, I think that is a fact you need to be aware of. Also, the
3082 County adopts a long-range land use plan that is supposed to help guide the County in
3083 making land use decisions.

3084
3085 We recognize that the County will be growing in the future. It is a popular place to
3086 live. You have moved into this area, also. The Land Use Plan recommends this area
3087 be developed in a fashion pretty similar to what has been filed here. It is not to say that
3088 there could not be some changes and modifications made to the layout, even density.
3089 The staff is recommending the density is still too high. We are recommending fewer
3090 lots.

3091
3092 But, my point is, that this property in this area is slated to be developed in a fashion
3093 very similar to what's been filed. So, my advice to you would be to work with the
3094 developer within the constraints of the existing zoning, the long-range Land Use Plan
3095 the County has adopted, and attempt to work out some of the issues that more greatly
3096 impact you directly and your neighbors directly, because there could be some things
3097 done here to lessen the density slightly, to move or adjust roads, provide perhaps some
3098 larger setbacks for dwellings, so that maybe they are not right up on Old Oakland. I
3099 think there are some things that can still be worked on. But I think you need to
3100 understand, and start from the premise that this person has the right to develop their
3101 property, and it is being proposed to be zoned for a subdivision that is very similar to
3102 what exists in the area.

3103
3104 Mr. Rowan - Well, I understand the zoning areas that are involved here.
3105 But, when I do see that there is a band width between one acre and 2.4, my question is,
3106 "Why does it have to always have to be on the opposite end? Why does it have to be
3107 on the maximum side?" Earlier, we discussed with these higher quality and higher

3108 priced developments, we are never talking about the maximum density. They offer to
3109 do lower density, because they want to get a higher price for their homes. They want
3110 to have a higher quality of life for their residents. And that is what I am appealing for,
3111 as well.

3112
3113 We have a higher quality of life because of the lower density per acre on our land, and
3114 that is what I am appealing for, for this land as well. Obviously, yes. It is going to be
3115 considered. There are going to be houses built here. But, what I am appealing to is,
3116 why does it have to be 2.4 acres, or right on the border line of that? Why can't we do
3117 something where there is a reasonable space, and there is some open area left? And I
3118 ask if houses are going to be removed from the plan, that they be on our side, because
3119 Foxboro is already built to that standard and Old Oakland should be, if this road is
3120 going to open up on our side into our area. Our homes have to be considered into that,
3121 and factored in. Really, all of the homes in our area are entirely made of brick or
3122 masonry, at least within that half mile radius of where this is concerned. And, I do
3123 believe that ought to be taken into consideration. Not just a brick foundation, but,
3124 obviously, a brick home is better quality. It is going to last, and it has that appeal to
3125 people just as it appealed to us when we bought our homes.

3126
3127 Mr. Jernigan - Mr. Rowan, when I was down there yesterday, and after I
3128 talked to you this morning, I was back down there again. The house that is right up on
3129 the corner where the 90 degree turn is, is a big brick house. The one directly across
3130 the street is brick. And the one on that lot next to the subdivision is brick. Going
3131 down that road, there your house is a textured masonry house. The other homes down
3132 there are all lapboard or either vinyl siding, and there's two cedar homes. So, the only
3133 brick homes are right; is the three right around you. Am I correct?

3134
3135 Mr. Rowan - That is correct. That is why I do feel that those homes
3136 would I hope would be taken into consideration in the planning, at least the ones that
3137 front Oakland Road. I am not necessarily stating that every home in that subdivision
3138 has to be brick, but, perhaps, the ones that are fronting us, if they are going to be
3139 constructed there, should reflect the quality of the homes that we have, and that type of
3140 design.

3141
3142 Like I said, I think I have legitimate concerns in terms of the safety of that hairpin turn
3143 there. How that is going to reflect on the homes that are built there. I have nothing
3144 against the people that are going to live there. But they are going to have deal with
3145 safety issues, trying to make a left turn onto Old Oakland Road, and immediately facing
3146 a 90-degree bend, where we have tractor trailers that take that road routinely, trying to
3147 cut from Route 5 down to Darbytown and back to Laburnum. And that is something I
3148 guess they're are going to have to deal with. I sincerely worried for their public safety.

3149
3150 Mr. Archer - Excuse me, sir. I think your time is up. We let you run a
3151 little over, because I know you wanted to express yourself. I think we are approaching

3152 the time where we do need to make a decision on this. I don't know if the applicant has
3153 any rebuttal that he would like to make.

3154

3155 Mr. Jernigan - You know, Mr. Rowan, when I talked to you earlier, I am
3156 not sure I told you this, but I want to tell you now. In a situation like this, even if we
3157 get approval tonight, that means that there is going to be a subdivision there. But that's
3158 not the final end to it. It has to go through POD, where the conditions and everything
3159 come in on the homes. So, I just want you to know this is the big picture, and then the
3160 finer prints come in later on the plan of development.

3161

3162 Mr. Stout - I am sorry. One of the things that I did not mention
3163 before was that the developer is willing to proffer the number of lots. I will tell you the
3164 reason we didn't originally was, because the residue parcel that's right here (referring
3165 to slide) is under contract with the people that own the R-5 property to the southeast of
3166 us. And we weren't sure what was going on with the whole thing. And that's why we
3167 were sitting there on the fence, not knowing what was going to occur. But Jo Ann and
3168 I have spoken about it. And we can add the number of lots and density to the proffers.
3169 I would note that for you.

3170

3171 Second off is, I've met with both Planning and with Traffic Engineering with several
3172 different alternatives. One offered a buffer strip along Oakland Road, with lots backing
3173 onto it. Another one offered a through road onto Oakland Road, up here, to try to get
3174 closer to the hairpin road, and try to make some kind of transition there. And this
3175 modification right here that's shown, (referring to slide) is based on what was
3176 recommended by Traffic Engineering. And, that the lots fronting on Oakland Road and
3177 the cul-de-sac are both recommended by Traffic Engineering.

3178

3179 Traffic Engineering is the one that asked us if we would put the road over to the side
3180 here, in case this property is developed, so they would have access out onto an interior
3181 road right on Oakland Road. It wasn't just at a whim. We have met with the various
3182 agencies to develop the property. We didn't just walk off on our own to come up with
3183 what we've done.

3184

3185 He mentioned the school. The elementary school is slated for upgrade by 2004. I
3186 think everybody else has said everything else.

3187

3188 Mr. Archer - In light of what you have heard here tonight, and their
3189 basic objections, would you be willing to meet, if you and Mr. Jernigan so desire, to
3190 meet with the people who signed the petition to see if you can compromise a little bit on
3191 what is being done here?

3192

3193 Mr. Stout - What I have heard this evening is, "We don't want lots to
3194 back onto Oakland Road, and we don't want lots that front on Oakland Road. We
3195 don't want lots." I am willing to try to compromise in there somewhere, but the

3196 immediate answer is “yes”. But, from what I heard, “We don’t want the property
3197 developed.”

3198
3199 With regard to the road coming out across from the house, I don’t remember the
3200 situation. Although I have been out to the site, I just don’t remember how it is. We
3201 could possibly offer, or talk to him about putting some screening there, maybe some
3202 pine trees or something else.

3203
3204 And with regard to the lot on the corner there, we have already discussed, and you can
3205 see here that I showed pine trees for buffering to make a barrier there. So that, when
3206 people are coming down the road, right now, when you come down the road, it just
3207 continues. But, if you put some kind of obstacle there like we were talking about, the
3208 idea of putting a berm from some of the dirt that we removed from the road, to put a
3209 berm on the curb and put pine trees on the berm, in order to make people slow down
3210 for that hairpin curve. We have discussed it. And I know it was not a thing that you
3211 could proffer, but we have considered the need for doing something.

3212
3213 Mr. Jernigan - On Lot 32, you could very well have somebody sitting in
3214 your driveway.

3215
3216 Mr. Stout - Yes, sir. And that’s why I decided that we could berm
3217 here and put pine trees, both, because the pine trees would offer a visual, and the berm
3218 would offer protection.

3219
3220 Mr. Jernigan - Could you live with 31 lots? Mr. Davis, did you want to
3221 make a comment on something?

3222
3223 Mr. Gene Davis - I am Gene Davis, FDS Management. First of all, I would
3224 like to assure you that we do quality developments within the parameters of the zoning.
3225 And I would like to tell this gentleman I would be happy to meet with him. He has not
3226 contacted me. And I would ask the Commission that we would proffer the number of
3227 lots. That we would proffer the brick foundations. And that I would be willing to meet
3228 with these gentleman and the other people on the petition between now and the Board of
3229 Supervisors, which we know it all has to go to, And I would be willing to cut back to
3230 31 lots.

3231
3232 Mr. Jernigan - That would cut the density to 2.44.

3233
3234 Mr. Davis - That would. Yes, sir. And like Mr. Stout said, I know
3235 he has talked to all of the agencies in the County and they are the ones that suggested
3236 this layout, as far as Old Oakland Road was concerned, because we had some
3237 conceptals to start with that were different. And, obviously, we’ve got to work with
3238 all County staff as far as roads are concerned and the layout, and everything else, as we

3239 all know, and he knows, too, that this is not cast in stone tonight. It has got to go to
3240 the Board of Supervisors, have a POD and all that.

3241

3242 Mr. Rowan - Mr. Stout told me it was pretty much in stone...

3243

3244 Mr. Jernigan - Well, this is a concept.

3245

3246 Mr. Davis - Yeah. Absolutely. We want to work with everybody, but
3247 we want to use our property. And I am certainly willing to meet with these gentlemen,
3248 and the other people on Old Oakland Road.

3249

3250 Mr. Jernigan - Mr. Rowan, the people that signed the petition, were they
3251 kind of in the mood, too, that they just didn't want to see anything there?

3252

3253 Mr. Rowan - That is what I gathered. The people that live on Old
3254 Oakland Road have been there for 15 years or more. And there are some elderly
3255 people that are trying to retire now. And they are trying to get a little peace and quiet,
3256 really. I am sure they don't want to hear bulldozers at 6:00 in the morning for the next
3257 two years, or however long it takes for this development to be completely built. It is
3258 my own fault that I ran on and didn't really defend this land the way I should. That's
3259 what I needed. Maybe I should have hired a lawyer to cover for me tonight, because I
3260 didn't really talk about the EPA concerns at all that I have or the environmental impact
3261 on all the homes that are going to be built in this area. It is very sensitive.

3262

3263 But, if the development has to be made, I do strenuously ask that the homes that are on
3264 Oakland Road here that are proposed not be considered. They are the ones that should
3265 be removed. And that the homes that are facing Almond Creek area on the back end
3266 have to be situated in such a way where the grass runoff and fertilizer aren't going to
3267 go directly into Almond Creek and feed downstream. I am extremely concerned about
3268 that.

3269

3270 I think with the adjacent subdivision, they are treating it like it is a runoff ditch. There
3271 is a, I don't know what you call it, a cesspool, that has been built adjacent to it, and I
3272 am very concerned about the environmental impact here.

3273

3274 Mr. Jernigan - You know, staff studies that.

3275

3276 Mr. Rowan - I understand that.

3277

3278 Mr. Jernigan - Okay. So, that the Henrico staff will take that into accord.
3279 As I explained to you earlier today, when somebody wants to put up a subdivision and
3280 they fall within the guidelines of the law, there is not much that I can do about it.
3281 There is not much any of us can do about it. The law is the law. That is the reason
3282 ordinances are set up.

3283 Now, as I explained to you earlier, if we get approval on this tonight, it comes back to
3284 POD. Between that time, and it has to be approved by the Board of Supervisors after
3285 us. There is time for you to talk to the developers and see what you all can work out
3286 on this. But, like I said, at this point, they are legal.

3287
3288 Mr. Rowan - I understand that. Something I didn't get a chance to
3289 introduce I hope you might be able to take a look at your leisure. I took photographs of
3290 all of the other subdivisions immediately adjacent to this, and all of the homes that are
3291 for sale that are also adjacent to these properties. Where Varina Point is, every single
3292 home that is on the frontage of Oakland Road, is up for sale. People are selling out in
3293 this area, because they can't stand to see it developed this way. They can't see it
3294 getting destroyed. And the things they moved out there for are just disappearing. You
3295 might be able to take a look at these.

3296
3297 Mr. Archer - Excuse, Mr. Rowan, if you would like to pass those up,
3298 so Mr. Jernigan can have them. We will take them, but we can't--We have two more
3299 cases to hear tonight. We can't prolong this discussion much more. Mr. Jernigan.

3300
3301 Mr. Jernigan - Well, as I explained to him earlier, this subdivision falls
3302 within the parameters of the law. It is not apartments going up there. It is single-
3303 family dwellings. They have considered to knock it down to 31 lots, which will give it
3304 a density of 2.44.

3305
3306 I am going to make a motion that we approve the case C-20C-01 for FDS Management
3307 on the conditions that were stated tonight, the 31 lots and brick foundations, and that
3308 you people get together and discuss things you can do. But, Mr. Rowan, I don't see
3309 any feasible way that they can knock four or five houses off this subdivision and make
3310 it profitable. And what you were saying earlier about having the bigger homes, as we
3311 were talking about Twin Oaks, nobody is going to come in and put a \$200,000 home in
3312 next to a \$120,000 home. They are not going to do it. People build generally the same
3313 as that is in the area, and I am sure you will agree with that. Right?

3314
3315 Mr. Rowan - Yes, I do.

3316
3317 Mr. Jernigan - Okay. They're not going to put nine lots in there and put
3318 up a \$250,000 home, because, first of all, everybody in the subdivision around it is
3319 going to be mad because it is going to blow their taxes up. So that is another thing.
3320 But, anyway, I make that motion.

3321
3322 Mr. Taylor - I will second that motion with a few comments that occur
3323 to me here in terms of the development. I think it's incumbent on everybody in the
3324 neighborhood to work with the developer to come up with a reasonable alternative plan
3325 that includes some of the amenities that we have discussed in previous cases, because
3326 one of the concerns that I hear from Mr. Rowan is really with regard to staying with

3327 the character of the neighborhood. I think attention has to be given to that, and even to
3328 the size, and even the intensity of the lots and the arrangement of the lots. So,
3329 additional work, I think, both on behalf of the developer and on behalf of the
3330 community, and some additional quality of life and quality development features can
3331 make this into a project that is characteristic of the neighborhood and in keeping with
3332 the nature, natural aspects, and the agrarian nature of the site. With that, I will second
3333 Mr. Jernigan's motion.

3334

3335 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Taylor. All
3336 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
3337 abstained. The motion carries. Mr. Rowan, just for your information, the Board will
3338 meet on this recommendation on what date, Mr. Silber?

3339

3340 Mr. Silber - It will be May 8th.

3341

3342 Mr. Archer - May 8th in this place, 7:00 p.m. All right, next case.

3343

3344 REASON: Acting on a motion by Mr. Jernigan, seconded by Mr. Taylor, the Planning
3345 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors
3346 **grant** the request because it represents a logical continuation of the one-family
3347 residential development which exists in the area; and it would permit infill development
3348 with the proper connection for roads and other public facilities.

3349

3350 **Deferred from the March 8, 2001 Meeting:**

3351 **C-17C-01 L. Anderson Hughes, Jr. for Deborah Sperberg:**

3352 Request to conditionally rezone from R-5 General Residence District to O-2C Office
3353 District (Conditional), Parcel 103-16-A-17, containing 0.04 acre, located on the east
3354 side of Pinetree Drive approximately 129 feet south of its intersection with Park Lane
3355 (2115 Pinetree Drive, Mayfield Subdivision). Office parking is proposed. The use will
3356 be controlled by zoning ordinance regulations and proffered conditions. The Land Use
3357 Plan recommends Urban Residential, 3.4 to 6.8 units net density per acre.

3358

3359 Mr. Archer - Mr. Bittner.

3360

3361 Mr. Bittner - Thank you, Mr. Archer. No new construction is
3362 proposed with this application. The property is residentially zoned and contains a
3363 portion of an existing office parking lot for the adjacent Staples Mill Professional
3364 Building, which is zoned O-2. This proposal would correct a zoning violation in that
3365 the office parking lot would be appropriately zoned.

3366

3367 The property to be rezoned extends approximately 3 feet south of a retaining wall on
3368 the site's southern border. You can see that clearly in this picture (referring to slide).
3369 The area to be rezoned is in this area here; (referring to slide), this existing parking lot.
3370 But it also extends where you see this pink flag (referring to slide) on top of the stake.

3371 The distance between that stake and this retaining wall here is about three feet. Again,
3372 the bulk of what they want to rezone is in this area right over here (referring to slide).
3373 As you can see, that area sits about eight feet below the grade of the area to the right of
3374 the retaining wall.

3375

3376 Rezoning the three-foot strip of land south of the retaining wall would not introduce a
3377 significant amount of office zoning into the adjacent residential neighborhood.
3378 Therefore, staff recommends approval of this application.

3379

3380 This case was deferred by the Planning Commission from their last meeting to allow
3381 more time to determine additional landscaping to be planted on the adjacent office site.
3382 The applicant has agreed to install landscaping even though this is off-site of the
3383 proposed rezoning. The letter we handed out to you outlines that agreement, and staff
3384 and Mr. Vanarsdall and the applicant have been in discussion on that.

3385

3386 Attached to that letter is sort of a sketched landscape plan prepared by the Planning
3387 staff. It is not a final plan or anything that has to be done, but its more of a guide for
3388 what the applicant may ultimately do with landscaping on the site. The area we are
3389 talking about generally would probably be in front of the professional building along
3390 Staples Mill Road.

3391

3392 Part of the agreement is that they would have this landscaping installed prior to
3393 November 1st of this year. The reason for that date is that, generally, the fall is a better
3394 time to plant new landscaping rather than spring or summer. And staff would monitor
3395 that. But, again, that has been agreed to between Mr. Vanarsdall, staff and the
3396 applicant, and we recommend approval of the zoning case. I'd be happy to answer any
3397 questions you may have.

3398

3399 Mr. Archer - Thank you, Mr. Bittner. Any questions from the
3400 Commission?

3401

3402 Ms. Dwyer - Just for my information, what is the status of the well lot?
3403 Is that just...It doesn't exist anymore?

3404

3405 Mr. Bittner - As far as I know, it is, basically, underneath the parking
3406 lot. There might be a hole there that was filled in, but there is no operating well.

3407 Ms. Dwyer - So, there was a well before there was public water. Is
3408 that correct?

3409

3410 Mr. Bittner - It was probably a well before the office building was
3411 constructed. I don't know the exact sequence.

3412

3413 Ms. Dwyer - Maybe to serve that subdivision. Do you know?

3414

3415 Mr. Vanarsdall - I think it was serviced by Sydnor Well.
3416
3417 Mr. Bittner - Yes.
3418
3419 Mr. Vanarsdall - If it was not Sydnor, it could have been something else.
3420 And they closed it. They get their water from the County now for the subdivision.
3421
3422 Ms. Dwyer - So this is not operable well? It's been filled in?
3423
3424 Mr. Bittner - No. And I have been out to the site, and I did not see
3425 anything that looked like a well and that you could get any water out of. From the
3426 information we have, I think, where the well was is now underneath the parking lot
3427 pavement.
3428
3429 Mr. Vanarsdall - A long time ago.
3430
3431 Mr. Taylor - They just fill the casing with sand.
3432
3433 Mr. Archer - Any further questions? All right. Thank you, Mr.
3434 Bittner. Mr. Vanarsdall, would you like to hear from anyone?
3435
3436 Mr. Vanarsdall - Mr. Eric Reynolds is here, and is substituting for Sonny
3437 Hughes, the attorney on the job, tonight, and I appreciate you coming and waiting. I
3438 don't need for you to tell us anything unless somebody else wants to know about it.
3439
3440 Ms. Dwyer - We are sorry that you had to wait so long to say nothing.
3441
3442 Mr. Reynolds - That is okay.
3443
3444 Mr. Vanarsdall - Mr. Hughes had to go out of town on business, and he
3445 told Mr. Reynolds he would not be here very long.
3446
3447 Mrs. Dwyer - Well, he got an education.
3448
3449 Mr. Reynolds - I am charging him by the hour. I find the whole process
3450 very fascinating. No, and I do not want to get into the Land Use Planning area of law.
3451
3452 Mr. Vanarsdall - With that, I recommend Case C-17C-01 be recommended
3453 to the Board of Supervisors for approval. I do thank Mr. Hughes for having the
3454 applicant consider the landscaping around it.
3455
3456 Mr. Taylor seconded the motion.
3457

3458 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Taylor. All
3459 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
3460 abstained.

3461
3462 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the
3463 Planning Commission voted 5-0, (one abstention) to recommend that the Board of
3464 Supervisors **grant** the request because it is not expected to have a precedent setting
3465 affect on the zoning in the area.

3466
3467 **C-22C-01 Robert L. Stout for Verizon Communications:** Request
3468 to conditionally rezone from R-2A One Family Residence District to O-3C Office
3469 District (Conditional), part of Parcel 70-A-50, described as follows:

3470
3471 Beginning at a point marked by a rod in the southern line of Hungary Spring Road, said
3472 also being the northwest corner of property acquired by Verizon Communications
3473 (formerly The Chesapeake and Potomac Telephone Company of Virginia) from Louise
3474 W. Davis, minus a dedication of right-of-way of a width of 21 feet, then along the south
3475 line of Hungary Spring Road South 46° 27' 30" west for a distance of 150.59' to a rod,
3476 then south 59° 38' 20" east for a distance of 277.41' to a rod, then north 45° 38' 40" east
3477 for a distance of 150.00' to a rod, then north 59°, 38' 20" west for a distance of 275.20'
3478 to a rod marked by a rod and the place of beginning, and as shown on a plat entitled "Plat
3479 of ±0.92 acre property owned by Verizon Communications" located on Hungary Spring
3480 Road in the Brookland Magisterial District of Henrico County, Virginia.

3481
3482 Mr. Archer - Is there any opposition to C-22C-01? No opposition?
3483 Mr. Bittner.

3484
3485 Mr. Bittner - Thank you, Mr. Archer. This site is presently vacant. An
3486 unproffered conceptual plan submitted with the proposal shows the parking area
3487 proposed for the site. This is Hungary Spring Road. This is the site in question, and
3488 they are proposing a parking area here (all referring to slide).

3489
3490 Future building construction would also be permitted although the applicant is not
3491 proposing any at this time. Proffers include a setback of at least 50 feet from Hungary
3492 Spring Road. And the minimum 0-3 front yard setback required by the zoning
3493 ordinance is 35 feet.

3494
3495 There are several mature trees on or adjacent to the site. You can see those in this
3496 photograph right here. This is looking from Hungary Spring Road. A line of trees runs
3497 along the site's southern border adjacent to the Hungary Spring Office Park, on the
3498 right side of this picture (referring to slide).

3499
3500 North of the site is a line of mature oak trees along the driveway serving the Verizon
3501 Communications complex, and you can see those on the left side of the picture. The

3502 proposed parking area would be accessed from the driveway currently serving Verizon,
3503 and would probably require the removal of some of these oak trees.

3504
3505 The proffers state that, with the exception of the proposed parking area access,
3506 development or construction activity on this site shall not disturb any of the existing
3507 trees or their root systems.

3508
3509 Staff feels that this application is acceptable, because it would fill in office zoning
3510 consistent with the surrounding zoning and development. With the proffered
3511 conditions, the quality of this site would be elevated relative to surrounding property.
3512 Staff recommends approval of this request. I will be happy to answer any questions
3513 you may have.

3514
3515 Mr. Archer - Thank you, Mr. Bittner. Any questions?

3516
3517 Mrs. Dwyer - Mr. Bittner, is a parking lot a structure?

3518
3519 Mr. Bittner - No. I don't believe we consider it to be a structure.

3520
3521 Mrs. Dwyer - So a parking lot could be closer than 50 feet from
3522 Hungary?

3523
3524 Mr. Bittner - Let me check the wording on the proffer again.

3525
3526 Mrs. Dwyer - I know that is not what they are planning, but I am just
3527 curious.

3528
3529 Mr. Bittner - Yes. That was something we could have overseen...

3530
3531 Mrs. Dwyer - So they could build a parking lot all the way out to the
3532 road, eventually, if they wanted to.

3533
3534 Mr. Bittner - Yes, within 10 feet of the road. I think staff would
3535 recommend that we say the parking area as well, or whether it would be a 50-foot
3536 buffer along Hungary Spring Road as opposed to just a setback.

3537
3538 Mr. Silber - I am not sure if I understood your question. I think this
3539 proffer would allow the parking lot to come all the way out to within 10 feet of the
3540 right of way.

3541
3542 Mr. Taylor - In regards to what the question was, do we stick with 10
3543 feet, or do we have to go with normal setback of a building which would be 50 feet?

3544

3545 Mr. Silber - Well, I think the proffer says within 50 feet of a structure.
3546 I would think we should ask the applicant if he is willing to make that for the parking
3547 lot, as well, and see if we can't have 50-feet for the parking lot and structure.
3548

3549 Mr. Robert Stout - I was asking about your proffer to see if we could amend
3550 it. Robert Stout, again. It appears, we are looking at the overall plan that you have in
3551 your packet. You can see the overall concept of what it currently looks like.
3552

3553 Right now, the building that is located on the south is already closer than 50 feet to
3554 Hungary Spring Road, which would be on the right hand side of the picture that you are
3555 looking at. We are not proposing to put anything up there. I guess that we could say
3556 that we would be no closer. I'd rather say the parking would be no closer than the
3557 existing corner of the building that is already there, rather than limiting it to 50 feet.
3558

3559 We don't have any plans there, but I don't want to indicate that. Right here, this
3560 corner right here, of this building, can you put that one up (referring to slide)? See this
3561 building right here. If you look at their parking right there, it is already parking next
3562 door to us, is already 10 feet off of the right-of-way line.
3563

3564 Mr. Silber - But we don't know what distance it is off the right-of-way
3565 line.
3566

3567 Mr. Stout - It is not 50 feet.
3568

3569 Mr. Silber - It's not 50 feet. I would think its more than 10.
3570

3571 Mr. Stout - Far from 50. And, what we are proposing, if you look at
3572 our concept, and look at where we are with regard to that first structure, I'd rather say,
3573 and I will measure it to make it exact. But, I will say "No structures will exist closer
3574 to Hungary Spring Road than that existing building." would be my preference.
3575

3576 Mr. Silber - Okay. But I think that the question was, it wasn't from
3577 the structure, because you have already proffered the structure to be at least 50 feet
3578 back.
3579

3580 Mr. Stout - No. I meant parking. I am sorry. I mean parking or
3581 building no closer than that existing structure.
3582

3583 Mr. Silber - Okay. I would venture to say that that building is
3584 probably 50 feet off of the right of way.
3585

3586 Mr. Stout - Well, if it is, then I'd go that route.
3587

3588 Mr. Silber - We may want to address this between now and the time
3589 that it gets to the Board.
3590
3591 Mr. Stout - Yes. And, what I am saying is, we will proffer whatever
3592 that measurement is, that no parking or structure will be closer to Hungary Spring Road
3593 than the existing structure located to the south. We will measure that and give you the
3594 exact measurements.
3595
3596 Mr. Bittner - I would just like to say that the structure to the south I
3597 estimated to be about 100 feet off of Hungary Spring Road.
3598
3599 Mr. Stout - Okay. That is why I said I would take a look at it.
3600
3601 Mr. Bittner - Well, I wanted you to be aware of it.
3602
3603 Mr. Vanarsdall - I knew it was a pretty good ways, but I didn't know what
3604 it was.
3605
3606 Mr. Stout - I couldn't quite remember either. It looks closer on this
3607 map here. That is what I was going by.
3608
3609 Ms. Dwyer - Are you talking about the Verizon structure?
3610
3611 Mr. Stout - No ma'am. This building right here that's on the corner
3612 (referring to screen).
3613
3614 Ms. Dwyer - In the office park?
3615
3616 Mr. Stout - Yes, ma'am. And there is a parking lot closer to Hungary
3617 Spring Road. And our 50 feet would be, probably back to the end of that existing
3618 parking lot, that we would not have anything closer beside that parking lot, right
3619 through here (referring to screen).
3620
3621 Mr. Taylor - The existing parking lot or almost parallel to Hungary
3622 Spring Road, Bob?
3623
3624 Mrs. Dwyer - Let's just leave it.
3625
3626 Mr. Stout - See right here, where I'm drawing, that's the parking lot.
3627
3628 Mr. Taylor - That's the parking lot?
3629
3630 Mr. Stout - That's the parking lot. And what I am saying is....
3631

3632 Mr. Taylor - You draw a parallel line from there along side Hungary
3633 Spring Road. That's the minimum?
3634
3635 Mr. Stout - Well, the minimum of 50 or the building, whatever it
3636 happens to be. Either the building or 50 feet, whatever.
3637
3638 Mrs. Dwyer - Ask Mr. Vanarsdall what he wants.
3639
3640 Mr. Stout - So in essence, we are saying that we are going to do it.
3641
3642 Mr. Vanarsdall - Okay.
3643
3644 Mr. Silber - Mr. Vanarsdall, typically, you can see the low parking
3645 area that he was highlighting. It looks like it is a double-loaded parking lot. So, that's
3646 18 feet, 18 feet, 24 feet, that's 60 feet of parking lot. So, that building is going to be
3647 back at least 60 feet, and looks like there is some space there. I would say that the
3648 building is probably in the neighborhood of maybe 75 to 100 feet. But, we understand
3649 where you are coming from and that could be addressed.
3650
3651 Mr. Stout - Like I said, 50 feet or the building, whichever.
3652
3653 Mr. Silber - Okay.
3654
3655 Mr. Taylor - But, I really can't see from the Resource International
3656 drawing what that parking lot looks like relative to the parallel line of Hungary Spring
3657 Road, on here. What would that be, Mr. Stout?
3658
3659 Mr. Stout - The proposed parking lot on the Resource drawing is on
3660 the lower right-hand side. And if you look in the square, you will see low parking, and
3661 that's to serve the switching station there. Is that what you are asking me?
3662
3663 Mr. Taylor - Yes. Is that the darkened area on the drawing? I just
3664 can't see where Hungary Spring is. Where is Hungary Spring?
3665
3666 Mr. Stout - Right here, (referring to screen) way back there.
3667
3668 Mr. Taylor - Way back there? Okay.
3669
3670 Mr. Stout - Yes, sir. It's almost to the back side of the building.
3671
3672 Mr. Taylor - It's much further than I thought it would be.
3673
3674 Mr. Stout - It's back pretty far. And we are not proposing to build
3675 any more structures there. That's a switching station that they are enlarging there.

3676 Mr. Taylor - Just the parking lot, at that setback?
3677
3678 Mr. Stout - Yes, sir.
3679
3680 Mr. Vanarsdall - Thank you. I move C-22C-01 be recommended to the
3681 Board of Supervisors for approval.
3682
3683 Mr. Taylor seconded the motion.
3684
3685 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Taylor. All
3686 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
3687 abstained. And that was the last case.
3688
3689 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the
3690 Planning Commission voted 5-0, (one abstention) to recommend that the Board of
3691 Supervisors **grant** the request because it conforms to the recommendations of the Land
3692 Use Plan; and it would not be expected to adversely affect the pattern of zoning and land
3693 use in the area.
3694
3695 Mr. Silber - The next item on the agenda is a Resolution. This needs a
3696 little bit of explaining in that you may recall two weeks ago, Mr. Blankinship was here
3697 and presented a work session on the proposed ordinance on Non-commercial Kennels.
3698 The Planning Commission, at that time, went ahead made a motion to set a public
3699 hearing for April 25, 2001. That really should have been done by resolution, but we
3700 did not have a resolution here for you to adopt. So, we are coming to you, after the
3701 fact, with the resolution that should have been acted on by the Commission two weeks
3702 ago. We apologize for not having that with us, but we do have it tonight, and if I could
3703 request that you provide us with a motion and second so that we could be legal with the
3704 adverting that's already appeared in the paper once.
3705
3706 Mr. Vanarsdall - Can we still do it on the 25th?
3707
3708 Mr. Silber - We can still do it on the 25th if you grant me that tonight.
3709
3710 Ms. Dwyer - I move that we approve the resolution.
3711
3712 Mr. Vanarsdall seconded the motion.
3713
3714 Mr. Archer - Motion by Mrs. Dwyer, seconded by Mr. Vanarsdall . All
3715 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele
3716 abstained.
3717
3718 Mr. Silber - Thank you very much.
3719

3720 Mr. Archer - All right, Mr. Secretary, what is the last thing?
3721
3722 Mr. Silber - The last thing is the approval of minutes.
3723
3724 Acting on a motion by Mrs. Dwyer, seconded by Mr. Vanarsdall, the Zoning Minutes
3725 of March 8, 2001 were approved as amended.
3726
3727 There being no further business, acting on a motion by Mr. Vanarsdall and seconded by
3728 Ms. Dwyer, the Planning Commission adjourned its meeting at 10:55 p.m.
3729
3730
3731
3732
3733 _____
Chris W. Archer, C.P.C., Chairman
3734
3735
3736
3737 _____
John R. Marlles, AICP, Secretary
3738
3739