

1 Minutes of the Work Session to discuss Menu Order Board Signs at Drive-
2 Through Restaurants and the regular monthly meeting of the Planning
3 Commission of the County of Henrico held in the County Manager's Conference
4 Room and in the Board Room of the County Administration Building in the
5 Government Center at Parham and Hungary Spring Roads, beginning at 5:30
6 p.m. Thursday, April 14, 2011. Display Notice having been published in the
7 Richmond Times-Dispatch on March 28, 2011 and April 4, 2011.

8
Members Present: Mr. C. W. Archer, Chairman, C.P.C. (Fairfield)
Mr. Tommy Branin, Vice Chairman (Three Chopt)
Mr. E. Ray Jernigan, C.P.C. (Varina)
Mrs. Bonnie-Leigh Jones, C.P.C. (Tuckahoe)
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)
Mr. R. Joseph Emerson, Jr., Director of Planning, Secretary
Mrs. Patricia O'Bannon, Board of Supervisors' Representative

Also Present: Ms. Jean Moore, Assistant Director of Planning
Mr. Dave O'Kelly, Assistant Director of Planning
Mr. James P. Strauss, LLA, Principal Planner
Mr. Benjamin Blankinship, AICP, Principal Planner
Mr. Paul Gidley, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Roy Props, County Planner
Ms. Lisa Taylor, County Planner
Mr. Mike Jennings, Traffic Engineer, Public Works
Ms. Cindy Wood, Henrico Police
Mr. Jermaine Alley, Henrico Police
Ms. Sylvia Ray, Recording Secretary

9
10 **Mrs. Patricia O'Bannon, the Board of Supervisors' representative, abstains**
11 **on all cases unless otherwise noted.**

12
13 Mr. Archer - Convened the meeting with a work session to discuss
14 drive-through restaurant signs.

15
16 Mr. Blankinship discussed three examples of layouts for drive-through
17 restaurants. The first one showed a single drive-through lane with a single point
18 of order, the second showed two drive-through lanes with two menu boards and
19 two order points, and the third showed a single drive-through lane with two
20 separate menu boards and two order points.

21
22 Mr. Blankinship went on to show three examples of menu signs. The first
23 measured 24 square feet. He explained the Permit Center found most of the
24 menu signs in the County were installed under permits that showed their area as
25 24 square feet or less, but the calculation of sign area did not always follow the
26 definition in the County Code. As a result there are signs under permits that call

27 for 24 square feet that actually measure over 40 square feet. Mr. Blankinship
28 showed such a sign for his second example, and then showed a sign
29 approximately 100 square feet in area that was installed without a permit. Mr.
30 Emerson pointed out that such signs are not legal nonconformities. Those signs
31 that either were not permitted, or that exceed the ordinance, or that obtained a
32 pennit but then put up a larger sign are not grandfathered.

33

34 Mr. Blankinship then presented the proposed amendment, which would allow one
35 preview sign and one menu sign per point where orders are taken. The preview
36 sign would be limited to 24 square feet in area and 8 feet in height, and the menu
37 sign would be limited to 48 square feet in area and 8 feet in height. Signs would
38 have to be screened from view to prevent distraction of motorists. The proposal
39 would also allow a special exception for additional signs or larger signs.

40

41 In response to a question from Mr. Branin, Ms. Gloria Freye explained that
42 McDonald's headquarters in Oakbrook, IL, has been working on improving the
43 traffic flow in drive-through restaurants for many years, and has compiled a great
44 deal of specific research. One of the studies showed that a two-lane side-by-side
45 configuration could move 150 vehicles per hour, two menu boards in the same
46 lane could move 120 vehicles per hour, and a single lane typically moves 100
47 vehicles per hour.

48

49 Ms. Susan Durlak explained the cost of installing equipment for a two-lane drive-
50 through system is \$85,000, and she is willing to invest that to improve efficiency.
51 She said two lanes require a staff of 8, rather than 5 for a single lane.

52

53 At the end of the work session, Mr. Emerson asked the commission to set a
54 public hearing on May 12th at 6:00 p.m.

55

56 **WORK SESSION ADJOURNS IN ORDER TO RECONVENE FOR REGULAR**
57 **PUBLIC HEARING**

58

59 Mr. Archer - The meeting will come to order. Welcome to the April
60 14, 2011 Rezoning meeting. Before we start, we'd like to ask everyone to please
61 mute or turn off your cell phone. Let us stand and pledge allegiance to the flag.

62

63 Is anyone here from the press? We'd like to welcome Mrs. O'Bannon, who
64 serves on this Commission and represents the Board of Supervisors. With that, I
65 will turn the proceedings over to our secretary, Mr. Emerson, who is also the
66 Director of Planning.

67

68 Mr. Emerson - Thank you, Mr. Chairman. I will note that the
69 Commission just concluded an earlier work session that began at 5:30 in the
70 Manager's Conference Room to discuss a potential change to the sign ordnance
71 regarding menu order boards at drive-through restaurants. With that, Mr.

72 Chairman, we'll move to the first item on the agenda which are requests for
73 withdrawals and deferrals. Those will be presented by Mr. Jim Strauss.

74
75 Mr. Archer - Good evening, Mr. Strauss, how are you sir?

76
77 Mr. Strauss - Good evening members of the Commission. The first
78 deferral and the only deferral staff is aware of tonight is on page two of the
79 agenda. It's C-5C-11, Ron Taylor, in the Varina District. This is a request to
80 conditionally rezone from A-1 Agricultural District to B-3C Business District. A
81 carwash is proposed and the applicant is requesting a deferral to the May 12,
82 2011 meeting.

83
84 **C-5C-11 Ronald Taylor:** Request to conditionally rezone from
85 A-1 Agricultural District to B-3C Business District (Conditional) Parcel 808-722-
86 7565 containing approximately 1.26 acres, located on the north line of Nine Mile
87 Road (State Route 33) approximately 250' west of its intersection with East
88 Richmond Road. The applicant proposes a carwash. The use will be controlled
89 by zoning ordinance regulations and proffered conditions. The Land Use Plan
90 recommends Office/Service. The site is located in the Enterprise Zone and
91 partially in the Airport Safety Overlay District.

92
93 Mr. Archer - Thank you, sir. Is there anyone here who is opposed
94 to the deferment of case C-5C-11, Ronald Taylor, to the May 12, 2011 meeting?
95 No opposition. Mr. Jernigan.

96
97 Mr. Jernigan - Mr. Chairman, with that I will move for deferral of case
98 C-5C-11, Ronald Taylor, to May 12, 2011, by request of the applicant.

99
100 Mr. Vanarsdall - Second.

101
102 Mr. Archer - Motion by Mr. Jernigan, second by Mr. Vanarsdall. All
103 in favor say aye. All opposed say no. The ayes have it; the motion passes.

104
105 At the request of the applicant, the Planning Commission deferred C-5C-11,
106 Ronald Taylor, to its meeting on May 12, 2011.

107
108 Mr. Emerson - Mr. Chairman, unless there are other deferrals that
109 the Commission may have, that concludes the withdrawals and deferrals for this
110 evening. There are no expedited items.

111
112 That takes us to the first item on your regular agenda.

113
114
115
116 **(Deferred from the February 10, 2011 Meeting)**

117 **C-1C-11 Bay Design Group for Godsey Properties, Inc.:**
118 Request to conditionally rezone from M-1 Light Industrial District to RTHC
119 Residential Townhouse District (Conditional) part of Parcel 817-721-5981
120 containing approximately 60.7 acres, located on the north line of Oakleys Lane
121 approximately 300' west of its intersection with S. Holly Avenue. The applicant
122 proposes a residential townhouse development of no more than 135 homes. The
123 use will be controlled by zoning ordinance regulations and proffered conditions.
124 The Land Use Plan recommends Planned Industry, Environmental Protection
125 Area, and Suburban Residential 2, density should not exceed 3.4 units per acre.
126 The site is in the Airport Safety Overlay District.

127
128 Mr. Archer - Good evening, Mr. Sehl.

129

130 Mr. Sehl - Good evening.

131

132 Mr. Archer - Is there anyone here who is opposed to C-1C-11, Bay
133 Design Group for Godsey Properties, Incorporated? We do have opposition;
134 thank you, ma'am, we'll get to you. Go ahead, sir.

135

136 Mr. Sehl - Thank you, Mr. Chairman.

137

138 The applicant is proposing to rezone 60.7 acres for the development of up to 135
139 townhouses, an equivalent density of 2.22 units per acre. The existing zoning on
140 the property is M-1 Light Industrial District and the 2026 Comprehensive Plan
141 recommends Planned Industry for the majority of the site. This request is not
142 consistent with this designation.

143

144 As shown on the Land Use map, the subject site is in close proximity to other
145 light industrial uses, and well-buffered from adjacent residential uses to the north,
146 east, and west due to the large areas of wetlands and floodplain on the property.
147 For this reason, staff believes the site's existing M-1 zoning is appropriate.

148

149 The applicant has submitted and proffered the site plan shown here. Other
150 proffers are consistent with other recent townhouse developments in the County
151 and relate to unit size, exterior materials, garages, landscaping, and the
152 dedication of right-of-way for the planned relocation of Oakleys Lane. Revised
153 proffers were submitted today, with the only change being Proffer 22 pertaining
154 to Oakleys Lane. Since the staff report was distributed, the Department of Public
155 Works has indicated the roadway is now planned for construction by the County.
156 Because of this, the applicant has provided a new proffer detailing the planned
157 phasing of the development, which was just handed out to you.

158

159 While the requirements pertaining to Oakleys Lane have been resolved by the
160 applicant and the Department of Public Works, staff continues to note concern
161 about this request's inconsistency with the newly adopted 2026 Comprehensive
162 Plan. Staff believes the existing zoning is consistent with the 2026 Plan and its

163 goals of balanced growth that emphasizes an appropriate mixture of residential
164 and non-residential uses. Therefore staff does not support this request.

165
166 That concludes my presentation, and I would be happy to answer any questions.
167

168 Mr. Archer - Thank you, Mr. Sehl. Are there questions for Mr. Sehl
169 from the Commission?
170

171 Mr. Jernigan - Mr. Sehl, with the other proffers on this case, other
172 than the fact that it does not meet the 2026 Plan, are you satisfied with the rest of
173 the project?
174

175 Mr. Sehl - The wording and phrasing of the proffers is consistent
176 with other recent townhouse developments in the County. The time limits would
177 need to be waived on those proffers.
178

179 Mr. Jernigan - Right. They have no more than 82 units.
180

181 Mr. Sehl - Yes sir. No more than 82 units and no more than 45
182 of those prior to January 1, 2015.
183

184 Mr. Jernigan - Thank you, Mr. Sehl.
185

186 Mr. Archer - Are there other questions for Mr. Sehl from the
187 Commission?
188

189 Mrs. Jones - Mr. Sehl, tell me about the units and the phasing
190 again.
191

192 Mr. Sehl - The way the phasing proffer is structured is that
193 unless Oakleys Lane is relocated, no more than 82 units could be built on the
194 property.
195

196 Mr. Jernigan - Proffer 22.
197

198 Mr. Sehl - An initial phase of 45 could be constructed between
199 now and January 1, 2015. After that time or if Oakleys Lane was relocated prior
200 to that time the phasing would go away. But if January 1, 2015 comes and
201 Oakleys Lane has not been relocated, the Certificates of Occupancy for those
202 last 37 units —
203

204 Mrs. Jones - Certificates of Occupancy for what?
205

206 Mr. Sehl - For the last 37 units making up that 82 units. The 45
207 with the initial phase and then 37 in the second phase.
208

208 Mrs. Jones - But we're still at 135 for the entire development?

209
210 Mr. Sehl - Total, yes. But no more than 82 unless Oakleys is
211 relocated.
212
213 Mrs. Jones - Thank you.
214
215 Mr. Sehl - Yes ma'am.
216
217 Mr. Archer - All right, anything further from the Commission?
218
219 Mr. Jernigan - Mr. Chairman, we do have opposition. I think I'd like
220 to hear from the opposition first.
221
222 Mr. Archer - Before the applicant? That will be fine. Mr. Secretary,
223 would you go over the rules?
224
225 Mr. Emerson - Yes sir, Mr. Chairman. The Commission does have
226 rules regarding public hearings and they are as follows. The applicant is allowed
227 ten minutes to present the request and time may be reserved by the applicant for
228 responses to the testimony but it still has to remain within that ten-minute time
229 frame. The opposition is allowed ten minutes to present its concerns. The
230 Commission's questions do not count into the time limits and the Commission
231 may waive the time limits for either party at its discretion.
232
233 Mr. Archer - Thank you, sir. Would the opposition please come
234 forward to the podium. State your name and address for the record, please.
235
236 Ms. Ramirez - Good evening. Martin and Paula Ramirez, 4300
237 Oakleys Lane, Historic Mankin Mansion. This is more, not an objection, but some
238 comments we'd like to make.
239
240 Mr. Archer - Good evening, Ms. Ramirez.
241
242 Mr. Ramirez - We own the property adjacent to the referenced
243 property. We have recently been in touch with County officials about the
244 relocation and improvements of Oakleys Lane. From our understanding, the
245 design of the road is in process currently and after all things considered, due to
246 begin construction in late 2012. For this, we are extremely grateful.
247
248 The extensive development along Oakleys Lane in the past ten years, as well as
249 upcoming development of the Ryan Homes neighborhood brings strong concern
250 in the approval of more development without fully resolving the narrow, outdated,
251 and over-used stretch of road on Oakleys Lane. As we discussed with the
252 County leaders in the past, we all agree this matter has been a long-time issue
253 which affects public safety and the preservation of a historic Henrico landmark.

254 It is with this that we have full faith that the relocation of the road will move
255 forward, especially given Mr. Godsey's plans to donate the land for the new road
256 and his proposed development of up to 82 townhomes. It should be noted we
257 fully support Mr. Godsey's plans to develop the property, but it also should be
258 noted that the relocation and improvements on Oakleys Lane between the
259 mansion and Mr. Godsey's property necessitates attention and ultimately a
260 resolution.

261
262 It is our hope and assurance that the Oakleys Lane relocation project will
263 simultaneously move forward along with the development of Mr. Godsey's land
264 and not be forgotten. We have spoken to neighbors in regards to the potential
265 rezoning and building of townhomes and they are happy to hear of the
266 improvements, but like us have very strong concerns about additional
267 development without the proper road systems in place.

268
269 Should the rezoning be approved, given the close proximity to neighboring
270 homes, we ask that substantial buffers be included in the proffers and we also
271 request that the construction and development noise of any kind be limited to
272 Monday through Friday between the hours of 9 a.m. to 5 p.m. only. We are
273 confident that Henrico County officials will aggressively resolve the road issue at
274 hand while appeasing the surrounding community and ensuring the public safety.

275
276 We appreciate a final resolution in the very near future and we thank you so
277 much for your time and consideration.

278
279 Mr. Archer - Thank you, sir. Are there any questions?

280
281 Mr. Branin - So you're asking for Saturday or Sunday work to be
282 excluded completely, correct?

283
284 Mr. Ramirez - That is correct. We own the property directly across
285 the street, which is known as Historic Mankin Mansion. Currently we operate it as
286 a bed and breakfast and a wedding resort. Our main line of business is on
287 Saturdays and Sundays having weddings happen in the afternoons and into the
288 evening. With the construction that does happen around there currently with
289 Ryan Homes or sometimes—although recently it has been closed—the cement
290 plant that used to be there and produced a lot of noise on the weekends. And
291 across the street sometimes when Godsey workers do things there it creates a
292 lot of noise and it does affect our business during that time.

293
294 Ms. Ramirez - And if I may clarify, on one side we have the railroad
295 tracks; on the other side we have the Ryan Home construction. On the other side
296 we have the concrete plant. And now on the fourth side we have this new
297 development that's proposed. We're trying to kind of keep the noise down on the
298 weekends, not just for our own sake but there are communities around as well.

299

300 Mr. Branin - Was there a community meeting?
301
302 Ms. Ramirez - Not yet, no sir. This was phone calls that we received
303 about the rezoning.
304
305 Mr. Vanarsdall - So you don't object to the building of it, just to
306 Saturdays and Sundays.
307
308 Mr. Ramirez - And the road that currently divides the property.
309
310 Ms. Ramirez - Right. In learning more and more about Mr. Godsey's
311 plans for the property. Initially we did object, we wanted it to be contingent upon
312 the relocation of Oakleys Lane. We've since changed our minds and we're
313 confident that that road project will move forward despite the development on Mr.
314 Godsey's property. But the hours of operation are very important.
315
316 Mr. Branin - You said the concrete plant is no longer operational?
317
318 Ms. Ramirez - Well, the concrete plant has been closed for about
319 two years and it was very loud. The concrete plant was there a long, long time
320 ago, before the houses were built around it. I mean our house was there, the
321 mansion was there for a hundred years, but there were no other residential
322 homes around the concrete plant. Since then there are, I don't know, 40 homes
323 adjacent to the concrete plant. They closed about two years ago. Recently I've
324 seen some action going on over there, so I went and talked to some people and
325 they're actually planning on opening up again very soon, so they told me. Their
326 noise level, too, is of concern.
327
328 Mr. Branin - Surrounding the mansion is pretty much all industrial,
329 isn't it?
330
331 Mr. Ramirez - Behind us is industrial; in front of is currently
332 Godsey's vacant land. To the side of us is the cement company and adjacent to
333 that are the new residential homes that have been built over the last couple of
334 years.
335
336 Ms. Ramirez - If you look at the map there on the bottom right corner
337 where Oakleys and Holly are, the concrete plant is on the southwest corner. And
338 there are new homes now right across the street on both sides, to the right and
339 above.
340
341 Mr. Branin - When were those homes built?
342
343 Mr. Ramirez - In the last two to three years.
344

345 Mr. Branin - Did they have restrictions on Saturday's and Sunday's
346 do you know?
347
348 Mr. Ramirez - Not that we're aware of.
349
350 Ms. Ramirez - We're not aware of those restrictions.
351
352 Mr. Ramirez - Before they closed down, there were weekends
353 where they were in operation to two or three in the morning.
354
355 Mr. Branin - No, I mean when the other houses were built.
356
357 Mr. Ramirez - I'm not sure about that.
358
359 Ms. Ramirez - We have problems with noise, but more and more
360 houses were built. They were kind of phasing out and using the property, the
361 concrete plant less while the houses were being built. So there are definitely
362 more homes and more residents around the concrete plant now than there were
363 when they were open two years ago.
364
365 Mr. Branin - I'm not disagreeing with you, but there isn't a
366 precedent in limiting on weekends in the past. When you all bought that mansion,
367 you knew that you were moving into a partially industrial area, correct?
368
369 Mr. Ramirez - Yes.
370
371 Ms. Ramirez - It was partially industrial, mostly industrial. The new
372 homes, I think, very close to us are affected now by the concrete plant and
373 possibly the construction of the townhomes.
374
375 Mr. Ramirez - And just one other side note. When we did buy the
376 mansion there was the concrete plant and there was only one building behind us.
377 Since then, these other approvals have happened. So only two actual locations
378 were built prior to our purchasing the mansion. It's since then that development
379 has happened.
380
381 Ms. Ramirez - I don't think we're against necessarily industrial
382 improvement or residential improvements, it's the noise factor and the road,
383 obviously, that we have talked about. But the noise factor is a concern whether
384 it's industrial or residential. As soon as you add a residential element, I feel, the
385 noise level after a certain time or on certain days I think it becomes an issue to
386 consider.
387
388 Mr. Ramirez - And more importantly, are you familiar with that
389 stretch of road?
390

391 Mr. Branin - Very.
392
393 Mr. Ramirez - So as you see, five feet away from the mansion is the
394 road. Since we've purchased it, it's gone from average car sizes going through
395 there to now large semis, buses. It's tripled probably in the time that we've owned
396 it with people using that to get to the industrial area to deliver and things of that
397 nature. And in that stretch of road we've seen many accidents about to happen
398 because two semis just cannot get through that road at the same time. More and
399 more it's happening because of the approvals of these industrial areas.
400
401 Mr. Branin - And I'm sure Mr. Jernigan will probably reference
402 traffic. He'll probably have information on when that road is going to be built. I
403 understand. I've seen your property and you guys have done a fantastic job with
404 it. But to try to just say because we now have moved in and we now have these
405 weddings going on that we don't want noise, it's a tough one.
406
407 Mr. Ramirez - And we understand that. The main thing is the road. If
408 the road was around it would probably make the noise a little further away, if that
409 makes sense. But overall, it's the safety of the public as well. And from our
410 perspective, yes, the noise does affect us as well.
411
412 Ms. Ramirez - We sleep in our home and we're on the top floor
413 where it's all windows. When we hear big trucks backing up at 3 a.m. with that
414 beep, beep, beep noise or big trucks dumping concrete it affects our livelihood
415 and our day-to-day lives. We feel that to not mention it when a new development
416 is coming in would be irresponsible.
417
418 Mr. Jernigan - You are talking about the construction on Godsey's
419 property now not the road.
420
421 Mr. Ramirez - Yes. Noise-wise yes.
422
423 Mr. Archer - All right. Any further questions for Mr. and Mrs.
424 Ramirez? Thank you both.
425
426 Mr. Ramirez - Thank you.
427
428 Ms. Ramirez - Thank you very much.
429
430 Mr. Archer - Okay, Mr. Jernigan, we haven't heard from the
431 applicant yet.
432
433 Mr. Jernigan - We have one more in opposition; let's hear him.
434 Come on down and state your name for the record please.
435

436 Mr. Cardounel - My name is Carlos Cardounel. I'm the general
437 manager for Titan Virginia Ready-Mix.

438
439 Mr. Jernigan - What was your last name, sir?

440
441 Mr. Cardounel - Cardounel. C-a-r-d-o-u-n-e-l. We are in opposition to
442 this. We do operate the concrete plant on Oakleys Lane. Our number one
443 concern is our ability to operate 24 hours a day, 7 days a week. We are currently
444 providing concrete for the Huguenot Bridge reconstruction and for a lot of the
445 recent VDOT patching work that has been done. A lot of that work is required to
446 be done at night, obviously for keeping lanes open. Our fear is that continuing to
447 add residential units in that area will continue to put pressure on an area that's
448 clearly designated for industrial use.

449
450 That's really the gist of our comments. The plant has been there long before the
451 residences were there. No matter how much you see of the concrete plant is
452 there, I'm sure that the folks selling these units aren't talking about concrete
453 trucks at 3 a.m. that have to be loaded, about cement deliveries that have to be
454 loaded at night so that we're not traveling the roads during school hours and
455 things like that. We try to be as responsible as possible. But again, when we're
456 doing a large bridge pour that requires a lot of concrete, we don't want to be
457 doing that in the morning during rush hour and we don't want to be doing that in
458 the afternoons. We don't want to be doing it at lunchtime when folks are trying to
459 get around town. So a lot of that work is done at night.

460
461 We have had that plant down for approximately five years because of the
462 residential downturn that we all know about, and light commercial construction.
463 But with these projects that the State has kicked off, we are looking at reopening
464 that plant to service both the Huguenot Bridge and a lot of the patching work
465 south on 295, on Powhite Parkway, and possibly down even into 288.

466
467 Mr. Vanarsdall - How long will your project on Huguenot Bridge be?

468
469 Mr. Cardounel - It's a design/build and it's approximately three years.

470
471 Mr. Vanarsdall - They finally got to it; I'm glad of that. I think the
472 Mankin Mansion was there long before anybody was. As long as I can remember
473 it's been there.

474
475 Mr. Cardounel - Yes sir.

476
477 Mr. Jernigan - Well now you're worried about the noise for the
478 people coming in. You're not worried about traffic; you're worried about noise.

479
480 Mr. Cardounel - We're going to generate traffic. It does obviously
481 concern us in an industrial area to add additional residential traffic—school

482 buses, folks coming in and out obviously with our concrete trucks and our cement
483 tanker deliveries and dump trucks. Obviously we would like to stay as far away
484 from the public as possible. Continuing to add residential units in that area just
485 brings us all closer together.

486

487 Mr. Jernigan - Thank you, sir.

488

489 Mr. Cardounel - Thank you.

490

491 Mr. Archer - Was there any other opposition that I missed?

492

493 Mr. Jernigan - I'd like to hear from the applicant now. I want to clear
494 up something while Mr. Caskie's coming down. Mr. Brarin asked about a
495 neighborhood meeting. I didn't have a neighborhood meeting because this is
496 pretty much a peninsula. As you see, there's water all around it against those
497 units. The houses on Oakleys Lane, almost all of those are rentals. One
498 developer went in there and bought all of those homes, a good portion of them
499 anyway, and rented them out. There was actually nobody close by to have a
500 neighborhood meeting with other than the concrete plant.

501

502 The second thing, the reason that the road is so close to the Mankin Mansion,
503 years ago it was the driveway. And when they say it's close, it is close. We do
504 need to get the road built. This is the route that we're moving along.

505

506 Mr. Archer - Thank you, Mr. Jernigan.

507

508 Mr. Caskie - Good evening. I'm Dan Caskie with Bay Design
509 Group. I wanted to cover a couple of things. The land use that Ben talked about,
510 the parcel, as he indicated, is bounded on three sides by residential and then on
511 the fourth side by Mankin Mansion, the bed and breakfast.

512

513 We certainly understand that at the time everybody was doing the 2026 Comp
514 Plan that it made sense to leave an existing M-1 category in place, leaving it
515 surrounded by residential. However, our experience is that in planning a new
516 area, we wouldn't typically leave a tooth of industrial in the middle of residential.
517 We would generally allow for a transition between the lower-density residential,
518 and go to a higher density, and then go to industrial or commercial, using a road
519 like Oakleys to split that. Again, we certainly understand the logic for leaving it
520 and I think that was certainly the thing to do. However, we believe that this is a
521 good opportunity to fix that issue. We're willing to give up the M-1 and go to an
522 RTH.

523

524 A couple of the concerns that were raised. Limiting the hours, we actually do
525 have a proffer that limits the hours. We won't be out there at three in the morning;
526 our proffers don't allow that. So there are limits on weekends and there are limits
527 during the weekdays.

528 As far as the phasing goes, we met with Public Works last week. Their interest is
529 to try to let Oakleys Lane, the CIP project, get advanced a bit from what we're
530 doing so that we don't have but a certain number of units coming onto Old
531 Oakleys Lane. So that's where the original 45 came with the western entrance.
532 And then at some point, I think January 1, 2015, we were able to start offering
533 units in the second phase up to 82. We can't build anything beyond 82 until the
534 CIP project is complete, until a relocated Oakleys Lane is in place. From there
535 we can build the third phase, the remainder of them.
536

537 As far as the comments from the concrete plant, I'm not sure of the pressure on
538 the industrial uses that we're talking about. Certainly we understand the 3 a.m.
539 concrete mixing. To me that's more of a logistical thing on their part, not
540 necessarily ours. The traffic that was spoken of, you know, traffic is traffic. We
541 actually are going to have fewer trips per day than what a 20-acre industrial
542 development would have. Our usable is about 20 acres, so if you go to the ITE
543 manual, that would produce about a thousand vehicles per day; ours is 791. So
544 we actually produce less traffic than what the industrial development would
545 produce.
546

547 That's really all I have. If anybody has any questions, I'll be happy to answer
548 them.
549

550 Mr. Archer - Thank you, Mr. Caskie. Any questions from the
551 Commission?
552

553 Mr. Jernigan - Mr. Caskie, on the hours of construction, I can see
554 where the Ramirez' have people over there. They're pretty much booked up with
555 weddings. Can you do anything on that on Saturdays? I know Mr. Branin is
556 going to shoot me, but.
557

558 Mr. Caskie - Let me say this for one. I don't know if the weddings
559 are year-round. I'm not sure when they actually—I assume there's a season. Our
560 site work construction we're planning on starting in October, from October
561 probably through March or April. I know that the developer would agree to
562 coordinating with you guys. If you have a wedding coming in, I know that he
563 would coordinate with you and try to not have any loud noises going on during
564 that time, if you're interested in doing that.
565

566 Mr. Jernigan - You have to come down.
567

568 Mr. Vanarsdall - What you're saying is if they had their schedule, you
569 wouldn't schedule anything if there was a wedding or something there.
570

571 Mr. Caskie - That's what I would like to propose so that we could
572 try to work out a compromise between the two. When Ryan Homes is in there, for
573 example, after they get the thing under roof, a lot of their construction is going to

574 be inside and you're not going to hear that. So that certainly wouldn't be an
575 objection I don't think. So I think it's being a good neighbor type thing and we
576 certainly want to be good neighbors.

577

578 Mr. Branin - But in that spirit of being a good neighbor, wouldn't it
579 just make sense for you to designate outdoor work that generates noise would be
580 limited to from 7:00 to 12 on Saturday and Sunday?

581

582 Mr. Caskie - We might be able to come up with something like that.
583 I guess the challenge gets to be how do you identify what's a noise that would be
584 objectionable that would carry that far. That's why I was thinking if we could
585 coordinate it with them and he's running compactors out there, at that point he
586 would say okay, I won't do the compactors. But if he's doing seeding or
587 something like that where there's really not a lot of noise, maybe that's okay.

588

589 Mr. Jernigan - I'm thinking more like a nail gun, putting on shingles
590 and plywood. They do make a lot of noise.

591

592 Mrs. Jones - Just to throw it into the mix, I can think of some
593 developments in my district where the compromise was to limit work to indoor
594 work on the weekends and outdoor work on the other days. I appreciate the fact
595 that you're sensitive to this because I think in the spirit of being fair to everybody
596 it would be a tremendous advantage to them to not have that going on during
597 their events. I appreciate your willingness to work with them on that.

598

599 Mr. Caskie - Could I say that we can work out something between
600 now and the Board?

601

602 Mr. Jernigan - Can you work out some language that would be
603 acceptable for this?

604

605 Mr. Caskie - Sure will.

606

607 Mr. Jernigan - Okay. You proffered elevations.

608

609 Mr. Caskie - We did proffer the elevations.

610

611 Mr. Jernigan - The photos that you showed me.

612

613 Mr. Caskie - Photos. Yes, they're actual units that are up.

614

615 Mr. Jernigan - Okay.

616

617 Mrs. Jones - I just want to register one thought, if I could. There is
618 not an easy answer to this and I've struggled with it ever since I reviewed the
619 case. You obviously were well aware of the land use; you were well aware of the

620 goals and policies of the Comprehensive Plan, and yet still moved forward with
621 an application for this residential development. I know every case stands alone
622 and we'll consider this one on its own merits. But I just want to register, for
623 whatever it's worth, that I think had the Comprehensive Plan been five years, ten
624 years old I might feel a little differently. It is difficult for me to consider something
625 that is so totally out of the mainstream of the Comprehensive Plan. We worked
626 with citizens; we worked with the agencies within the County. Everybody had a
627 hand in crafting that plan and here we are less than a year later with something
628 totally out of that realm.

629
630 I just want you to know that each case is very difficult. In this particular case, no
631 matter how this comes out, that is a big complicating factor. I hope that
632 everybody really thinks about it in those terms. We're making big changes that
633 were not part of the plan we adopted not long ago should this pass. I'm
634 concerned.

635
636 Mr. Caskie - And I certainly understand that. I know that staff and
637 this Commission and the Board, everybody put a lot of work into the Comp Plan.
638 Given the situation that it's a by-right M-1, we felt that when the Comp Plan is
639 reviewed, you certainly wouldn't go and take away a landowner's right to have a
640 by-right zoning like that. That would obviously be equally as traumatic. However,
641 when we look at it, we see this thing is surrounded by residential, it gives us a
642 good transition between the residential and Mankin Manson. It starts buffering
643 them instead of surrounding them by another concrete plant that's operating at
644 three in the morning. We certainly understand the advantages of having the M-1
645 and the need for the industrial in the County, but we feel like this one tooth of
646 residential is a good compromise considering that we're willing to give up the M-
647 1, which is a pretty high zoning as far as commercial goes. We're willing to give
648 that up for the RTH.

649
650 Mr. Vanarsdall - I suppose with all the people who would move into
651 those units over there may have weddings also.

652
653 Mr. Emerson - Mr. Caskie, just a point of clarification. The Comp
654 Plan wouldn't take away your by-right zoning.

655
656 Mr. Caskie - Right, right, I understand that.

657
658 Mr. Emerson - Didn't your client have plans for a contractors' lay
659 down yard on this property when it was purchased?

660
661 Mr. Jernigan - I'm going to give you that background on that in just a
662 moment.

663
664 Mr. Caskie - I didn't work on it then, but I know there are some
665 other things.

666 Mr. Jernigan - Let's go by the history; you're right. What happened is
667 in about 2003 I called a meeting of all the departments, DPW and everybody. I
668 had half the County up in the manager's room. When we walked out of there that
669 afternoon, we had the basic road design of what to change. Mr. Godsey was
670 going to zone his property to M-2, but he had to build his portion of the road. He
671 was going to construct the whole road, bring it to grade with gravel, and the
672 County was going to asphalt it. That was the deal that was worked out. It was a
673 two-lane road. What happened after that is DPW massaged it a little bit and then
674 they wanted to go to four lanes and he refused to build four lanes, and I don't
675 blame him; I would, too. On the future plan it does show four lanes, but you can't
676 do four lanes—you can do it right there. Well I'm not even sure you could do it
677 there, but when you stretch it up toward Hechler Village it just won't work.

678
679 So at that time Mr. Godsey bailed out. Okay. Now just in the last year the road
680 situation has come back up and we've been to the Mankin Mansion, we've met
681 with Mr. and Mrs. Ramirez. The County Manager has been out there. We
682 decided that now it's time to do the road. Didn't change anything on the Comp
683 Plan because we weren't sure what was going to work. I feel like Mr. Caskie, that
684 a transition going from residential makes it more compatible for them than it does
685 having another industrial site over there. If you do that, you're going to have more
686 noise. We already have the concrete and they can work any time that they want
687 to in their regular zoning as far as I know. Everybody thought, when I talked to
688 some of the staff, that that would be the best use, residential. Mr. Godsey's going
689 to dedicate his part of the road property; the County's going to build it.

690
691 So that's the reason it's just come back around, we started working on this road
692 situation again. It was dormant since 2003. But we would have had a road
693 already if things didn't change up at the end. Thank you.

694
695 Mr. Vanarsdall - Very informative, Mr. Jernigan.

696
697 Mr. Archer - Thank you, Mr. Jernigan.

698
699 Mr. Jernigan - It's probably more than you wanted to hear, but
700 anyway, that's what happened.

701
702 Mr. Archer - Any further questions for Mr. Caskie? There is no
703 more opposition, so I guess you're ready, Mr. Jernigan.

704
705 Mr. Jernigan - Well Mr. Chairman, the first thing we have to do is
706 waive the time limits, so I'd like to waive the time limits on C-1C-11, Bay Design
707 Group for Godsey Properties, Incorporated.

708
709 Mr. Vanarsdall - Second.

710

711 Mr. Archer - Motion on the time limits by Mr. Jernigan, second by
712 Mr. Vanarsdall. All in favor say aye. All opposed say no. The ayes have it; the
713 motion passes.

714
715 Mr. Jernigan - With that, I would like to move for approval of case C-
716 1C-11, Bay Design Group for Godsey Properties, Incorporated, to send to the
717 Board of Supervisors for their approval.

718
719 Mr. Vanarsdall - Second.

720
721 Mr. Archer - Motion by Mr. Jernigan, second by Mr. Vanarsdall. All
722 in favor say aye. All opposed say no. The ayes have it; the motion passes.

723
724 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
725 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
726 the Board of Supervisors **grant** the request because it is not expected to have a
727 precedent setting effect on the zoning in the area and the proffered conditions
728 will provide appropriate quality assurances not otherwise available.

729
730 Mrs. O'Bannon - I'd like to point out that I abstain from all voting. If you
731 were looking at me, I haven't voted. I will be voting on it at the Board meeting.

732
733 Mr. Branin - Mr. and Mrs. Ramirez, if you wanted to get with Mr.
734 Sehl and get his number, you know this will come in front of the Board of
735 Supervisors. The door has been opened by the applicant's representative, so I
736 would pursue it.

737
738 Mr. Archer - Okay, Mr. Secretary.

739
740 **P-5-11 Russ Holland for W.H. Capital, LLC:** Request for a
741 Provisional Use Permit under Sections 24-58.2(a), 24-120 and 24-122.1 of
742 Chapter 24 of the County Code in order to allow 24 hour operation of a proposed
743 restaurant on part of Parcel 802-736-8028, located on the west line of
744 Mechanicsville Turnpike (U.S. Route 360) approximately 225' north of its
745 intersection with E. Laburnum Avenue. The existing zoning is B-2 Business
746 District. The Land Use Plan recommends Commercial Concentration. The site is
747 located in the Enterprise Zone and the Airport Safety Overlay District.

748
749 Mr. Archer - Good evening, Mr. Props.

750
751 Mr. Props - Good evening.

752
753 Mr. Archer - Is there anyone here who is opposed to case P-5-11,
754 Russ Holland for W. H. Capital, LLC? We have opposition. We'll get to you; thank
755 you. Go ahead, Mr. Props.

756

757 Mr. Props - Mr. Chairman, members of the Commission, the
758 applicant is requesting approval of a Provisional Use Permit to allow 24-hour
759 operation of a proposed Waffle House restaurant at the Glen Lea Shopping
760 Center.

761
762 Restaurants are a permitted B-2 use but are required to close between 12
763 midnight and 6 a.m. without PUP approval. B-2 zoning extends to the north and
764 south of the shopping center, while a mixture of business and office zoning is to
765 the east and west.

766
767 The 2026 Comprehensive Plan recommends the subject site for Commercial
768 Concentration. This site is also part of an Enterprise Zone and within the Airport
769 Safety Overlay District. The Mechanicsville Turnpike corridor has been identified
770 on the 2026 Comprehensive Plan as a Special Focus Area that is targeted for
771 revitalization and reinvestment opportunities. While this request would be in
772 keeping with the goal for revitalization, a 24-hour operation could have a negative
773 impact. This request could encourage operational hours that are inappropriate for
774 the area and future reinvestment.

775
776 Since 1980, only one PUP for 24-hour operations has been approved in the
777 surrounding area. Three extended-hour PUPs associated with restaurants were
778 approved, but two of the three were only approved until 1 a.m. on Friday and
779 Saturday. The third closes at 2 a.m. on Friday and Saturday even though it is
780 permitted to operate until 3 a.m. daily. Several rezoning requests to intensify
781 from B-2 to B-3 have been approved. However, operating hours were limited to
782 midnight. Staff also notes the other Waffle Houses operating in the County have
783 either B-3 or M-1 zoning.

784
785 In summary, staff believes approval of a Provisional Use Permit for a 24-hour
786 operation is not warranted and would be inconsistent with hours specifically
787 permitted in the immediate area and other PUP regulated restaurants in general.
788 There are other sites in this area of the County zoned B-3 that would permit
789 extended hours of operation by right. Approval of this request could set a
790 precedent for additional 24-hour uses in the immediate area and would be
791 inconsistent with past land use decisions on similar requests. Calls for service
792 and crime-related issues often increase with uses beyond midnight, especially
793 along major corridors.

794
795 The Division of Police and several residents have expressed concern regarding
796 this request. Based upon these concerns, staff does not support this request.
797 Should the Planning Commission deem this request to be acceptable, conditions
798 have been included in Section 4 of the staff report.

799
800 This concludes my presentation and I would be happy to answer any questions.
801

802 Mr. Archer - Thank you, Mr. Props. Are there any questions from
803 the Commission? Okay. We do have opposition. Would the applicant come
804 forward please? Good evening, sir.
805
806 Mr. Hoffman - Good evening.
807
808 Mr. Archer - Before you begin, go ahead and identify yourself for
809 the record.
810
811 Mr. Hoffman - My name is Joe Hoffman. I'm vice president of real
812 estate for Waffle House. Mr. Holland was not able to come this evening. If I
813 might, Mr. Chairman, request two minutes of time for rebuttal?
814
815 Mr. Archer - What I was going to ask, would you prefer to hear
816 from the opposition first or would you rather state your side?
817
818 Mr. Hoffman - Yes sir.
819
820 Mr. Archer - You'd rather hear from them first?
821
822 Mr. Hoffman - Yes sir.
823
824 Mr. Archer - That's fine with me. Thank you so much.
825
826 Mr. Hoffman - Thank you.
827
828 Mr. Archer - Would someone who represents the opposition come
829 down please? Take a vote. While you're coming, let me restate the rules as the
830 secretary stated some time ago. There is ten minutes allotted to each side and
831 that's inclusive of all the speakers and the applicant has the same ten minutes.
832
833 Mr. Roberts - My name is Philip Roberts.
834
835 Mr. Archer - I'm sorry, I didn't get your name?
836
837 Mr. Roberts - Philip Roberts. I live about two blocks, three blocks
838 away from where this is going to be built. The opposition in my view—I think you
839 all already know what you're going to do, but anyway, I was wondering also is the
840 County going to reimburse me when my insurance goes up because of all the
841 police calls they're going to have there? I know a 24-hour Waffle House is going
842 to bring a lot more trouble in the neighborhood. And the insurance industry bases
843 on how many calls are in your area as far as what your rate is. I was just
844 wondering is the County going to lower my assessment on my real estate taxes?
845
846 Mr. Archer - I think the answer would be no to both of those, to be
847 honest with you. I know they're not going to reimburse you for your insurance.

848
849 Mr. Roberts - Also, the Walgreen's gets robbed every other week or
850 so in the middle of the day. It's just opening up a 24-hour ATM for a burglar right
851 there. Who's going to be hanging out at 2 a.m. at a Waffle House on a Friday
852 night? I think we already have enough trouble in that neighborhood. I think most
853 of the people in that neighborhood are forming a neighborhood watch. I think
854 we've made a little progress and we don't need something like that to destroy it. I
855 don't know if I speak for everyone but.
856
857 Mr. Archer - Well, that's all right. We appreciate you coming down.
858
859 Mr. Roberts - All right.
860
861 Mr. Archer - Thank you for your concern. Is there anyone else
862 who would like to speak?
863
864 Mrs. O'Bannon - Can I ask you to raise your hand if you're in
865 opposition to this?
866
867 Mr. Archer - Okay. I'm also aware that I think we've received, Mr.
868 Props, some letters from some other people who were opposed who may not be
869 here tonight?
870
871 Mr. Props - Yes, that is correct, Mr. Chairman; also, the
872 Community Officer with the Henrico Police Department is here that works that
873 area and I'm sure she would be glad to answer any questions that the
874 Commission may have concerning criminal activity.
875
876 Mr. Archer - Okay. Officer, you can come down now if you'd like to
877 and enlighten us a little bit.
878
879 Lt. Wood - I'm Lieutenant Cindy Wood with Henrico Police-
880 Prevention Services.
881
882 Mr. Branin - And officer, your name?
883
884 Officer Alley - Jermaine Alley, Henrico Police Community Officer.
885
886 Mr. Archer - Thank you, Officer Alley. Are there questions from the
887 Commission or do you have a statement to make in terms of how this would
888 impact the community?
889
890 Lt. Wood - There have been concerns. We have received letters
891 [voice is fading in and out] [0:46:59]*. I actually have calls for service from the
892 other Waffle Houses.
893

894 Mr. Vanarsdall - Pull the microphone over towards you.
895
896 Lt. Wood - I actually have statistics from the other Waffle Houses
897 that are in the area and statistics for a mile-and-half area around the proposed
898 Waffle House.
899
900 Mr. Branin - Would you share those with us?
901
902 Lt. Wood - Sure. For the Waffle House at 8400 Brook Road,
903 from 2008 to the end of March of this year there have been 72 calls for service.
904
905 Mr. Branin - Lieutenant, is 72 a lot?
906
907 Lt. Wood - From that time period, no sir. Not in my opinion. But
908 then you have to break it down on what types of calls and I certainly do that as
909 well for each one, if you wish. For the 7109 West Broad Street Waffle House
910 location there have been 95 calls from 2008 until the end of March 2011. At the
911 Williamsburg Road address, 5414, there have been 101. And at the 5102
912 Williamsburg Road address there have been 107 of those.
913
914 From the time periods of midnight to 6 a.m. for both Williamsburg Road
915 addresses, they have been running between 43 and 51 during that time frame—
916 12 to 6 a.m.
917
918 Mrs. Jones - What approximate percentage is that? I'm trying to
919 remember. Is it like half the calls are late-night calls?
920
921 Lt. Wood - Yes ma'am. So the Williamsburg Road locations were
922 running 101 and 107. So it's approximately half.
923
924 Mr. Vanarsdall - Lieutenant, the one on Broad Street is probably the
925 oldest Waffle House in the area, isn't it?
926
927 Lt. Wood - I do not know that, sir.
928
929 Mr. Vanarsdall - What was the number on that one?
930
931 Lt. Wood - The one on Broad Street was 95. These calls run the
932 gamut of accidents, animal calls, disorderly, drunk, those types of things.
933
934 Mr. Archer - Any other questions from the Commission?
935
936 Mr. Branin - Lt. Wood, there are other buildings that have
937 extended hours in the area?
938
939 Lt. Wood - Yes sir.

940 Mr. Branin - Service calls that you have to those, are they extreme
941 compared to what you're seeing at Waffle Houses at other locations?

942

943 Lt. Wood - I can give you the total calls for service one half mile
944 around this proposed area, which would include those businesses. In 2010 there
945 3,890 calls in that area and 676 just this year alone. A lot of those calls are
946 animal calls. One hundred and seventy-one of them were larcenies; 210
947 disorderly drunk calls; 224 residential alarms—it runs the gamut. Those are our
948 higher calls for those areas. Accidents, 239.

949

950 Mr. Vanarsdall - But you didn't have many arrests, did you?

951

952 Lt. Wood - I do not have it broken down as arrests, sir.

953

954 Mrs. O'Bannon - Do you have which ones of those were at night,
955 particularly the hours between midnight to 6 a.m.?

956

957 Lt. Wood - Yes ma'am. I don't have Kim Vann with me; I'm sorry.
958 She tried to get me ready; I'm working on it.

959

960 Mr. Branin - So I shouldn't put you on the spot like I do Ms. Vann?

961

962 Lt. Wood - Please don't. I want her proud of me when I leave
963 here. Actually, from 12:00 there were 99 calls; 97 at 1:00—these are out of the
964 3,890—In 2010, 72 at 2:00; 57 at 3:00; 36 at 4:00; 35 at 5:00. As you head
965 toward four, five, and six they decrease. The large amount of calls, if you break
966 them down per hour, are actually during the day. That includes the accidents and
967 the animals, those types of things.

968

969 Mr. Branin - So Officer Alley, they've been keeping you busy?

970

971 Officer Alley - Very much so. And if I may, about two months ago I
972 was assigned to the Springdale and East Highland Park area to represent the
973 community as a Community Officer. Ever since this proposal has been
974 introduced we've only had two meetings and at both of those meetings the idea
975 was met with I guess opposition, opposition for the amount of element it would
976 attract after hours. I've been a road officer for 16 years and I've worked in
977 environments that had a Waffle House. And not to target Waffle House
978 specifically, we're more concerned about the element that will be attracted. The
979 biggest problem that we're having now—and my residents will back me on this—
980 is breaking and entering. They're more concerned about which elements will prey
981 on them after hours, you know, two, three, four o'clock in the morning, and also
982 that there's another Waffle House just a mile up in Mechanicsville.

983

984 Mr. Branin - Let me ask this question. So it is the opinion of the
985 Police Department and the community that this shouldn't be extended? I can

986 make reference to the Three Chopt District where we had a restaurant in
987 Innsbrook. Service calls in Innsbrook at two, three, and four in the morning aren't
988 real high. But we did not allow 24-hour operation, which if you recall, the Silver
989 Diner requested 24 hour. We did not allow 24 hours for the Silver Diner, which
990 would fall in the same category as a Waffle House. It's not just the Waffle House
991 brand; it's late night and we restricted that. That was on recommendation of the
992 Department as well.

993

994 I'm making that point so the police and everyone in the room will know we're
995 doing it out in the far West End to late-night restaurants; it's not Waffle Houses,
996 it's the fear that the police will have to respond a lot more because of people that
997 are lingering around at three in the morning.

998

999 Mr. Archer - Anything further from the Commission? Thank you so
1000 much; I appreciate it. Okay, the opposition has a little bit of time left if anyone
1001 else wants to speak. Will the applicant come forward again please?

1002

1003 Mr. Hoffman - Mr. Chairman, Commissioners, my name is Joe
1004 Hoffman. I am vice president of real estate for Waffle House. I'm here to try to
1005 convince you that a Waffle House would be a tremendous addition to the already
1006 operating late-night businesses at Mechanicsville Turnpike and Laburnum,
1007 namely the Walgreen's, Hess, the 7-Eleven down the street, and the Burger
1008 King.

1009

1010 This area is clearly in need of new and vibrant businesses as demonstrated by its
1011 Enterprise Zone designation. Waffle House is willing to make that investment in
1012 this area. There is a tremendous need for a sit-down table service restaurant at
1013 the intersection. There is a small Chinese restaurant, a Mexican restaurant, a
1014 barbeque restaurant, and fast food. That's all that's provided to the citizens in the
1015 immediate vicinity. Waffle House's good food, fast menu of bacon and eggs,
1016 waffles, grilled chicken, chopped steak, hash browns, scattered and smothered,
1017 does not adversely impact the existing or future use envisioned for this area.
1018 Neither does our 24-hour operation as there are already 24-hour businesses
1019 operating in the area.

1020

1021 Although staff's report states that 24-hour operations are inconsistent with other
1022 hours permitted in the area, the Burger King is open, the Walgreen's continues to
1023 be permitted to operate at the intersection—they even advertise their 24-hour
1024 status. I know Walgreen's is a different enterprise. If you shop in a Walgreen's,
1025 few people can do it in about 20 minutes. They stay there for 20 minutes then
1026 they leave. That happens to be the same table turn time that Waffle Houses try
1027 to—we try to serve our customers and then don't allow them to loiter, go ahead
1028 and let them leave as quickly as possible.

1029

1030 Waffle House provides a unique opportunity for wealth-building careers that few
1031 people know about and it's very unique in the restaurant industry. It would benefit

1032 greatly the citizens in the immediate vicinity in terms of employment. Every
1033 associate in the Waffle House system, both in the stores and in the corporate
1034 office, are given the opportunity to buy Waffle House stock as an opportunity to
1035 actually own a part of the company. It was this desire that our founders had. Joe
1036 Rogers worked at the Toddle House restaurants and was put off by not being
1037 able to own any part of that company. And so when he started Waffle House, he
1038 allowed for employee ownership. Many of our associates who have worked in the
1039 restaurants have retired with thousands of dollars in their retirement because of
1040 their investment in Waffle House, the shared wealth and the shared responsibility
1041 that all of us have.

1042
1043 Waffle House is renowned for being the first to assist in communities in times of
1044 crisis. We are the first on the ground when hurricanes hit the coast. We were the
1045 first company after Katrina hit New Orleans with assistance, working to get our
1046 restaurants open to serve the public. Our busiest day is Christmas Day; few
1047 people know that. Some people wonder why we work on Christmas. One of the
1048 reasons is there are a lot of people in this community I'm sure who don't have a
1049 family to go see. I think it's admirable that our associates would be willing to
1050 leave time with their family to be able to serve some of these folks who don't
1051 have family or a place to go. Also, some of them may just be sick of turkey and
1052 dressing; I don't know.

1053
1054 Those who work in manufacturing and industry are with us at all times of the day
1055 and night. Those working in manufacturing and industry represent a significant
1056 part of the demographic makeup of this area.

1057
1058 Although staff has recommended denial of our Provisional Use Permit, they have
1059 left the door open by recommending conditions precedent for your choosing to
1060 recommend approval to the Board of Supervisors. There are 13 conditions and
1061 we will comply with each and every one of them. Furthermore, Condition 10
1062 states that in the event of evidence (i.e. police calls to the premises or complaints
1063 from other businesses) that indicates that extended hours of operation are having
1064 an adverse effect (i.e. increased public nuisance, loitering, excessive noise
1065 outside the building, criminal assault, etcetera on the surrounding area) the
1066 Board of Supervisors may hold a public hearing to consider revoking the
1067 Provisional Use Permit. Also I think it's noteworthy in paragraph six public service
1068 and site conditions, of the ten departments mentioned, only one had a problem
1069 with the Waffle House.

1070
1071 In conclusion, I'm asking this Commission to consider what's on the ground now
1072 at this intersection, the 24-hour nature of the intersection already in existence,
1073 our ability to go to a B-3 site and put a Waffle House there, and yet we feel this is
1074 the better location for us, and the need to welcome new businesses to create a
1075 vibrant and dynamic hub of commercial activity for those in the immediate
1076 vicinity. I'm requesting that you approve our Provisional Use Permit.

1077

1078 There's something I'd like to say just in response to some of the opposition. We
1079 have talked to some folks as well who are not here tonight but who are not
1080 negative about us coming. I can provide those names for you. I think it would be
1081 improper to think that the community, because two or three people are here, that
1082 the community is against Waffle House coming to this area.
1083

1084 Secondly, I did some quick math. I didn't understand all the units, restaurants
1085 that the police were mentioning. But if there were six of them, if you multiple six
1086 units by three shifts per day, that's 18, and you multiply that by 365 days a year,
1087 that comes up to 6,570 shifts in Henrico County. While the number seemed
1088 excessive, when you think about the fact—when you look at the entire Waffle
1089 House system—there are 1600—we have over a million seven shifts a year
1090 across this country. So I'm proud to stand here and say that Waffle House
1091 provides a great business opportunity for our associates and great service and
1092 great food for our customers.
1093

1094 I'll be glad to answer any questions that you have.
1095

1096 Mr. Archer - Thank you, Mr. Hoffman. Are there questions from the
1097 Commission for Mr. Hoffman?
1098

1099 Mr. Jernigan - Yes, I have one. Do you have any operations now in
1100 your system that are not open 24 hours a day?
1101

1102 Mr. Hoffman - No sir, we don't. The reason is that we have a
1103 mandate to be a 24-hour restaurant. This is something in our charter that we
1104 have always wanted to be and always chosen to be. So we don't have a single
1105 restaurant that is not 24 hours.
1106

1107 Mr. Archer - Thank you, Mr. Hoffman.
1108

1109 Mr. Hoffman - Thank you for listening to my request.
1110

1111 Mr. Archer - Now we have to assess all this and make a decision.
1112 Mr. Hoffman, I appreciate how passionate you feel about your company's
1113 business and I admire you for it also. We had met earlier some staff members
1114 and I met with some other members from your firm to discuss this. At that point in
1115 time, I reiterated to them, and I'll do the same to you, we don't have any gripe at
1116 all with Waffle House. Probably every one up here has eaten at Waffle House; I
1117 know I have.
1118

1119 Mr. Vanarsdall - Several times.
1120

1121 Mr. Archer - The issue that we have is with the 24-hour operation
1122 whether it's Waffle House or any other kind of business under the

1123 Provisional Use Permit. We have received enough opposition from the
1124 community that it is worthy to take note of the fact that we have. It's a difficult
1125 decision to make in one fashion, but as I said to your other colleagues and to
1126 you, if you were not a 24-hour operation we would probably look at this a lot
1127 more favorably. A 24-hour operation is something that, as a rule, we are
1128 generally against, and also when looking at the fact that there is another Waffle
1129 House just a little over a mile away in Mechanicsville that could be used if
1130 citizens felt the need to go there. And in considering the crime statistics that
1131 have been given tonight, I'm sure they would match up the same for other
1132 operations that are the same as yours but not bearing the same brand name.

1133
1134 I feel as though the evidence weighs in terms of health, safety, and welfare for
1135 the community that we should recommend denial. Now this is not the end
1136 because the Board has to act on our recommendation and they have the leeway
1137 to make whatever recommendation they choose. So before I say this, just let me
1138 say that this is not about Waffle House; it's more about the 24-hour operation of
1139 that particular type of business and is certainly not to cast dispersions at your
1140 brand.

1141
1142 With that, it is my opinion that we should recommend denial. I move to
1143 recommend denial.

1144
1145 Mr. Vanarsdall - Second.

1146
1147 Mr. Archer - Motion by Mr. Archer, seconded by Mr. Vanarsdall for
1148 denial. All in favor say aye. All opposed say no. The ayes have it; the motion for
1149 denial passes.

1150
1151 Mr. Archer - When is that Board meeting, Mr. Secretary?

1152
1153 Mr. Emerson - That Board meeting is May 10th.

1154
1155 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr.
1156 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
1157 the Board of Supervisors **deny** the request because it could have a precedent
1158 setting impact on existing land uses in the area and the extension of hours could
1159 impact the health, safety, and welfare of residents in the area.

1160
1161 **P-6-11 T.V. Wilson:** Request for a Provisional Use Permit
1162 under Sections 24-62.2(a), 24-62.2(b), 24-120 and 24-122.1 of Chapter 24 of the
1163 County Code in order to allow festivals and assembly halls in an existing building
1164 on Parcel 797-736-6692, located on the east line of Carolina Avenue at its
1165 intersection with Pensacola Avenue. The existing zoning is M-1 Light Industrial
1166 District. The Land Use Plan recommends Light Industry. The site is located in the
1167 Enterprise Zone and partially in the Airport Safety Overlay District.

1168

1169 Mr. Archer - Is there anyone here who is opposed to case P-6-11,
1170 T. V. Wilson? We do have opposition. All right, Mr. Sehl.

1171
1172 Mr. Sehl - Thank you again, Mr. Chairman.

1173
1174 The applicant proposes to use an existing warehouse for various assembly uses,
1175 as well as hold festivals within and adjacent to the existing building. The property
1176 is zoned M-1 and the area to the north is generally zoned for light industrial uses
1177 as well. Residences are in close proximity to the east and west, as well as to the
1178 south in the City of Richmond.

1179
1180 Few details have been provided about the planned assembly or festival uses at
1181 this time. Given recent unapproved assembly activities in the building and the
1182 negative impacts noted at the time of those events, these details are essential to
1183 determine possible mitigation of these impacts. Issues with parking and noise
1184 have been noted by residents in the vicinity, and subsequent inspections by
1185 various county agencies have identified numerous building and fire code
1186 violations on the subject property.

1187
1188 The applicant has been provided information regarding these deficiencies, but
1189 staff is unaware of any actions taken to correct existing building and fire code
1190 violations. Additionally, the uses planned by the applicant would place much
1191 greater demands on parking facilities than the existing warehouse. Information
1192 submitted by the applicant indicates numerous off-site parking spaces would be
1193 required to accommodate the proposed uses. Given that residents in the area
1194 have noted overflow parking on adjacent streets during the previous unapproved
1195 assembly events, this lack of parking is also a concern.

1196
1197 Given the lack of detail provided by the applicant, and the potential negative
1198 impacts that could occur with the planned assembly and festival uses, staff does
1199 not support this request and recommends it be denied.

1200
1201 This concludes my presentation and I would be happy to try and answer any
1202 questions you might have.

1203
1204 Mr. Archer - All right. Any questions for Mr. Sehl from the
1205 Commission? I don't have any at the moment. Will the applicant come forward
1206 please? You may. Will the opposition come forward. Sir, while you're coming,
1207 you did hear us state the ten-minute rule?

1208
1209 Mr. Tynis - My name is Frank Tynis and I run Tylo Equipment,
1210 which is the adjoining property at 3701 Carolina Avenue. I'm opposed to this
1211 because of a number of issues. I'm worried about crime. I've had issues where
1212 people in the building next door have been teasing our guard dogs through the
1213 fence. I'm videotaping that, which that's a no-win scenario. The parking issue. I'd
1214 originally told Mr. Wilson that he could park his vehicles in my lot. That's changed

1215 because of the situation with the dogs. I don't need a bunch of crime issues. I
1216 don't need people terrorizing my animals through the fence. I'm opposed to it.

1217
1218 Mr. Archer - All right. What is your name? Is it Tynis?

1219
1220 Mr. Tynis - Tynis. T-y-n-i-s.

1221
1222 Mr. Archer - All right. Any questions for Mr. Tynis from the
1223 Commission? Thank you, sir. Anyone else in opposition?

1224
1225 Mr. Long - My name is Sam Long. I am co-owner of the property
1226 with Mr. Tynis. He runs a daytime business. I run a sales business. I buy and sell
1227 used construction equipment and I deal with a lot of small contractors. A lot of my
1228 business is done at night and on weekends. I feel that parking is a real issue
1229 when I come over there to show equipment at nights. I have an appointment on
1230 Sunday at 10:00, this coming Sunday. And if I come in and cars are in the
1231 parking lot and trash is all over the place—I'm just concerned that parking is
1232 going to be a serious, serious issue. For this reason, plus the reason that Mr.
1233 Tynis has stated, I am opposed to having it.

1234
1235 Mr. Archer - Any questions for Mr. Long? Thank you, sir.

1236
1237 Mr. Long - Thank you.

1238
1239 Mr. Archer - Is there anyone else? All right, sir, you may proceed.

1240
1241 Mr. Wilson - Good evening. First off—

1242
1243 Mr. Archer - We need your name, sir, for the record.

1244
1245 Mr. Wilson - Yes sir. My name is T. V. Wilson, CEO of the Vision
1246 Maker International. First off, I want to say the purpose of Vision Maker I think
1247 has been misunderstood. I understand Mr. Tynis' concern. We have crime on us
1248 as well with my film equipment and recording equipment. But let me start off by
1249 saying a little background of what we're all about.

1250
1251 We have all heard that where there is no vision the people perish. This company
1252 came about to help people fulfill their dreams and visions. I came out of the Air
1253 Force Academy in 1988 and went off and flew for Desert Storm. I hold up my
1254 wings and became a chaplain and then started a private Christian school in
1255 Texas, a television broadcast, a restaurant/day care center, and ended up losing
1256 it all because I did not have proper mentors.

1257
1258 We went on after that to come back and find mentors through the years that took
1259 us underneath their wings and began to assist us. We went on for the next

1260 several years with a goal and a vision to help other people fulfill their dreams and
1261 visions.

1262
1263 What Vision Maker is all about is providing for young people at our School of
1264 Dreams that we were working on developing. And yes, we did have one or two
1265 events after meeting with the fire marshals and meeting with all the officials. They
1266 said we will help you all get up to code. And we were told that we were 85%
1267 there. A fully sprinkled building. We fulfilled everything except for maybe the
1268 panic doors were sticking. So we were willing to fix that. But I want to say that we
1269 were looking for some solutions that we were looking for help so that other
1270 people's dreams won't fall, like Bishop Waller who was having church services
1271 there and Pastor Green who was having church services on Sunday and we
1272 were the only ones allowing them to have church services for \$50 a week.

1273
1274 Our School of Dreams with our film school that we were trying to raise money for
1275 to give young people from 6 to 96 an opportunity to have hands-on as we were
1276 developing the films, as we're working on the recording studio. Some of their
1277 dreams are being lost. The same thing about NASCAR is we were approached
1278 by the president of Richard Williams' association with Venus and Serena, as well
1279 as Mike and Christy Wallace's organization as this spot was the ideal spot to hold
1280 the festival. That wasn't our primary goal to just do festivals and events. We have
1281 here today the president of their organization and he came to us with a proposal
1282 of an idea to do it in conjunction with the NASCAR weekend. So their goal was
1283 diversity weekend; to help bring minorities as well as female and young people
1284 that weren't interested in NASCAR to start getting an interest in NASCAR. Mr.
1285 Brewer from Florida by way of also Washington, DC, is here today. I wanted him
1286 to come forward to share what we're really trying to do. We're trying to stay away
1287 from any events that could possibly be a problem. Our initial goal was to rent to
1288 non-profit organizations at an inexpensive rate. We hired the fire marshals, 4 or 5
1289 of them, to be there. We had no incidents during the time that they did have
1290 those two or three events. No crime, nothing happened. But I guess the
1291 perception of that American Idol program that they did was that it was some
1292 young adults there that seemed like it could potentially be a problem. We had
1293 over 30 security people and there wasn't any incident.

1294
1295 I want to have Mr. Brewer who partnered with us, as well as a couple other
1296 partners to help with the overall goal who wanted to come up and share the real
1297 purpose of what we're trying to accomplish.

1298
1299 Mr. Archer - All right. Thank you, Mr. Wilson.

1300
1301 Mr. Wilson - Just a little background. A VP from Jive records who
1302 has worked as a president of Richard Williams Association for quite some time.
1303 He's been working with Christy and Mike Wallace and the Diversity Project. He's
1304 decided to come in and partner. That's what we've been trying to get help on and
1305 we keep getting different roadblocks for the last seven or eight months.

1306 Mr. Brewer - Hello. How are you all doing? My name is Kevin
1307 Brewer. I am the president of Richard Williams Tennis and Education Program.
1308 Also I am the owner of Vessum which is the partner to Mike Wallace Racing.
1309 We're the business development and marketing arm for Mike Wallace.

1310
1311 What we're looking at doing with them is they're looking at doing the Driving
1312 Diversity School, which is very much needed around there. If there is crime going
1313 on with the kids around there stealing cars and things of that nature, if we
1314 actually give them a way or show them a way that they actually can work with
1315 cars—if you look at it, if they're going around stealing cars and things of that
1316 nature, that means they have an interest in it as well. If we can trigger their minds
1317 to go elsewhere to see that they actually can make a living with fixing cars,
1318 driving cars, things of that nature, that should be something that we all should try
1319 to work together and try to help them with.

1320
1321 With the Richard Williams Tennis and Education Program, I mean, that goes
1322 without saying. He actually raised two daughters that are the best tennis players
1323 in the world right now. And we're looking to share that same type of work with our
1324 neighborhood that's around there. As well as we looked at the filming department
1325 over there. We have filming partnerships with major film companies in Los
1326 Angeles that we bring to the table. So we're looking at more of a learning center
1327 versus just doing events. The events become a part of that because you have to
1328 have something else for the kids other than just working and working and
1329 working and schooling. You have to have some type of way for them to be able
1330 to let their hair down and be able to have a nice time as well. But we're looking at
1331 more so teaching and actually trying to help out more new leaders coming up.

1332
1333 Mr. Archer - Are you done, sir?
1334
1335 Mr. Brewer - Yes sir.
1336
1337 Mr. Archer - All right. Are there any questions from the
1338 Commission for Mr. Brewer?

1339
1340 Mrs. Jones - Yes, I do. I just want you to know that while the goals
1341 that you have for your business sound certainly worthy and certainly good, I'm a
1342 little confused about the fact that there has not been complete compliance with
1343 the Building Code violations and the Fire violations. And I'm still confused about
1344 the parking. I'm not sure that there is any way you can accommodate any kind of
1345 events whether it be educational or festival or whatever on the site.

1346
1347 Mr. Brewer - There are parking lots adjacent to there that Mr.
1348 Wilson did get letters of recommendation from that we can actually use their
1349 parking when we're doing events. And just like when NASCAR is going on,
1350 they're parking all over the place, correct? They're parking at people's homes.
1351 And they're actually building a revenue for them. So we were actually able to do

1352 the exact same thing. That means more people get more revenue in the area. So
1353 if we can actually be grandfathered in the exact same way that NASCAR is, I
1354 don't think that would be such a terrible thing.

1355
1356 Mrs. Jones - Are your building and grounds in compliance now?

1357
1358 Mr. Brewer - We are about 85% and that's why we came in to kind
1359 of help out so that way we can get it to 100%. We will get it to 100%.

1360
1361 Mrs. Jones - Thank you.

1362
1363 Mr. Archer - Anyone else?

1364
1365 Mr. Branin - Yes. Good neighbors are good neighbors and you
1366 have two neighbors that came in and said they have issues with using and a
1367 problem with the dog. Mr. Wilson, you kind of blew that one by and went on to
1368 what you're about. I haven't heard you say—

1369
1370 Mr. Wilson - I wasn't aware of that, sir. I'm not responsible for
1371 people that may have popped up from the neighborhood and came by and
1372 teased the dogs. This is the first time I've heard anything about it; Frank and I
1373 talk often. But we've been shut down for the last seven months, so anybody
1374 that's been coming over there now is not a part of our organization.

1375
1376 Mr. Branin - Okay.

1377
1378 Mr. Wilson - If I may, I would like Attorney Krumbein to come up
1379 and share a few words as well.

1380
1381 Mr. Emerson - You have about three minutes.

1382
1383 Mr. Archer - All right, come on, sir.

1384
1385 Mr. Krumbein - I think I'm a rare lawyer; I know how to be short. But
1386 I'm not appearing as a lawyer. I'm appearing as the owner of NAM, LC that owns
1387 the property.

1388
1389 This is not my preferred use of the property and yet they wouldn't be here if I not
1390 only hadn't allowed it but encouraged it. Now why am I doing that? The reason is
1391 nobody wants to rent my property or buy my property. You all know about the
1392 great recession, it's here, and I am—I don't want to make too much of this—but
1393 I'm a victim. My building is unused. There is an alternative to their use and that is
1394 the building will be utterly and completely vacant. If you look at the other
1395 industrial properties in this neighborhood, they, too, are essentially vacant. That's
1396 not good.

1397

1398 The last tenant I had moved out in November 2009 and I want to publicly thank
1399 Frank Tynis for calling me repeatedly. I encouraged him then, I encourage him
1400 now. He helps me look out for the property. He cares. He is a wonderful,
1401 wonderful neighbor. But I can't be there.

1402
1403 I live at 9701 Old Dell Trace; you're welcome to come and visit me. That's the
1404 other end of the County and if you don't mind, I like that end to live in and this
1405 end for business. I need somebody over there. Within weeks, ladies and
1406 gentlemen, of the last tenant moving out vandals came in and took out the air
1407 conditioning units in the back to sell the copper. There are other incidences of
1408 vandalism. People show up over there. Mr. Tynis called and told me that people
1409 were engaging in the evenings and on weekends in various kinds of
1410 embarrassing and awful crime activities. We don't need that. One way to avoid
1411 that is to have somebody using the building and showing up.

1412
1413 You can regulate these people; you can insist that they have police and fire. I join
1414 you. I insist that they will not conduct anything unless they are fully in compliance
1415 with police and fire regulations. They want to. They tell me they're going to.
1416 That's in my lease and that's a requirement—they're going to do that. But I need
1417 to use this building. It's not even about rent. They don't pay me anything. I just
1418 want somebody in the building, moving in, coming around that neighborhood. I
1419 believe that keeps my building safer and the neighborhood safer.

1420
1421 Thank you very much.

1422
1423 Mr. Archer - Thank you, sir.

1424
1425 Mr. Vanarsdall - Where did you say you live?

1426
1427 Mr. Krumbein - 9701 Old Dell Trace. It's Gaskins Road and River
1428 Road essentially.

1429
1430 Mr. Branin - And you said you were renting the building for free?

1431
1432 Mr. Krumbein - Yes.

1433
1434 Mr. Branin - Do you have any other buildings?

1435
1436 Mr. Krumbein - Yes I do. But it's not free.

1437
1438 Mr. Archer - All right, thank you, sir.

1439
1440 Mr. Krumbein - Thank you.

1441
1442 Mr. Wilson - Before closing, we're just asking for a temporary
1443 provisional use to see if we can meet all the standards. If we fail after six to nine

1444 months of giving us a chance—the only thing we're asking for—the reason the
1445 churches had to leave it because they were trying to grow beyond 50. We're
1446 asking just give us for the parking spaces we have any kind of occupancy. The
1447 main thing we're teaching over there as well—or we were attempting but haven't
1448 been able to do in the last seven months—was how to become entrepreneurs.
1449 Holding workshops. And we qualified for that. We wrote a book on it and been in
1450 Success Magazine for it. We're bringing celebrities in. We had to cancel the
1451 celebrities that were coming in even from the True Blood cast because we
1452 couldn't have everything ready before NASCAR this time. So we're hoping to be
1453 able to have a shot to get in there and get everything into compliance. We want
1454 to find solutions. We're not looking for problems. We've learned. We're regulating
1455 really hard on who gets the chance to rent.

1456
1457 Mr. Branin - Mr. Wilson, wouldn't it be smarter to get in compliance
1458 with the County codes before you submit for approval?

1459
1460 Mr. Wilson - That's the problem. We've had three or four meetings.
1461 A and B will tell us to do this; but C won't approve you if you do this. We've been
1462 going around for months and months until it's at the point where it's frustrating.
1463 We couldn't help but feel that we're being picked on. We've fixed so much and
1464 done so much in that building.

1465
1466 Mrs. Jones - Apparently there was a lot to do and it sounds like
1467 you've done a fair amount of it. But how can we be responsible and give approval
1468 to something that is not yet able to—

1469
1470 Mr. Wilson - The approval is contingent upon those final four
1471 things that the Fire Marshal had on there, which was replace the panic door and
1472 tape up two more wires.

1473
1474 Mrs. Jones - You don't have enough parking for a lot of your
1475 events.

1476
1477 Mr. Wilson - We're not looking for any major events. We just want
1478 approval for the 104 parking spaces we have on site plus the people next door
1479 gave us written permission to use their parking for an additional 75 spaces. For
1480 most of the assemblies that we're looking for for the workshops, we only need
1481 200 people at max.

1482
1483 Mr. Archer - Okay. Anybody else? Thank you, Mr. Wilson. All
1484 right, let me see if I can sum this up. For the applicants, first of all, your vision for
1485 trying to do things to promote diversity and to create entrepreneurship are
1486 laudable and I commend you for that. Back on March the 16th Mr. Emerson, the
1487 Director of Planning, wrote a letter that had in it about 28 different items that had
1488 been submitted by the Division of Fire and by Building Inspections that had to

1489 come into compliance. You indicated that you've done 85%. I don't know what
1490 you based that number on.

1491

1492 Male - [Off microphone; inaudible.]

1493

1494 Mr. Archer - We don't have that information as of yet. As the staff
1495 report indicates, there have been occurrences over there that were not in
1496 compliance with what the Code allows. As Mrs. Jones stated a few minutes ago
1497 and Mr. Branin alluded to, we're not able to consider something that might be
1498 done; we have to be in compliance when this is done. The biggest thing that we
1499 as Commission are in charge of is promoting the health, safety, and welfare of
1500 the community and we can't do that on supposition; we have to know what's in
1501 place, why it's in place, and how it got there. You're not at that point at this point
1502 in time. You might be at some point in the future, but certainly not now. We would
1503 be remiss if we sent this along to the Board with a recommendation for approval
1504 even if you're just 15% away from whatever it is and I don't have anything to
1505 corroborate those figures to say what 85% is. I don't know what 85% of what is.
1506 We would need to know that.

1507

1508 Mr. Wilson - And we accept that.

1509

1510 Mr. Archer - Okay.

1511

1512 Mr. Wilson - We just ask that we finally get something clear-cut
1513 and I don't want to express our frustration but we've tried and tried and it keeps
1514 changing. It keeps changing every time.

1515

1516 Mr. Archer - Well sir, let me finish up now because we've heard
1517 from both sides. And let me finish up by saying this. I can't send this along with a
1518 recommendation for approval. But you have between now and the time the Board
1519 meets—unless you choose to defer it—an opportunity to pick up that other 15%
1520 or whatever it is, bearing in mind that it goes beyond the Fire Marshal. There are
1521 a lot of things in the staff report that I'm sure you read and Mr. Emerson's letter of
1522 recommendations of things that need to be done. The Board will meet on this in
1523 30 days and you'll have an opportunity to present your case again. If it's not
1524 ready you can defer it and you can defer it as long as you want to as long they
1525 allow you to. Based on the information that we have tonight, I can't recommend
1526 this for approval.

1527

1528 With that I will move that this be sent with a recommendation for denial.

1529

1530 Mr. Branin - Second.

1531

1532 Mr. Archer - Motion by Mr. Archer, second by Mr. Branin. All in
1533 favor say aye. All opposed say no. The ayes have it; the motion passes.

1534

1535 **REASON:** Acting on a motion by Mr. Archer, seconded by Mrs.
1536 Jones, the Planning Commission voted 5-0 (one abstention) to recommend the
1537 Board of Supervisors **deny** the request because it could have a detrimental
1538 impact on property owners in the vicinity and could impact the health, safety, and
1539 welfare of residents in the area.

1540

1541 **P-7-11 Michael J. Rothermel for Virginia CVS Pharmacy,**
1542 **LLC:** Request for a Provisional Use Permit under Sections 24-58.2(a), 24-120
1543 and 24-122.1 of Chapter 24 of the County Code in order to allow 24 hour
1544 operation of an existing pharmacy on part of Parcel 747-759-8591, located in the
1545 southwest quadrant of the intersection of W. Broad Street (U.S. Route 250) and
1546 Cox Road. The existing zoning is B-2C Business District (Conditional). The Land
1547 Use Plan recommends Urban Mixed-Use.

1548

1549 Mr. Archer - Good evening, Ms. Taylor. Is there anyone here who
1550 is opposed to case P-7-11, Michael J. Rothermel for Virginia CVS Pharmacy,
1551 LLC? No opposition. Go ahead, Ms. Taylor.

1552

1553 Ms. Taylor - Thank you, Mr. Chairman.

1554

1555 This request is for a Provisional Use Permit to allow 24-hour operation of an
1556 existing CVS Pharmacy in the Colonnades Shopping Center located at the
1557 southwest intersection of W. Broad Street and Cox Road.

1558

1559 The site is zoned B-2C and governed by proffers accepted with rezoning case C-
1560 22C-95.

1561

1562 There are three 24-hour Provisional Use Permits in the vicinity for convenience
1563 retail and gas sales including the recently approved PUP for 7-Eleven in
1564 Innsbrook. Several other pharmacies in the County also have 24-hour
1565 operations.

1566

1567 This request is consistent with the UMU designation in the 2026 Comprehensive
1568 Plan which recognizes that increased hours for service may be appropriate.

1569

1570 For these reasons, staff supports this request subject to the recommended
1571 conditions listed in Section IV of the staff report. Some of these conditions
1572 include providing adequate lighting for all entrances, exits, and parking areas;
1573 installing exterior security cameras; and conducting a security audit with the
1574 Crime Prevention Unit of the Division of Police.

1575

1576 This concludes my presentation. I will be happy to take any questions.

1577

1578 Mr. Archer - Thank you, ma'am. Are there questions from the
1579 Commission?

1580

1581 Mr. Branin - I have none for Ms. Taylor, but I would like to call
1582 Lieutenant Wood back down.
1583
1584 Mr. Jernigan - Let me ask something, Ms. Taylor. Has the store
1585 been staying open? That's all right; you don't have to answer that.
1586
1587 Mr. Emerson - Yes sir, it has been open for an extended period of
1588 time for 24 hours.
1589
1590 Mr. Branin - I was going to cover that.
1591
1592 Mr. Archer - Welcome again, Lt. Wood.
1593
1594 Lt. Wood - Hello.
1595
1596 Mr. Branin - Lt. Wood, this store has been basically illegally
1597 operating in a 24-hour capacity. Do the police have any objections to this being
1598 approved?
1599
1600 Lt. Wood - There are barely any calls for service.
1601
1602 Mr. Branin - Thank you.
1603
1604 Mr. Archer - All right. Anybody else?
1605
1606 Mr. Branin - I have nothing. I can make a motion if you wish, Mr.
1607 Chairman.
1608
1609 Mr. Archer - Go right ahead, Mr. Branin.
1610
1611 Mr. Branin - Okay. Is there a representative from CVS in here?
1612
1613 Mr. Rothermel - We have a number of representatives here tonight.
1614 My name is Mike Rothermel. I'm with the law firm of Spotts Fain. With me tonight
1615 from CVS I have—
1616
1617 Mr. Branin - Mr. Rothermel, I'm not going to ask you to address
1618 this. I was wondering if there was anyone from the actual CVS Corporation here.
1619
1620 Mr. Rothermel - We have three folks here tonight.
1621
1622 Mr. Branin - Gentlemen, you know that our ordinances are our
1623 ordinances and our policies are our policies. You have been operating a store in
1624 my district and possibly in other districts that are out of accordance with the
1625 County regulations. I'm going to move forward with approval on this. I would
1626 hope that you would police yourself, review all of your stores that may be open,

1627 and come back and submit for a PUP. There's a good chance if there haven't
1628 been issues that you will be approved. But our regulations are our regulations
1629 and if we do come upon your stores that are operating illegally, I don't think you
1630 want to have to scramble in the future. I know we're all looking at the issue that is
1631 upon us with operating out of the realm of what's allowed. So please as a heed
1632 and a warning, police yourselves now. Okay?

1633

1634 Mr. Rothermel - Thank you, Mr. Branin.

1635

1636 Mr. Archer - Are you ready for a motion, Mr. Branin?

1637

1638 Mr. Branin - Yes sir. I'd like to move that P-7-11, Michael J.
1639 Rothermel for Virginia CVS Pharmacy, LLC, move forward with a
1640 recommendation for approval.

1641

1642 Mr. Jernigan - Second.

1643

1644 Mr. Archer - Motion by Mr. Branin, second by Mr. Jernigan. All in
1645 favor say aye. All opposed say no. The ayes have it; the motion passes.

1646

1647 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.
1648 Jernigan, the Planning Commission voted 5-0 (one abstention) to recommend
1649 the Board of Supervisors grant the request because it would provide added
1650 services to the community and is reasonable in light of the surrounding uses and
1651 existing zoning on the property.

1652

1653 Mr. Emerson - Mr. Chairman, that takes us to the next item on the
1654 agenda which is the consideration of the approval of your minutes from your
1655 March 10, 2011 meeting.

1656

1657 Mr. Archer - Are there any corrections to the minutes?

1658

1659 Mr. Branin - I have three corrections. I know, isn't that cool? On
1660 page seven, line 264, the sentence says, "with a lot of fine." The word is "fines"
1661 with an "s." On 275, "the amount of fines in it." And line 283, "crush and run is just
1662 the type of stone," not the size of the stone.

1663

1664 Mr. Archer - Very astute observations, Mr. Branin. Anybody else
1665 with corrections?

1666

1667 Mrs. Jones - No, but I received an education. Thank you, Mr.
1668 Branin.

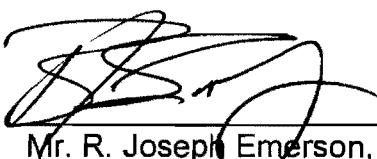
1669

1670 Mr. Archer - I didn't know "fine" was plural either.

1671

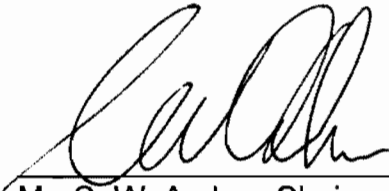
1672 Mrs. Jones - I didn't either.

1673
1674 Mr. Archer - All right. Is there a motion for adoption of the
1675 minutes?
1676
1677 Mr. Vanarsdall - So moved.
1678
1679 Mr. Branin - Second.
1680
1681 Mr. Archer - Motion by Mr. Vanarsdall, second by Mr. Branin. All
1682 in favor say aye. All opposed say no. The ayes have it; the motion passes. The
1683 minutes have been approved as corrected.
1684
1685 Mr. Emerson - Mr. Chairman, as we discussed at the work session,
1686 we do have a need to set an additional public hearing for May 12th on the
1687 changes to the sign ordinance regarding menu boards. If it meets with the
1688 Commission's wishes, we can advertise that for the 12th at 6 p.m. and you can
1689 hear that along with your Med Cottages Ordinance and your Group Homes
1690 Ordinance. That will bring you into compliance with the State Code.
1691
1692 Mrs. Jones - I so move, if that's appropriate.
1693
1694 Mr. Branin - And I second.
1695
1696 Mr. Archer - Okay. Motion by Mrs. Jones, second by Mr. Branin.
1697 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
1698
1699 Mr. Emerson - Mr. Chairman, I have nothing else for the Commission
1700 tonight.
1701
1702 Mr. Archer - May I have a motion for adjournment?
1703
1704 Mr. Vanarsdall - So moved.
1705
1706 Mr. Branin - Second.
1707
1708 Mr. Archer - Motion by Mr. Vanarsdall, second by Mr. Branin. All
1709 in favor say aye. All opposed say no. The ayes have it; the motion passes.
1710
1711 The meeting adjourned at 8:40 p.m.
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Mr. R. Joseph Emerson, Jr., Secretary

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Mr. C. W. Archer, Chairperson