

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary
3 Spring Roads at 6:30 p.m., on April 9, 1998, Display Notice having been published in the
4 Richmond Times-Dispatch on Thursday, March 19, 1998, and Thursday, March 26, 1998.
5

6 Members Present: C. W. Archer, C.P.C., Chairman, Fairfield
7 Elizabeth G. Dwyer, C.P.C., Vice-Chairman, Tuckahoe
8 Mary L. Wade, Three Chopt
9 David A. Zehler, C.P.C., Varina
10 Randall R. Silber, Secretary, Acting Director of Planning
11

12 Members absent: Ernest B. Vanarsdall, C.P.C., Brookland
13 James B. Donati, Jr., Board of Supervisors, Varina
14

15 Others Present: John Merrithew, AICP, Principal Planner
16 Allen D. Webb, ASLA, CLA, CPC, Principal Planner
17 Mark Bittner, County Planner
18 Nancy Gardner, AICP, County Planner
19 Lee Yolton, County Planner
20 Judy Thomas, Office Assistant
21

22 Mr. Archer - I would first like to recognize the presence of Ms. Wendy Wagner
23 of the Times Dispatch and any other media personnel if they're here and I don't know who they
24 are. The first item on the agenda, Mr. Secretary.
25

26 Mr. Silber - Yes sir, Mr. Chairman. Thank you, very much. We do have a
27 quorum tonight. We are missing two of our Commission members. Mr. Vanarsdall is out today
28 and Mr. Donati will not be with us this evening. But we do have a quorum and we can conduct
29 business.
30

31 **AMENDMENT TO ZONING ORDINANCE:**

32 **AMENDMENT TO CHAPTER 24 (ZONING) OF THE CODE OF THE COUNTY OF HENRICO:**

33 An advertised public hearing on whether Section 24-104 of the Henrico County Code entitled
34 "Signs" should be amended to change the current regulations concerning nonconforming
35 structures such as billboards.
36

37 The first item of business tonight is a public hearing on our Sign Ordinance, specifically,
38 Section 24-104 dealing with billboards. Allen Webb is project manager and he will make a
39 presentation on this. Then we would like to open it up for public discussion.
40

41 We have allocated approximately an hour for the public hearing. We're not necessarily
42 committed to that. We can go beyond that, but we do have a long agenda tonight of rezoning
43 requests. So, we would hope that, perhaps, the public discussion comment portion of the
44 agenda, maybe those who are speaking could try to limit their comments to maybe no more
45 than three or four minutes. If there are groups here who have a spokesperson, if that
46 spokesperson could speak on behalf of the group, that would be helpful. In short, we'd like to
47 keep down the repetition in comments. But this is a public hearing, and you do have a right to
48 speak on the issue. Mr. Webb.

49 Mr. Allen D. Webb, Principal Planner - Thank you, Mr. Secretary. Good evening, Mr.
50 Chairman, and members of the Commission. For the record, my name is Allen Webb and I'm
51 speaking to you tonight for the second time on this subject. This is an advertised public
52 hearing so that we are, to say it informally, on the record, as far as the proposal to change the
53 Code, is concerned. The action taken by the Commission tonight will be passed on to the
54 Board of Supervisors for its consideration. That is legislative process involved in amending the
55 code.

56
57 We are here tonight because of the way that outdoor advertising and billboard structures were
58 dealt with way back in 1987, as part of a lengthy review of the entire sign code. In 1987, the
59 Board of Supervisors adopted a change in the code which prohibited billboards by virtue of
60 removing them from the list of uses permitted by zoning. Therefore, billboards in the County
61 became what is called "non-conforming." Those structures legally erected prior to that time are
62 permitted to remain, but they are not permitted to be replaced if they should be removed for
63 any reason. Because of that, for the past 10 years that this code has been in effect,
64 approximately half of the billboards that were in place in 1987 have been removed for a variety
65 of reasons, but primarily because of new development.

66
67 Consequently, the outdoor advertising industry has felt a considerable change; an economic
68 change, you might say. A year ago, industry representatives came to the staff and asked that
69 we sit down and talk with them and talk with members of the Board of Supervisors. They
70 talked to the Board members also. We begin a dialogue, with them and discussed this
71 subject.

72
73 That dialog culminated last November when the Board of Supervisors held an informal work
74 session with members of the industry. Based on the staff study that the Board of Supervisors
75 was provided at that time and the presentation by members of the advertising community, the
76 Board adopted a resolution on November 12 of last year. That resolution asked the Planning
77 Commission to investigate and evaluate this matter and to develop recommendations and
78 forward them to the Board for its consideration.

79
80 And we are at that point, tonight. We have a set of alternatives that I will discuss in just a
81 moment. From this set of alternatives, if the Commission should make its recommendation
82 tonight, it will be passed to the Board for its consideration.

83
84 The staff has prepared a study titled, "Outdoor Advertising, an Analysis of Current Status and
85 Proposed Changes Regarding Outdoor Advertising and Off-Premises Signs." Copies have
86 been placed in the back of the room and the Commission, of course, has had copies to study
87 for a few days. What I would like to do is go through the potential alternatives that staff has
88 identified for consideration.

89
90 There are six alternatives that could be recommended to modify the code should the
91 Commission decide to do so. These are set up in sequential order from one through six. They
92 range from the least permissive to the most permissive. In other words, Alternative 1 would
93 involve the least change in the Code and Alternative 6 would involve the most bold changes,
94 which essentially would return the code to where it was 10 years ago. So, we begin very
95 conservatively and progress to the other end of the continuum. Let me briefly discuss these
96 alternatives so we all have the same information. Mr. Chairman, please feel free to interrupt
97 me at any time because I would like to deal with questions and resolve any issues or concerns
98 as we go. I think that would make it a lot easier for everyone to understand this subject.

99

100 The first alternative staff feels is possible, is to remove the amortization and allow billboards to
101 remain as regulated non-conforming structures. Now, a bit of history on this. The action in
102 January, 1987 to no longer permit billboards contains a clause that states that "after 12 years
103 on January 28, 1999, a non-conforming sign structure must be removed or brought into
104 compliance with the current regulations." Therefore, the advertising industry is faced, by virtue
105 this language in the Code, with the necessity of removing each of the remaining structures by
106 January 28 next year.

107
108 During the past decade, approximately half of their 1987 inventory was removed through
109 attrition. Alternative 1 is the most conservative of the 6 alternatives. It would not permit
110 erection of any new billboard structures but simply remove the "take down" provision. The
111 Code now just says they must taken down by January 28, 1999.

112

113 Mrs. Wade - Please define amortization for us, Mr. Webb

114

115 Mr. Webb - Amortization is the process of writing off things over a long period
116 of time. It is an accounting term. So the thinking in 1987 was that everyone had 12 years in
117 which to amortize the value of those structures and theoretically, at the end of the period, or 12
118 years, the structures would have no economic value. Therefore, taking them down, would be
119 no problem. I don't think history has proven that to be true, but that's a personal observation.

120

121 So, to summarize, Alternative 1 one would simply say "it's all right to leave them and to
122 continue to regulate them as non-conforming structures.", Again, that means a non-
123 conforming structure can't be replaced if it falls down or is taken down. It can't be modified
124 and it can't be improved. It simply must remain as it is. Are we together at this point?

125

126 Mr. Archer - Mr. Webb, one question. "...not altered structurally," does not
127 mean not being able to maintain the sign?

128

129 Mr. Webb - No. It doesn't mean that.

130

131 Mr. Archer - But you couldn't change it?

132

133 Mr. Zehler - You couldn't change it, in essence?

134

135 Mr. Webb - You couldn't change it. You couldn't add other panels, for
136 example. If it's a billboard structure that has panels on only one side, you couldn't put panels
137 on the other side. But, properly maintaining it would be expected of you.

138

139 Ms. Dwyer - Mr. Webb, if the billboards can be maintained, then we would
140 assume that we would always have this number in the County? In other words, they would not
141 be removed because they would fall into disrepair or some other reason?

142

143 Mr. Webb - Assuming good maintenance would permit them to remain, I
144 imagine they would be in place a long time. But other conditions may change and they may be
145 taken down for other purposes as they have been, for example, along Broad Street where
146 development has found them, frankly, to be in the way.

147

148 Ms. Dwyer - Or road widening. In that case, in that situation, under Alternative
149 1, those billboards would be taken down and could not be replaced?

150
151 Mr. Webb - Right.

152
153 Ms. Dwyer - So, again, you would have billboards being reduced by attrition
154 as you mentioned.

155
156 Mr. Webb - Did you have something, Mr. Secretary?

157
158 Mr. Silber - I must add that you will see billboards removed as new
159 development occurs. That has happened since the adoption of the ordinance back in 1987. I
160 think you will lose more through new development and right-of-way acquisitions than you
161 would through lack of maintenance of the structure.

162
163 Mrs. Wade - Did you start by reminding us what it was that the Commission
164 recommended at the work session? I didn't hear that.

165
166 Mr. Webb - You didn't hear that because I neglected to mention it. The
167 Commission, back in late January, held a public work session; an informal session, at which
168 time we went over these six alternatives, and discussed them and their various ramifications.
169 The Commission acted on a motion, at that time. The Commission took the position that
170 Alternative 7, which wasn't on the list, was appropriate. That position was to make no changes
171 in the Code. Inasmuch as that was an informal, or unofficial position taken at the time, Ms.
172 Wade, we had to advertise action in order to have something on the record on which to take
173 official action tonight. So, for that purpose, we're kind of going back and for those who were
174 here last January, about two months ago, this will be repetitious. But your action tonight will be
175 on the record as an official public hearing and it will be the official action of the Commission
176 that goes to the Board for its consideration. So, for that reason, I'm going over it again and to
177 refresh everyone's memory as well as to give those who were not able to be here in January,
178 an opportunity to more fully understand the alternatives.

179
180 Let's go on to Alternative 2 which picks up where Alternative 1 leaves off. We're saying that
181 we have removed the amortization. That's what No. 1 did, but we will adopt a cap and
182 replacement provision and policy along with allowing reconstruction of sign structures and use
183 of new message technology at existing locations.

184
185 Alternative 2 would allow us to replace existing sign structures and add new message
186 technology. This would take us the next step so that when the structure needs to be replaced,
187 it could be replaced at this same location. Also, the existing structure could be modified to
188 permit new technology to be used. This reference is to the changeable message technology
189 and there are several ways to do that. Probably the most expensive way is the electronic
190 message board that we see those used in big league ballparks. There are several signs in the
191 County now that have changeable electronic messages, nothing of billboard size, but we do
192 have a couple of them in the County.

193
194 There is also a system called "tri-vision." And that is a structure that has moveable panels.
195 The panels are vertical, three-sided panels, and each of the three sides contains a different
196 message. The billboard consists of a number of these panels side by side, much like a vertical
197 venetian blind. As the panels are rotated in unison a third of a revolution at a time, a new

198 message appears. So, with these three-sided devices, you have three potential messages on
199 one billboard that can be changed according to the desires of the renter or the company.
200

201 The second alternative would permit tri-vision technology to be used so existing locations to be
202 used more beneficially, by virtue of the opportunity to provide additional message space.
203 These changes would require amendments in the Code text that would have to come back to
204 the Commission or to the Board if it chose to do these.
205

206 To summarize to this point. Alternative 1, would simply involve striking of a sentence in the text
207 of. Alternative 2, and other alternatives, would require considerably more work as far as
208 developing language and specific text in the code. Alternative 2 goes to the point of allowing
209 billboards to be changed, and their number capped so there would still be the same number
210 that we have today, which is approximately 90. The way that would work, is that if one is to be
211 replaced, the owner would have to apply for a demolition permit and a construction permit at
212 the same time. In that way, we would know that if one comes down one may go up.
213

214 Turning to the remaining Alternatives, 3 through 6, we find they become progressively less
215 restrictive. I'll go into those in a moment, but are there any questions at this point, Mr.
216 Chairman?

217
218 Mr. Archer - Do the Commission members have any?

219
220 Mrs. Wade - Can you summarize these as much as you can, Mr. Webb,
221 please?
222

223 Mr. Webb - That's what I want to do, to make sure we stay together because
224 of the nature of the way these alternatives build on one another. But first, let's keep in mind
225 that prior to the 1987 amendment, billboard structures were allowed in the B-3 Business
226 District and the three manufacturing districts. There were four districts in which they could be
227 located. If we are to do some of the additional alternatives, we would have to revisit some
228 portions of the code and write text to permit them to be placed in those districts in accord with
229 whatever standards we chose. I say that, because there may be more than one way we
230 choose to permit them. That's a decision that would have to be made.
231

232 Now, going on to the first of these last alternatives. Alternative 3 would remove the
233 amortization as we did in Alternative 1. We would adopt the cap and replacement provisions
234 as we did in Alternative 2. But now we would also allow billboards by right in appropriately
235 zoned locations adjacent to interstate highways. Now, at the present time, many of our
236 billboard signs are adjacent to interstate highways where they are situated in heavy business,
237 B-3 or the "M" districts. This proposal would allow new billboards by right in these zoned
238 locations. We would have to develop criteria to the regulate the new ones, but they would be
239 allowed by right.
240

241 Now, in looking over the information about our existing location, we find that there would
242 possibly be as many as 58 new structures permitted in the areas adjacent to the interstates if
243 we follow that option. These 58 structures would come from a variety of locations, such as,
244 Broad Street where within three quarters of a mile of us, there is a billboard. Under this
245 proposal, if it was allowed in an industrial district adjacent to an interstate, the owner of that
246 sign on Broad Street could take it down and erect it adjacent to an interstate at a properly
247 zoned location of his choice. Now, because we have proposed a cap policy, we would also

248 expect to see the demolition permit for the one on Broad Street attached to the building permit
249 for the new one in an alternative location. That's the way that system would work and that is
250 how Alternative 3 would work.

251
252 Are we still together? All of these last options require some change in the code. For example,
253 in the industrial codes, if we went that way, we would have to go into the code and we would
254 have to say, "Billboards are permitted pursuant to..." and we'll get into that a little bit later. We
255 would also go into the sign code and establish regulations for these signs: How much area
256 would they be allowed to have? What would their height be? Would there be any separation
257 criteria? All of these matters would be resolved by a subsequent study if you choose
258 Alternative 3.

259
260 Alternative 4 takes us one step further. In addition to allowing the signs by right adjacent to
261 interstates, it would also allow, in locations not adjacent to interstate highways, to pursuit of
262 approval of a provisional use permit. This is why I mentioned a few moments ago that we
263 would have to go into the selected districts and make adjustments to indicate what approval
264 process would be required.

265
266 For example, we'd have to go into the industrial districts and say that billboard structures are
267 permitted pursuant to a provisional use permit. This would open location alternatives so that if
268 areas are suitable other than those adjacent to interstates or in industrial districts, then a
269 provisional use permit could be applied for and the proposal treated on a case-by-case basis.
270 So, if there is merit in putting a billboard at a particular location, this Commission and the
271 Board of Supervisors would have the opportunity to review proposals on a case-by-case basis
272 and attach such conditions as either or both bodies feel appropriate. Also, the provisional use
273 permit revocable for cause. That's one reason its used so frequently for a variety of purposes.

274
275 So, now we're up to Alternative 4. To summarize, up to now we're allowed billboards on
276 certain locations off the interstates pursuant to a provisional use permit, and we're allowing
277 them by right next to the interstates. We're allowing them to reconstructed and rebuilt. Of
278 course, we've removed the take down provision. So, we are now at the point of allowing them
279 in a variety of locations, pursuant to different processes. In some areas, such as adjacent to
280 the interstates, they would be permitted by right.

281
282 Now, Alternative 5 takes a little different approach. It says, "Let's remove the amortization we
283 did in Alternative 1. Let's adopt a cap and replacement provision as we did in Alternative 2
284 regarding new structures, and allow new structures by right in any appropriately zoned
285 location." This is a different approach. It would allow billboards by right in other appropriately
286 zoned locations. Where those locations are and what the appropriate zoning is would have to
287 be determined if the Commission chooses to go this route. We're still talking about cap and
288 replacement provisions. We're still talking about 90 structures. We would have to decide
289 where those new structures would be allowed. Again, you will recall that back in 1987, they
290 were allowed in B-3 Business Districts and in the three industrial districts. Whether or not all of
291 those districts are still acceptable would have to be determined. But this proposal suggests,
292 this is what we ought to do—sit down and develop the criteria if you select Alternative 5 as a
293 reasonable way to go. Are we still together at this point?

294
295 Ms. Dwyer - Mr. Webb, the difference between Alternative 5 and 4, is
296 essentially that no provisional use permit is required in Alternative 5?

297

298 Mr. Webb - Yes, they would be allowed "by right" instead of by a secondary
299 permit. Alternative 5 removes one level of hearings and permitting. The permitting system
300 under this alternate would be the usual building permit as required for many other structures.

301
302 The last alternative removes one of the restrictive provisions of Number 5. It would delete the
303 "cap and replacement" provision which would otherwise keep the number of billboards at 90.
304 Alternative 6 basically says, "Remove the amortization and allow them by right in any
305 appropriately zoned location." That's why I say that is the boldest, or the least restrictive of the
306 six alternatives. Essentially it would take us back to where we were prior to 1987. It would
307 only require a simple building permit to obtain approval to build a billboard structure. To get to
308 this alternative, we would need to sit down and go back through the Code and decide what
309 regulations needed to properly control billboards. This is why I earlier stated questions like,
310 "What should be the setback from property lines, if any? Should they be set back from
311 existing buildings? "Height of the structures, their size and area." How is height determined?
312 Should there be controls on embellishments and what should they be? These are some of the
313 criteria that were in the code prior to 1987. Other criteria have been suggested including a
314 minimum distance from certain sensitive uses such as churches or schools. There are many
315 things that would need to be worked out so that everyone would know the criteria that could be
316 adopted in the code. Another hearing would be required to allow the proper sections of the
317 code to be amended to specify which districts billboards are to be allowed.

318
319 So, there you have it. Six alternatives starting from the most restrictive or the least change, to
320 the boldest of all changes, which essentially accomplish a reversion to the 1987 or pre-1987
321 regulations. Mr. Chairman, are there questions? I hope we've stayed together.

322
323 Mr. Archer - Do any Commission members have questions of Mr. Webb? I
324 think you've done it quite adequately, sir.

325
326 Mr. Webb - Thank you. I'd be delighted to answer questions as they come
327 up.

328
329 Mr. Archer - There may be some later.
330 Mr. Webb - I'm sure there will be.

331
332 Mrs. Wade - Just to clarify one point about amortization. As I understand it,
333 when they came due, say, next year, there would not be a direct cost to the County for the
334 removal of the billboards except on the interstate if the county elected to do that?

335
336 Mr. Webb - Along the interstates, the highway beautification act really says
337 that if you want to take them down, that's fine; but, you have to dig down into your pockets and
338 pay for them. There's some debate as to whether the amortization policy is possible or
339 enforceable. It's my understanding some courts have ruled that it isn't possible saying you still
340 have to pay for them if you want to take them down. It's perhaps an open legal question.

341
342 Mrs. Wade - Although I was just going to say at our session we had with our
343 attorney before our work session, our understanding was that he felt would feel comfortable
344 defending that. Although I understand there have been different decisions around the Country
345 at different times.

346

347 Mr. Webb - For that reason, he approaches the subject conservatively and
348 indicates that he's not quite as strong as he is on other provisions as far as being able to
349 defend it. I might add that this amortization provision also is written broadly so that it says,
350 "any non-conforming sign has to come down." More than billboards are affected by that
351 regulation as other non-conforming signs would also have to be removed. There is a
352 difference, of course, between a non-conforming sign and an illegal sign. The non-conforming
353 status of a sign indicates that it was erected in accordance with law and proper procedures. If
354 it didn't have the benefit of the proper building permit and so forth, it's probably not non-
355 conforming, but just plain out and out illegal and not covered by that provision. There are
356 other ways the law deals with them.

357
358 Ms. Dwyer - One more question. If we selected I think what we have sort of
359 "tongue and cheek" referred to as Alternative 7, which is not listed, does that require removal
360 of billboards on interstates as the law now exists?

361
362 Mr. Webb - No. They would be protected by Federal legislation. They would
363 be exempted, in other words, from this requirement.

364
365 Mr. Archer - Thank you, Mr. Webb.

366
367 Mr. Webb - Thank you, Mr. Chairman.

368
369 Mr. Archer - Well, now we come to the public part of the session. We have
370 not designated whether there is a pro or con side nor to speak in any order. I don't believe
371 that is necessary. Do you, Mr. Secretary? So, anyone who would care to speak to this issue,
372 either for or against, we would ask that you make your remarks as brief as possible, because
373 there are several people here who probably want to speak. Also, if there are groups
374 represented who have one spokesperson who you think can convey your ideas, we'd like to
375 hear from that person so as not to be repetitive. With that, we're open for discussion. Please
376 come up and identify yourself.

377
378 Ms. Louise H. Ailor - Let me introduce myself. I am a 43-year resident of Henrico
379 County. I own a business. I'm Louise H. Ailor & Company. It is also located in the County. I
380 have watched signs and I was here in 1987 to protest any more billboards going up. I can't
381 think of one redeeming feature as far as the beauty of Henrico County is concerned of putting
382 up any more signs. I'll be glad when they all come down.

383
384 In regard to the 12 years; I thought it was an excellent code that the County supervisors
385 okayed. I'm willing to live with that until January of 1999. So, I do hope that they will come
386 down. I was looking at Alternative 1. There is no cap on that whatsoever. So, in my opinion,
387 the code should remain as it is. Thank you very much.

388
389 Mr. Silber - What is your name again, please?

390
391 Ms. Ailor - I'm Louise H. Ailor.

392
393 Mrs. Wade - Would you tell us what your business is?

394
395 Ms. Ailor - I'm a real estate broker. I own my own company.

396

397 Mr. Archer - Thank you, Ms. Ailor.
398
399 Mr. Zehler - So, what you're saying, you want your real estate signs to come
400 down?
401
402 Ms. Ailor - I didn't say that. They are heavily regulated. I can only leave
403 them up a certain length of time. Not only do you regulate them, but the Virginia Association of
404 Realtors regulates us where signs are concerned. We're not supposed to put them in the
405 median strip as far as the County is concerned. I have never done that because I heard from
406 some agents that their signs were just picked up and thrown in the trash. These signs are
407 expensive and I know better than to do that. We are regulated and I think that the billboards
408 should be heavily regulated also. I didn't say I wanted all our signs to come down. I didn't say
409 that. Ours are temporary. As soon as a piece of property is sold, mine come down. For Sale
410 signs do go up. I don't like to see more than one sign on a piece of property. I have seen
411 three or four, which I think is disgusting, especially at the corners. But I'm all for regulating real
412 estate signs. Yes sir. Definitely.
413
414 Ms. Dwyer - I believe Alternative 1 does cap the number of signs. There
415 could be no additional signs. Alternative 1 does cap the number of billboards. There could be
416 no additional or new billboards.
417
418 Ms. Ailor - That's fine. Just the way it is. Leave the Code exactly in place.
419 As far as the 12 years us concerned, I don't know how they're going to handle that. That's not
420 up to me to decide. But Alternative 1 has no cap.
421
422 Ms. Dwyer - Yes ma'am. It does.
423
424 Ms. Ailor - Oh. It does have a cap of 12 years?
425
426 Ms. Dwyer - Oh, you mean time cap?
427 Ms. Ailor - Time cap.
428
429 Ms. Dwyer - Right. It does have a time cap.
430
431 Ms. Ailor - Alternative 7 sounds like the same thing we have now. That's
432 fine. Thank you very much.
433
434 Mr. Archer - Okay. Is there anyone else?
435
436 Ms. Marsha Kelly - I am a citizen of Henrico. Billboard structures are distracting to
437 motorists and display or obscure natural vegetation which provides for aesthetically pleasing
438 roadways. If proper maintenance lapses, billboards become eyesores which degrade the
439 areas around them. Even if billboards are properly maintained, additional natural vegetation
440 will be removed for visibility purposes.
441
442 In the 11 years that have passed since 1987, opportunities for advertising have exploded. In
443 addition to the traditional radio, television and print media, the internet has taken marketing to
444 a dimension unimagined in 1987. As citizens, we can chose to listen to, watch or read
445 commercial messages. We can voluntarily search out information, including travel information,
446 on the computer. Billboards stand on the roadways citizens must use. We can not chose to

447 not to be subjected to their messages. The new technology in the billboard industry is tri-
448 vision, flashing, rotating message boards. The last thing motorists need is additional
449 dangerous distractions on the roadways. The neon glow of billboards does not fit the picture
450 of our County.

451
452 Henrico is a well established, attractive locality. We have historic, beautiful scenery, and
453 excellent recreational opportunities to offer our citizens and visitors. Only by careful planning,
454 such as the billboard ordinance passed in 1987, would we be able to continue to offer the
455 amenities which make Henrico such a desirable place for residents and tourism.

456
457 We must not be shortsighted in our thinking. Four states have bans on billboards: Maine,
458 Vermont, Hawaii, and Alaska. All four of these states are prime tourists designations.
459 According to the latest figures from the Virginia Tourism Corporation, of the top 10
460 municipalities in Virginia, ranked according to toll tourist expenditure, nine have billboard bans.
461 I urge the members of the Planning Commission to recommend Section 24-104 of the Henrico
462 County Code entitled "Signs," be maintained as it stands. Thank you for your time and
463 attention to this important issue.

464
465 Mr. Archer - Thank you, Ms. Kelly. Any Commission member have a question
466 for Ms. Kelly? Thank you.

467
468 Ms. Ann Sterling - I am a law student and an active volunteer in the Henrico Public
469 Schools. I'm married to a professional historian. We have lived in Henrico for four years. If it
470 were possible we would stay for another 400. I would just like to tell you in a few sentences
471 the tale of two villages in a place where we lived in the Hudson Valley in New York. One is 8
472 miles from the other and they are both on the historic Hudson River. One was very backward
473 looking. The other forward looking. I just want to tell you the outcome.

474
475 One is Hyde Park, New York, the home of Franklin Roosevelt. When he died, his children sold
476 some of the acreage that belonged to the Roosevelt's. And, quickly, the very forward looking
477 village of Hyde Park, decided that it wanted to capitalize on the fame of Hyde Park because of
478 the fame of the President. Very quickly, billboards and other signs went up along historic
479 Route 9, overwhelming the entrances to the Roosevelt House and the Vanderbilt mansion next
480 door. Very quickly, there were motels that advertised themselves everywhere you looked.

481
482 Eight miles north, there is a very backward looking village with a backward looking zoning
483 board. It is a little Dutch village named Rhinebeck. What was good enough for their great
484 grandfathers was good enough for them. they didn't want to change a thing. Everyone said
485 that Rhinebeck would wither on the vine.

486
487 The outcome today is this: Many people still want to visit the Roosevelt home and the
488 Vanderbilt mansion, but they never stay there. They don't want to stay in Hyde Park. They go
489 to backward looking Rhinebeck which is still a pristine little Dutch village with no signs at all.
490 People stay at the Beakman Arms in Rhinebeck and see wonderful examples of the nation's
491 architecture, including cottage architecture from the 1840's and much earlier as well. They
492 sometimes stay south of there in Pookepsie near Vassar College, but they don't stay in Hyde
493 Park.

494

495 So, it wasn't even very good for business, even though they wanted to be friendly to business
496 in Hyde Park. In fact, they don't have very much because it's not a very nice place to be. And
497 little backward Rhinebeck is a place that's a mecca for tourists and people who love history.

498
499 There is even more history here in Henrico County. We are so fortunate to have it. We owe a
500 debt, not only to our ancestors who have passed this lovely place down to us in the beautiful
501 condition it is, but to future people who will want to come and explore Henrico history. We
502 need to save it as it once looked as closely as we can and we certainly won't hurt business in
503 Henrico County if we do that. Thank you.

504
505 Mr. Archer - Thank you, Mrs. Sterling. Any questions by Commission
506 members of Mrs. Sterling? Okay. Next, please.

507
508 Ms. Silvia Wright - I came here, tonight, to be more of a reminder of the history of
509 the legislation, itself. Publicly there has been a misnomer that somehow this legislation is the
510 product of the loud voice of a small minority. When I looked back through my records over the
511 years, what I found was that we have had participation from the Retail Merchants Association,
512 the real estate industry, the League of Women Voters, Innsbrook Investment, Varina
513 Beautification, Southern Environmental Law Center, the representation from all five districts,
514 both in civic and community representation. This has been legislation that has definitely not
515 come out of a small minority with a loud voice. What you have before you is a consensus
516 that's been worked out. There has been an attempt to repeal it a few years ago. It has not
517 worked. There is no real reason tonight to repeal it. It works. It's fair. It's given this industry
518 more than enough time to recover its costs. And it's more than an issue of aesthetics.

519
520 The regulation is intended to prevent visual pollution and a forum for environmental litter. It's
521 intended and designed to protect the health, the safety, and the welfare of our community, to
522 create a harmonious community, to protect property values and to assure that we have a
523 compatible, production, economic, sound community here in this area. So, what I would like to
524 charge you with, tonight, is to look at the history, itself, of who has been involved in this, and
525 realize that this is the product of a consensus here in the community. Thank you.

526
527 Mr. Archer - Thank you, Mrs. Wright.

528
529 Ms. Adel Maclaine - I've lived in Henrico County for about 10 years. I was lucky
530 enough to live before that in Hawaii. So, I moved here from a state that had no billboards.
531 When I moved here, friends of mine said, "You're so lucky to be moving to Virginia. It's so
532 beautiful." I have to tell you that, I do feel lucky to live here, but I am rather ambivalent
533 because of billboards for one thing. Of course, Henrico has a lot of other plusses, too, but it
534 seems to me that this county did such a good job before in regulating billboards, keeping them
535 down. It's very troubling to think that now you might go back and contribute more to what I feel
536 is a cheapening of our lives. It seems to be we are inundated with commercialism. Christmas
537 is no longer what it used to be. Dinnertime is no longer what it used to be. At least we don't
538 have to be assaulted in our business districts, hallways and so on with billboards. So, I urge
539 you to leave the ban in place. Thank you.

540
541 Ms. Dorothy Vye - I am a resident of Henrico County. I just wanted to very briefly
542 share that I have been so becoming aware of these tri-vision signs. I saw one down at the
543 ballpark. I saw them a couple of other places. I've seen them in Times Square, which is
544 where they belong. But I also happened to be out in the country; had the experience of driving

545 down a very, very major wide inter-city roadway, and was just shocked when I saw those
546 flipping signs. I was distracted, frankly. Thank goodness, I was not behind the wheel. I said,
547 "Oh my gosh." I said, "I can't believe this." This is out of the country. Well, its coming here,
548 too. It's probably far more prevalent in the United States than I'm aware of, because I just
549 haven't been in every city in the United States in the last year. But I urge you not to move in
550 that direction. I just believe it is dangerous.

551
552 Mr. Archer - Thank you, ma'am.

553
554 Mr. Malcolm Holly - Mr. Chairman, members of the Commission, I'm here tonight
555 representing the Wellesley Homeowners Association as the President of its Board of Directors.
556 The issue before is a concern to the residents of the Wellesley community, some of who are
557 here, tonight. Our community has worked diligently over the past few years with the officials of
558 the County and also with developers who are trying to develop the W. Broad Street corridor,
559 preserving the natural environment and the beauty of the Short Pump area. The elimination of
560 the moratorium on billboards in Henrico County only hastens further the detracting of the
561 aesthetics of our community. Billboards defeat the work completed over the 18 months by a
562 committee of citizens, developers, County officials formulating the West Broad Street Overlay
563 District guidelines. These guidelines have helped establish a uniform systematic plan that
564 complements the work of the County as it executes its Land Use Plan. Billboards also would
565 seem to be an archaic form of advertising. Given the proliferation of electronic media, such as
566 T.V., radio and the internet, consumers are inundated with advertising. They can make their
567 own choices to seek the advertisements that they chose to review. On the behalf of the
568 community, I would ask that you consider the detrimental visual impact billboards have, not
569 only on the Wellesley community in the west end, but also in Henrico in its entirety and
570 continue the moratorium as it is currently in place. On behalf of our community, I thank you for
571 your consideration.

572
573 Mr. Archer - Thank you, Mr. Holly. We've heard from seven speakers so far.
574 Mr. Holly, of course, is representing a group. Is there anybody here who is representative of a
575 group that has one idea to share with us?

576
577 Ms. Charlotte Fishcorn - Mr. Chairman and committee members, I'm speaking for the
578 Garden Club of Virginia, a state-wide organization of 47 clubs, four of which who have
579 members who live in Henrico County. We believe that billboards are most often located in
580 areas with falling property values. You don't see them in Innsbrook or any of the newer office
581 parks, attractive new businesses. New businesses, residents and tourists are all attracted or
582 repealed by a community's appearance. We urge you to please keep Henrico County
583 appearance as fine as it can be. Thank you very much. I would also urge Henrico you not to
584 step back in time and repeal the existing ordinance to allow billboards to continue to litter the
585 landscape. Thank you very much.

586
587 Ms. Nelda Snider, Varina Beautification Committee – Mr. Chairman and members, we concur
588 with all the other speakers so far. They have spoken very eloquently. We would like to ask
589 you not to make any changes in the Ordinance. Leave things as they are which we think the
590 citizens of Henrico spoke to 10 years ago and still are. Thank you. I have something for you
591 to look at. We don't think we need or want this. (Handed pictures to the Commission).

592
593 Mrs. Wade - You should have brought this when we were debating the
594 attention getting devices, Ms. Snider.

595
596 Mr. Tom Pappalardo - I am the General Manager and the Vice-President for Lamar
597 Outdoor Advertising. My intention was to come in here and be quite brief, but as usual, when I
598 come to these sort of things, I hear a lot of things that just really need to be addressed. Once
599 again, if you all have been to a lot of these things, the Outdoor Advertising Industry has been
600 blamed for everything but the plague, and it really gets old. We're a good, legitimate business.
601 We're good corporate citizens which I'm going to get to. But to get up here and blame us for
602 the woes of Henrico County, the woes of the State of Virginia is just not right and not fair and I
603 think you ought to know that. The other thing is the amortization situation. As I know you all
604 are aware of, Federal law certainly indicates that any billboards taken will have to be paid with
605 just compensation. I'm not here to debate what just compensation is. I feel very comfortable
606 with what that is. Having said that, the State of Virginia is a just compensation state. So,
607 make no mistake, those boards will not be taken without just compensation being paid. You
608 know that and I know that.

609
610 Several months ago at the Planning Commission work session, which turned into a public
611 hearing, a lot of things were said about Lamar and the Outdoor Advertising Industry. I'm not
612 going to waste your time tonight by trying to refute all of the comments of those who want to
613 see no change, but I do feel I need to address some of those.

614 As you're probably aware, recently at the General Assembly has passed a bill that would allow
615 the pruning and vegetation of all legally erected signs. If the delegates and the senators the
616 State, including the overwhelming majority of Henrico legislators said once again, "Outdoor, is
617 a legitimate business and has a right to protect their investment." Now, we need your help.
618 Several comments have also made in the past that LaMar and other outdoor advertising
619 companies make a lot of money. And the last time I checked, this was still America, and
620 making a profit is not illegal. I don't apologize for the fact that we make a profit. I dare say
621 there's any business in Henrico who don't, they're not going to be in business for much more
622 time.

623
624 I also know, as well as you know, that Henrico County has put out a lot of money and time and
625 effort into bringing businesses into Henrico County. I'm sure with the hopes of also being
626 profitable. What we're asking you, tonight, is just to allow a business, a legitimate business
627 that exists today, to stay. No more. No less. They can talk about proliferation. They can talk
628 all they want. We're talking about being allowed to maintain our legally erected billboards; the
629 90 billboards that we have now; no more no less. There will be no increased proliferation no
630 matter what they say. That's the fact. This is not emotional. That's the fact.

631
632 Ms. Dwyer - May I ask you a question, Mr. Pappalardo?

633
634 Mr. Pappalardo - Yes ma'am.

635
636 Ms. Dwyer - Are you saying, you prefer Alternative 1?

637
638 Mr. Pappalardo - Alternative 1? No.

639
640 Ms. Dwyer - You said you're simply asking to keep the signs you have?

641
642 Mr. Pappalardo - No ma'am. I don't support No. 1. All Number 1 does is eliminate
643 amortization which I certainly want to see eliminated. But that's only part of it. So, we do not
644 feel that certainly is enough.

645
646 Ms. Dwyer - Okay. I just thought I heard you say in substance, you wanted
647 Alternative 1?
648

649 Mr. Pappalardo - No. I want to be able to maintain my billboards. When I finish, I
650 think you'll understand where I'm coming from. Amortization we feel has no basis. The other
651 thing about amortization I'm glad you brought that up because it slipped my mind. Aside from
652 the issue of just compensation, I'd like you and I'd like the people of the audience to put
653 themselves in this position. You have a house on any artery on Broad Street or artery in
654 Henrico County. The highway is getting widened. Okay. They say, they come to you and you
655 have a home there. They say, "We're going to take your house. What we're going to allow
656 you to do, though, is have your house for 12 years. You continue to make payments. You
657 continue to enjoy the amenities of your beautiful house and your beautiful pool and the
658 beautiful surroundings. At the end of 12 years, we're going to take your home and we're not
659 going to pay you any money for it." I would wonder how you would feel about that. It's no
660 different...Someone might not like your home. It may not like the architecture of your home.
661 So, It's a matter of what is right and what is wrong. It's not right legally. It's certainly not right
662 morally. You wouldn't want somebody to take your property without just compensation. I feel
663 that Lamar has been a good corporate citizen for many years. We have provided thousands
664 of dollars every year to the community because we believe in the community.
665

666 I know Mr. Archer has received a letter. I don't know if you all have had a chance; I've got a
667 copy of it, a letter from the County School Board, from Hugh Palmer, who is Chairman of the
668 Henrico County School Board, and Mark Edwards. I'm not going to waste your time. What I'd
669 like to do is pass it out you and give you a chance to read it. But I think this says a lot,
670 because I think somebody spoke to the Henrico County Schools. Here we have a letter which
671 says and we are good corporate citizens, that we are an important part of this County. They
672 couldn't do these things without people like us. I'd like to pass it out to give you a chance
673 to...(passed letter out to Commission members).
674

675 Finally, now I'm going to get to your question. As discussed in the recent work session, the
676 amount of outdoor structures has been reduced by 50 percent in the last 11 years. As you
677 know, staff has worked countless hours with us coming up with several options for review. We
678 are requesting that Option No. 5 be approved. This will allow us to maintain the same amount
679 of signs, no more than now. All new locations will adhere to strict regulations. We don't want
680 No. 6. We don't want to add to the amount of boards. We don't want them to be allowed to
681 be put anywhere you want.
682

683 As it was in 1987, despite the action of the Board of Supervisors at that point, it was not – if it
684 had a cap replacement at that time, it would have been a wonderful ordinance for all. It was
685 allowed in Business districts and commercial districts only. It was not allowed in the schools. It
686 was not allowed in residential areas. That could once again, be done. We think this is a good
687 and fair compromise. I would like to leave you with this thought. If you don't approve a cape
688 and replacement, a change to this ordinance, to the current sign ordinance, I'm just curious of
689 what business in Henrico County would be next on the list that you would allow to go out of
690 business? Are there any questions?
691

692 Mrs. Wade - There was one distinction, at least one to be made regarding you
693 were talking about taking people's houses and what not. Our legislative body would never

694 pass that because the community would not accept it. On the other hand, this sign ordinance
695 was approved by the legislative body.

696
697 Mr. Pappalardo - I was talking morally. If we were talking legally, we are just
698 compensation state. This is not the appropriate time. You have spoken to your attorneys.
699 You know what the situation is and what you feel you need to do. What I was saying is, that it
700 is the same because you don't like billboards, doesn't change the fact that you shouldn't
701 morally take anything without paying just compensation for it. That's all I meant. Legally, we
702 feel we're on firm ground. Morally, I know we're on firm ground.

703
704 Mrs. Wade - I sometimes wonder if your business with your billboards are as
705 beneficial as you indicate. Why is it that your organization has to have so many lobbyists, so
706 many lawyers, people all over the country, when this issue comes up?

707
708 Mr. Pappalardo - Ma'am, I do my lobbying. If you have ever been down to the
709 State legislature, which you have, I was there, ma'am, and I do the majority of my lobbying.
710 Yes, we have lobbyists. When people want to put us out of business, you have to protect
711 yourselves. And as far as talking about billboards and their success, if people didn't want to
712 use billboards, my goodness, why are we still in business? Why are these profitable? Isn't
713 that a funny question. If we're not wanted, if we're not needed, why do people continue to use
714 us? We have a legitimate business. We have a right to be here. We're good corporate
715 citizens. The problem, I am not sure what else we need to do, because you don't like
716 something. There's a lot of things in this County, a lot of things in the City, a lot of things in
717 Chesterfield County that I don't like. But that doesn't mean we should get rid of them.

718
719 Mrs. Wade - Perhaps, you're suffering from some of the abuses that have
720 occurred, you know, throughout the Country in terms of poor locations and lack of tasteful
721 billboards and that sort of thing.

722
723 Mr. Pappalardo - I'm sorry, ma'am.

724
725 Mrs. Wade - You go to meetings where there are people from all over the
726 country who are concerned about the safety and the way the communities look. There can be
727 any number and you know what Scenic America tells you. For instance, they could show you
728 any number of examples where there are, well, I won't say your industry, where, perhaps,
729 some of your colleagues have not been as careful as they might have about relocate them in
730 front of scenic places that would interfere with...

731
732 Mr. Pappalardo - Well, you're making a lot of general statements, and with strict
733 control, you don't have to have that problem.

734
735 Mrs. Wade - The latest example I heard, and I just came back from a National
736 meeting in Boston last night, actually. I attended a session on billboards. One lady, and I
737 didn't hear her town because I was listening for her message, that they were doing some infill
738 development, redevelopment and they were making in the area that had been residential into a
739 commercial use next to a residential area. A billboard, which she indicated got the community
740 very excited, was put up by a radio station that had BS in it spelled out in four letter words and
741 another one of some scantily clad women, less so than Hooters, I gather, and that some of the
742 residents were very indignant that they would have a charcoal grill out in their yard...And I'm

743 not making this up, I'm just saying that maybe you get a bad rap because there are some...Of
744 course, you're not always going to be here. I'm not always going to be here. None of us are.

745
746 Mr. Pappalardo - You're right. I know that you don't like billboards and I respect
747 that.

748
749 Mrs. Wade - Yes. You heard my feelings because you went to see Mr. Archer.
750 You didn't ever even call me.

751
752 Mr. Pappalardo - I have seen you in the past and you have told me exactly what
753 you felt. Having said that, once again, I resent being blamed for the woes of the world.

754
755 Mrs. Wade - Well, that's true, that happens to all of us.

756
757 Mr. Pappalardo - Let me finish, please. What bothers me about what you're saying
758 is, that you can apply that to any industry, any business. If people break the law, if people are
759 immoral, why would you blame me for something somebody's doing in Nebraska? We don't
760 that. We're part of this community, yet every wants to say the billboard companies in
761 Richmond are like something else. There's a law not to commit murder. If somebody commits
762 murder and breaks the law, they go to jail. You know you don't change the law. If somebody
763 breaks the law or is not a good corporate citizen, you deal with them directly.

764
765 Mrs. Wade - There ought to be a law, whenever somebody does that is either
766 bad or somebody doesn't like, then there's a calmer. There ought to be a law. Many of us are
767 regulated in many areas because of the abuses of others. That, as you say, could apply
768 everywhere.

769
770 Mr. Pappalardo - We are very regulated. We are very regulated. Even if you pass
771 a cap replacement with certain zoning, you ask the staff. It's just very, very regulated. We're
772 not asking for any more or any less. Personally, I'm tired of getting into a moral debate about
773 it. If we can do that, we can talk about the newspapers; the ads that go in there. The ads that
774 go on the radio. Why do you want to pick on us?

775
776 Mrs. Wade - Well, you said, "moral," and we didn't use the word, "moral."

777
778 Mr. Pappalardo - No ma'am. I stand corrected. You did not use the word, "moral."

779
780 Mrs. Wade - And I would certainly agree as far as your comments are
781 concerned, I don't have any problem. I don't think the Federal government should tell you, you
782 can't put cigarette ads up for instance and a lot of things like that, because that's a legal
783 operation.

784
785 Mr. Pappalardo - So, are we.

786
787 Mrs. Wade - We're not talking about morals, really even in right and wrong.
788 We're talking about safety. We're talking about aesthetics. We're talking about keeping the
789 community attractive so other people will want to come visit.

790
791 Mr. Pappalardo - Do you say cigarette smoking is attractive?

792

793 Mrs. Wade - I didn't say cigarette smoking.
794
795 Mr. Pappalardo - But you said it was legal. I didn't come here to argue with you. All
796 I'm saying is, you continue to single us out for all the woes. That's just not true. We have a
797 legitimate business. We have a right to stay. We're good corporate citizens. This
798 Compromise No. 5 is a good alternative. Yes ma'am. No. 5 is a cap replacement with
799 predetermined zones where we will be allowed to be put with a cap. It's a simply request. It's
800 not an increase. It's an ability to maintain what we have.
801
802 Mr. Archer - Mr. Pappalardo, I have a question. To what extent are you able
803 to control what goes on a billboard that you lease?
804 Mr. Pappalardo - For the most part, I have a lot of control. I'd be first to say,
805 occasionally, I'm not aware of all of the copy. If something inappropriate does go up, I'd be the
806 first one to make sure it came down. I'm not going to tell you that it never happens or won't
807 happen in the future. But the "buck" stops with me. If something is up there that I feel is
808 inappropriate, then I would make should; I would go to the client and make sure that didn't stay
809 up any longer. Are there any questions?
810
811 Mr. Archer - Are there any other questions of Mr. Pappalardo?
812
813 Mrs. Wade - Yeah. I don't hear anybody blaming you for all the ills in the
814 world. Just a couple of them.
815
816 Mr. Pappalardo - I heard a lot. But that's okay.
817
818 Mrs. Wade - Well, that's what you hear. That's not necessarily what we're
819 saying.
820
821 Mr. Archer - Any other questions of Mr. Pappalardo?
822
823 Mrs. Wade - You will recall back in the 80's when we were working on this in
824 the first place, we worked for two more years after we had approved the rest of the sign
825 ordinance trying to work out a compromise, a location and regulations with you all. We never
826 seemed to get anywhere, so that's why we wound up with the ordinance that we have now. At
827 the time, the 12 years was considered lenient in terms of what other communities were putting
828 on their amortization.
829
830 Mr. Pappalardo - That is your opinion. Yes ma'am. That was not my opinion and
831 still is not.
832
833 Mrs. Wade - Well, no, I didn't mean it was your opinion.
834
835 Mr. Pappalardo - Right.
836
837 Mrs. Wade - And this letter from the Schools, people I gather that you've been
838 donating billboard space for the school messages.
839
840 Mr. Pappalardo - Yes ma'am.
841
842 Mrs. Wade - And I know you've done this for a lot of organizations.

843
844 Mr. Pappalardo - Yes ma'am.
845
846 Mrs. Wade - I'm aware of that.
847
848 Mr. Pappalardo - Thank you. Any other questions?
849
850 Mr. Archer - Any other questions? Thank you, Mr. Pappalardo. Are there
851 others here to speak for or against?
852
853 Mrs. Wade - Sorry. I didn't mean to get into the rest of your time.
854
855 Mr. George Paton - I am a citizen of Henrico County and Vice-President of
856 Government Affairs for the Retail Merchants Association of Greater Richmond. I am
857 representing the association that is the subsidiary of the Greater Richmond Hotel/Motel
858 Association. The Association supports the billboard industry and we are going to ask you
859 adopt Alternative 5. We feel that billboards help travelers find gas, food, lodging and other
860 services. It provides information about products and services to the public. It has importance
861 for the local retail industry, and it provides a way to communicate with consumers, both those
862 who live in the metro region and those tourists traveling to our area and those who may pass
863 through without stopping.
864
865 The members of the billboard industry are good community citizens. The Retail Merchants
866 Association worked closely with the Metropolitan Coalition Against Drugs in its fight against
867 drugs in the workplace. It's worth noting that during 1997, Lamar Advertising provided at no
868 cost 10 billboards which advertised the Metropolitan Coalition's 344-Help line. Again, this year
869 they are stepping their efforts to fight the legal use of drugs by providing additional 10
870 billboards to give even more exposure to the Help line. I asked the Director of the Coalition,
871 Tim Bowen, if the billboards help? And the response and the number of calls he's received on
872 the hot line. He stated, as soon as the billboards went up, the number of calls dramatically
873 increased. We, at the Association, applaud the billboard's industry for doing their part in the
874 fight against drugs.
875
876 I'd also like to mention in the fight against crime and the illegal use of guns, billboards have
877 been donated to help the message to get out about Project Exile. Project Exile mission is, if
878 anyone's uses a hand gun in the commission of a crime, they are taken before Federal court
879 and convicted and will receive a mandatory five years in a Federal Penitentiary exile from our
880 region. These are just two of the many ways the billboard industry has helped out the
881 community. We ask you to support the Alternative No. 5. We appreciate it. Thank you very
882 much.
883
884 Mr. Archer - Thank you, Mr. Patron. Any questions for Mr. Patron before he
885 takes his seat? Thank you, sir.
886
887 Ms. Alice Shulz - I live in Three Chopt District. I have to tell you I'm very distressed
888 of getting up and speaking on this subject again. Many years ago, many interested citizens,
889 different groups, business people, staff, Commission spent hours in meetings discussing the
890 sign ordinance. After all of the proper public hearings, the Board past that ordinance.
891 Nothing's changed. Henrico still needs to be an uncluttered, attractive place for its citizens and

892 to attract good clean business. We've been getting some good business. Let's keep that on a
893 roll.

894
895 The purpose for the billboard is to distract the driver. Otherwise, there's no need for the
896 billboard. I just think that we don't need any unnecessary distractions out there to create road
897 hazards. I ask that you leave the Ordinance the way it reads right now. Thank you.

898
899 Mr. Archer - We have been just about an hour on this subject, and we don't
900 want to exclude anybody from speaking who wishes to, but we do ask you not to be repetitive.
901 Please.

902
903 Mr. M. H. Wilkinson - Mr. Chairman, I am a long time resident of Henrico County and I
904 have considerable family that lives here. Let me just offer a couple of points that, perhaps,
905 haven't been emphasized. The spokesman for Lamar Advertising mentioned that billboards
906 were a legitimate legal activity. Prostitution is legal in Nevada. That's not a basis for bringing it
907 here. If this industry is so vital, pick up the yellow pages of the phone book and ask yourself
908 what number and percentage of firms or entities located in that phone book use billboards. I
909 have driven across this country seven times in the last 15 years to see this nation. The most
910 prevalent recollection I have of that is the pervasive destruction of our landscape by billboards.
911 In a humble way, in a short way geographically, we can do something positive here. You'll
912 hear from two classes of people tonight. One represents the paid hired hands with a monetary
913 private interest. The others are people who have an interest in their communities and the
914 public. I suggest you give added weight to one over the other.

915
916 Ms. Katheryn M. Walker - I live in the Fairfield District of Henrico County. I was very involved,
917 spoke to, and worked hard 11 years ago to get the present Ordinance in effect. I certainly
918 don't want to see anything changed about it. Now, I don't want to repeat things, but Mrs. Kelly
919 mentioned four states. But it so happens, that in Virginia we have 16 cities, 16 counties, and
920 49 towns already that have banned billboards. And I noticed when Mr. Allen was speaking that
921 it looked like that it was going to be an awful lot of extra work. Adjusting of the Planning
922 Department and deliberation by the Planning Commission, if any of those optional provisions
923 are put in. I thank you very much.

924
925 Mr. Archer - Thank you, ma'am.

926
927 Ms. Walker - 24-104, please.

928
929 Ms. Barbara Hughes - I am President of Colony Advertising, an outdoor advertising
930 company, that was started by my husband in 1972 in Henrico County. We presently have an
931 office in Henrico County. My company is a very small company. We have two billboards in
932 Henrico County. They are on I-64 near Bryan Park and Staples Mill Road. We advertise local
933 businesses and provide revenues and jobs for people in Henrico County. Namely, Adolph
934 Jewelry Store, Capri Jewelers, Saxon Shoes. Mr. Gary Weiner, who is the President of Saxon
935 Shoes is a Retail Merchant of the year two years ago. We are good corporate citizens.
936 Outdoor advertising is highly regulated by Federal law, by State law, by local ordinances. We
937 respect those laws. We operate under those laws. All we want to do is maintain inventory that
938 we have and stay in business. Thank you very much.

939

940 Mrs. Wade - There seems to be another entity now that has at least one
941 billboard. It's on I-64. You're coming from the East End on the right side just before you get to
942 I-95. I note the name.
943
944 Ms. Hughes - Where?
945
946 Mrs. Wade - As you come in from Mechanicsville from the other end. It's in
947 the City. It isn't in the County. It has some name other than LaMar and Colony on it.
948
949 Ms. Hughes - You mean on Shockhoe bridge, coming in there? Whiteco but
950 they're not in this area. I don't have anything to do with that.
951 Mrs. Wade - No. I know you don't.
952
953 Ms. Hughes - That's in the city.
954
955 Mrs. Wade - Yes. I know it. And you have others in the City, too.
956
957 Ms. Hughes - I'm just referring to Henrico County, because that's what we're
958 talking about tonight.
959
960 Mr. Archer - Thank you, Ms. Hughes. Any other questions of Ms. Hughes
961 before she takes her seat?
962
963 Ms. Marilyn Pashkee - I represent the Varina Environmental Protection Group. One
964 question occurred to me as the different businesses were speaking. It sounded like the
965 businesses felt Henrico County was picking on them, holding this type of meeting. But I was
966 under the impression that the industry has brought up the question to be considered by the
967 county. Again, I won't reiterate all the reasons that have been mentioned here tonight, such as
968 aesthetics and safety. I think they speak for themselves. But I've been lucky enough in the
969 recent past to work with other environmental groups that stand against billboards. And that is
970 the Sierra Club, The Audubon Society, the Virginia Native Plant Society. All have asked that I
971 speak. Maintaining the present laws, we will eventually see an end to billboards. We don't
972 feel like they add anything to the good nature of our County. Thank you.
973
974 Mr. Archer - Thank you, ma'am.
975
976 Mr. James L. Jenkins - Mr. Chairman, members of the Commission, for the record, I'm
977 James L. Jenkins and I have been a long time member of the County and am a former
978 member of this Commission. I think, from the discussions, tonight, it really boils down to one
979 thing. That is, would a change in the present ordinance be in the best interest of Henrico
980 County? Would it enhance the quality of life in our County for our citizens? Would a change
981 somehow degrade it? I submit to you that a change would be a degrading of what you will find
982 to be a more beautiful county with the absence of billboards.
983
984 Now, there is no doubt in my mind that Colony Advertising and Lamar Advertising are good
985 well run companies, good corporate citizens. They have employees and staffs and they've
986 done their work well. But we know that, as a nation, as a State, and here, today as a local
987 community, we are from time to time, decided that it would be in the best interest of our overall
988 community to make a change and a product or a service, which, at one time, was legal, is now
989 deemed not to be in the best interests of the community, and it is eliminated.

990
991 Now, the work you did many years ago, in 1987, was good work. A decision was made that
992 we should see the course on and let it proceed and go to the ultimate elimination of billboards
993 in the County. At the very most, Alternative 1. Perhaps, an amendment to set an additional
994 three years for an extension time might be a compromise. But I would think, if at all possible,
995 that you hold the course with this present Ordinance that we have. I think it will stand for a
996 better Henrico County in the years ahead. Thank you.

997
998 Mrs. Wade - Mr. Jenkins, a few of you have mentioned the tri-vision
999 technology. I'll just ask you as a representative of that group.

1000
1001 Mr. Jenkins - Well, we are inundated with commercial messages now. In
1002 ways, as it was pointed out earlier by a speaker through the internet, certainly through the
1003 media, it brings up more than one point. One speaker talked about billboards being a way in
1004 which the citizens could easily find lodging and gas stations. Yet, I don't when I've seen a
1005 billboard for a gas station. They really can't afford it. Earlier this week, I spent time up in
1006 Vermont, a state that does not permit billboards. There was no problem in finding service
1007 stations or lodging facilities when you needed them. I think we have a lot of means of
1008 receiving commercial messages. The companies that Colony mentioned; a jewelry store and a
1009 shoe store. Certainly they also advertise in other media. I have no doubt that they will
1010 continue to prosper and do well in our County even if billboards are ultimately eliminated.

1011
1012 Mr. Archer - Thank you, Mr. Jenkins. We have time for maybe a couple more.
1013 We've spent just about an hour and 15 minutes, and we do need to bring this to a close.

1014
1015 Mr. E. F. Moseley - Mr. Chairman, members of the Board (sic), my name is E. F.
1016 Moseley. I live in Varina District of Henrico County. I have lived there for a good number of
1017 years. I remember about 11 years ago, I was working with Farm Bureau when we had this
1018 same issue on the table. I found at that time the sign companies were good business people,
1019 running a legitimate business. I know very few of the details that you have before you tonight,
1020 but my concern is, are we going to rule out a legitimate business that's been around for years
1021 because some of our people who might feel this is in the best interest of themselves or their
1022 community? I don't think you have time to listen to all sides of this. I'm concerned about
1023 driving out a legitimate business. As I understand it, these people have said, they will not grow
1024 anymore. Now, from what they've contributed to the County through the years, I feel we owe
1025 them a place in the County. If they're willing to stay at the size they are now, I commend them
1026 for that. I don't know how many companies would come before you and say, "We're willing to
1027 stay here in your County and not grow anymore." Thank you.

1028
1029 Mr. Archer - Thank you, Mr. Moseley.

1030
1031 Mr. Meredith Winn - I am a resident of Henrico County, Brookland District.

1032
1033 Mr. Archer - Excuse me, sir. I didn't get your name.

1034
1035 Mr. Winn - Meredith Winn. I'd like to make one analogy here. I used to work
1036 for chemical companies. In the old days, the bad old days, the chemical companies made a lot
1037 of money by spewing pollution out into everybody's air. Are we allow people to spew visual
1038 pollution into our domain? We don't have a choice but to have these things thrown in front of
1039 us; wiper pollution. They're making their money off of the offense against us, just as the

1040 chemical companies were making money off of an offense against the atmosphere and the
1041 water. So, that's all I had to say. Thank you.
1042

1043 Mr. Archer - Thank you, Mr. Winn. Well, Mr. Secretary, we've heard from 19
1044 or 20 speakers. I guess it is incumbent upon us now to make a decision. Mr. Webb, I see you
1045 making your way towards the front. I suppose you think we might have a question.
1046

1047 Mr. Webb - I just want to be available in the event that you, Mr. Chairman, or
1048 any other of the Commission members had a question I might try to answer.
1049

1050 Mr. Archer - We do appreciate it, though. One thing I don't think Mr. Webb
1051 mentioned. Maybe Mr. Webb did at the beginning of his presentation, the reason this item is
1052 before us is because the Board asked us to revisit this subject and make a recommendation.
1053 Is that not correct, Mr. Webb? I just wanted to clarify it.
1054

1055 Mr. Webb - Back in November the Board asked for this process to begin and
1056 this hearing brings us close to its culmination.
1057

1058 Mrs. Wade - Did we not revisit this in 1992 also?
1059

1060 Mr. Webb - Very briefly. Yes ma'am.
1061

1062 Mrs. Wade - Do you remember, Mr. Webb, prior to the sign ordinance when
1063 the billboards were in this category if they were allowed in Agricultural Districts or just
1064 Industrial?
1065

1066 Mr. Webb - No ma'am. It was the three industrial districts and the B-3
1067 Business District. They were permitted in those four districts.
1068

1069 Mrs. Wade - Okay. Thank you. I didn't remember. As I recall, at least one
1070 Supervisors said in 1992 that, "Well, we go ahead and keep it the way it is unless there's some
1071 great ground swell in community interest in changing the law." I don't really see that.
1072

1073 Ms. Dwyer - Mr. Webb, there seems to be some discrepancy in the way
1074 billboards along interstates will be handled. My understanding was that those billboards, even
1075 with the current ordinance would remain?
1076

1077 Mr. Webb - Yes. They could be. They would remain, unless the powers to
1078 be choose to remove them and pay their value.
1079

1080 Ms. Dwyer - That's my understanding of the Federal law. What does our
1081 ordinance say in relation to that? Does it say they will stay or that they will come down and we
1082 will pay?
1083

1084 Mr. Webb - Our ordinance exempts those signs.
1085

1086 Ms. Dwyer - Exempts those. Okay. So, all the billboards along interstate
1087 highways are covered under the Federal law will stay?
1088

1089 Mr. Webb - Yes.

1090 Ms. Dwyer - Okay.
1091
1092 Mrs. Wade - So, that leaves us how many—40 to 50 that are left?
1093
1094 Mr. Webb - Potentially 53, I think it is.
1095
1096 Mr. Archer - Fifty-eight (58) on the county-owned property? Okay.
1097
1098 Mr. Silber - Mrs. Wade, there are 32 along the interstate and 58 in the other
1099 areas of the county.
1100
1101 Mr. Webb - Fifty-eight (58). Excuse me.
1102
1103 Mr. Archer - Now, Mr. Webb, I understand that since the ordinance was
1104 enacted, that approximately half of the signs are now down, so we're down to 90 instead of
1105 somewhere in the 180's.
1106
1107 Mr. Webb - Yes. I believe 170 some, perhaps.
1108
1109 Mr. Archer - One hundred and seventy some.
1110
1111 Mr. Webb - Perhaps.
1112
1113 Mr. Archer - Okay. Any further questions for Mr. Webb? Then Commission
1114 members, what is your pleasure?
1115
1116 Mrs. Wade - I'm not sure what's changed through the years. That's not to say
1117 that we're not adaptable, except we have higher speed limits and we have more congestion
1118 visual otherwise and cell phones that occupy people when they drive, plus the attention-getting
1119 devices that weren't allowed in 1987 also, plus the tower in almost everybody's neighborhood.
1120 Also, we're trying to encourage a monument-type signs in our business and commercial areas
1121 and, of course, Mr. Francisco's counter to that. I've been concerned for some time just by the
1122 shear size that some of the larger signs, even tend to block the motorists vision of some of the
1123 small businesses on our main streets. So, if you're ready for a motion. You may not like mine.
1124 I would move that we officially recommend to the Board and they said to study this and they
1125 didn't say necessarily that we had to take one of the alternatives that the staff recommended
1126 as what we're now calling Alternative 7. That is to leave it the way it is. I move that we make
1127 that recommendation.
1128
1129 Ms. Dwyer seconded the motion.
1130
1131 Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those
1132 in favor say aye—all those opposed by saying nay. The vote is 2-2. Mesdames Wade and
1133 Dwyer voted for the motion. Messrs. Archer and Zehler voted against the motion. (Messrs.
1134 Vanarsdall and Donati absent). We have a tie.
1135
1136 Ms. Dwyer - Mr. Chairman, is it appropriate to make another motion?
1137
1138 Mr. Silber - Yes ma'am.
1139

1140 Ms. Dwyer - Mr. Chairman, I move that the Commission recommend to the
1141 Board Alternative 1 stated in the Staff Report which would remove the amortization
1142 requirement that currently exists in the ordinance and allow billboards, only those existing now,
1143 to remain as non-conforming structures. If they were taken down for any reason that they
1144 would stay down and could not be replaced.

1145

1146 Mr. Archer - Is there a second?

1147

1148 Mrs. Wade seconded the motion.

1149

1150 Mr. Archer - Motion made by Mrs. Dwyer, seconded by Mrs. Wade. All those
1151 in favor say aye—all those opposed by saying nay. The vote is 3-1. Mr. Zehler voted against
1152 the motion (Messrs. Vanarsdall and Donati absent) to recommend Alternative 1 to the Board
1153 of Supervisors. Let me share with those here that the likely course of action at this point would
1154 be that this would go to the Board of Supervisors. I would suspect the Board would hold a
1155 work session on this item to discuss this. I would suspect that they would hold a public hearing
1156 on some form of an ordinance amendment. What action that has been taken by the
1157 Commission will require a slight change to the Zoning Ordinance. I do not see that would
1158 require this to come back to the Planning Commission. I believe this would be handled by the
1159 Board of Supervisors. So, those that are interested in this process and this amendment
1160 should keep in touch with the Planning Office. We can let you know where this will continue at
1161 this point that at some later date, there will likely be another public hearing on this ordinance
1162 amendment.

1163

1164 Mrs. Wade - Will you continue to send out notices about this hearing?

1165

1166 Mr. Silber - Yes. Those that are on our mailing list will receive notice. Mr.
1167 Webb, do you have something to add?

1168

1169 Mr. Webb - Yes, Mr. Chairman. I was going to ask if I might make an
1170 announcement. The Planning Office is keeping a list of people who would like to be notified of
1171 coming hearings such as this. For example, before this hearing we notified between 75 and
1172 80 people who had registered with us. If anyone not on our list will call the Planning Office and
1173 just ask to be placed on the billboard list and give me your name and mailing address, I will
1174 put you on and keep you informed.

1175

1176 Lady from Audience - What is that phone number?

1177

1178 Mr. Webb - 501-4206 or just the Planning Office in the blue pages.

1179

1180 Mr. Silber - Yes sir, Mr. Chairman, we can move into the next portion of our
1181 agenda which would be the rezoning requests. I think, at this point, it may be appropriate to
1182 take the items that are up for deferral and withdrawal. Mr. Merrithew, if you can help us with
1183 that.

1184

1185 Mr. John Merrithew, Principal Planner - Mr. Chairman, we have a number of withdrawn cases
1186 and a couple of deferrals. Beginning on Page 1 of your agenda in the Tuckahoe District:

1187

1188 **C-19C-98** **Andrew M. Conclin for Vasilios & Helen Konstantinakos:**
1189 Request to conditionally rezone from B-1 Business District and R-3 One Family Residence
1190 District to B-1C Business District (Conditional), Parcel 100-13-G-4 (Ridgecrest Subdivision),
1191 containing 0.276 acre, located on the west line of Parham Road approximately 200' north of its
1192 intersection with Patterson Avenue (State Route 6). Office development is proposed. The use
1193 will be controlled by proffered conditions and zoning ordinance regulations. The Land Use
1194 Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

1195
1196 That case has been withdrawn. No action is required.

1197
1198 On Page 2 of your agenda, C-11C-98.

1199
1200 Deferred from the March 12, 1998 Meeting:

1201 **C-11C-98** **Henry L. Wilton for Wilton Development Corp.:** Request to
1202 conditionally rezone from R-4 One Family Residence District to R-5C General Residence
1203 District (Conditional), part of Parcel 162-A-10A and Parcel 162-A-31, containing approximately
1204 14.36 acres, located on the south side of Gay Avenue approximately 600' east of Millers Lane
1205 and also fronting on the north side of Denison Road at Altair Road. A multifamily apartment
1206 development is proposed. The R-5 District permits densities up to 14.52 units gross density
1207 per acre. The Land Use Plan recommends Urban Residential development, 3.4 to 6.8 units
1208 net density per acre. The site is also in the Airport Safety Overlay District.

1209
1210 They have withdrawn that application.

1211
1212 And next to it;

1213
1214 **C-20C-98** **Henry L. Wilton for Wilton Development Corp.:** Request to
1215 conditionally rezone from R-4 One Family Residence District to R-5C General Residence
1216 District (Conditional), part of Parcel 162-A-10A, containing approximately 4.2 acres, located at
1217 the southeast corner of the intersection of Millers Lane and Gay Avenue. Multi-family
1218 development is proposed. The R-5 District permits densities up to 14.52 units gross density per
1219 acre. The Land Use Plan recommends Urban Residential development, 3.4 to 6.8 units net
1220 density per acre. The site is also in the Airport Safety Overlay District.

1221
1222 Again, that case is withdrawn.

1223
1224 And just down the list C-21-98.

1225
1226 **C-21-98** **AAT Communications Corporation for T. Scott & Wyatt Ross**
1227 **Renick:** Request to rezone from A-1 Agricultural District to M-1 Light Industrial District, part of
1228 Parcel 206-A-42, containing 1.923 acres, located at the northwest corner of the intersection of
1229 Charles City Road and Interstate 295. A 100' telecommunication tower is proposed. The use
1230 will be controlled by zoning ordinance regulations. The Land Use Plan recommends Planned
1231 Industrial development. The site is also in the Airport Safety Overlay District.

1232
1233 That case has also been withdrawn.

1234
1235 Then in the Brookland District, on Page 3 of your agenda, I believe:

1236

1237 **Deferred from the February 12, 1998 Meeting:**
1238 **C-7C-98** **Glenn R. Moore for Northgate Associates, LP:** Request to
1239 conditionally rezone from O-2C Office District (Conditional) to B-2C Business District
1240 (Conditional), Parcel 71-A-11, containing approximately 3.173 acres, located on the west side
1241 of Staples Mill Road at Hermitage Road. Commercial retail development is proposed. The use
1242 will be controlled by proffered conditions and zoning ordinance regulations. The Land Use
1243 Plan recommends Office development.

1244
1245 They have requested a deferral for 90 days, which would take them to the July 9, 1998
1246 meeting.

1247
1248 Mr. Archer - Is there anyone in the audience in opposition to deferral of C-7C-
1249 98 Northgate Associates, LP?

1250
1251 Mr. Zehler - Mr. Chairman, I move that Case C-7C-98 be deferred to July 9,
1252 per applicant's request.

1253
1254 Ms. Dwyer seconded the motion.

1255
1256 Mr. Archer - Motion by Mr. Zehler, seconded by Ms. Dwyer. All those in favor
1257 say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and Donati
1258 were absent).

1259
1260 Mr. Merrithew - Mr. Chairman, next case; P-8-98:

1261
1262 **P-8-98** **James W. Theobald and Charles H. Rothenberg for Sprint**
1263 **PCS:** Request for approval of a provisional use permit in accordance with Sections 24-95(a)
1264 and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a
1265 communication tower up to 160' high and related equipment and improvements, on part of
1266 Parcel 41-3-E-24 (2522 Indale Road, Glen Allen Heights Subdivision), in a leased area of
1267 2,500 sq. ft. located on the north side of Indale Road at its intersection with Winston
1268 Boulevard. The site is zoned A-1 Agricultural District.

1269
1270 This request has been withdrawn.

1271
1272 Beginning in the 8:00 o'clock agenda, if you wish to go forward, Mr. Chairman.

1273
1274 Mr. Archer - Let's do them all, John.

1275
1276 Mr. Merrithew - On the 8:00 o'clock agenda,...

1277
1278 Mr. Archer - Was P-8-98 withdrawn you said?

1279
1280 Mr. Merrithew - P-8-98 was withdrawn. That's correct. No action needs to be
1281 taken.

1282
1283 Mr. Archer - Okay.

1284
1285 Mr. Merrithew - In the Fairfield District on Page 4 of the agenda:

1286
1287 **C-8C-98** **Jim Thornton for Virginia Center, Inc.:** Request to conditionally
1288 rezone from R-2A One Family Residence District to O-3C Office District (Conditional), Part of
1289 Parcels 33-A-46 & 47, containing 11.78 acres, located at the southeast corner of Brook Road
1290 (U. S. Route 1) and Virginia Center Parkway. Office use is proposed. The use will be
1291 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan
1292 recommends Office development.

1293
1294 They have requested a deferral to May 14, 1998.

1295
1296 Mr. Archer - Okay. This is C-8C-98? Is that correct?

1297
1298 Mr. Merrithew - C-8C-98. That's correct.

1299
1300 Mr. Archer - I was just trying to catch up with you. Is there any one here in
1301 opposition to the deferment of C-8C-98 to next month? What's the date again?

1302
1303 Mr. Merrithew - May 14th.

1304
1305 Mr. Archer - May 14th 1998. No opposition. I move the deferral of C-8C-98 to
1306 the May 14th meeting at the applicant's request.

1307
1308 Mrs. Wade seconded the motion.

1309
1310 Mr. Archer - Motion by Mr. Archer, seconded by Mrs. Wade. All those in favor
1311 say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and Donati
1312 were absent).

1313
1314 Mr. Merrithew - The next case on the same page; C-15C-98.

1315
1316 **Deferred from the March 12, 1998 Meeting:**

1317 **C-15C-98** **Clement Tingley for Easy Living Corporation:** Request to
1318 conditionally rezone from A-1 Agricultural District to R-4AC One Family Residence District
1319 Conditional, Parcels 85-A-2, 3 and 5, containing approximately 31.0 acres, located on the
1320 north line of North Road at its intersection with Edgefield Court and Edgefield Street. A single
1321 family residential subdivision is proposed. The R-4A District permits densities up to 5.62 units
1322 gross density per acre. The Land Use Plan recommends Urban Residential development, 3.4
1323 to 6.8 units net density per acre.

1324
1325 The applicant has requested a deferral until May 14th.

1326
1327 Mr. Archer - Okay. Is any one here in opposition to the deferment of C-15C-
1328 98 to the May 14th meeting? Any opposition?

1329
1330 Lady from Audience - Yes. We don't want it postponed any more.

1331
1332 Mr. Archer - Ma'am, I had quite a bit of discussion with Mr. Tingley concerning
1333 this case and I did indicate to him that I would honor his request for a deferment.

1334

1335 Man from Audience - Could we at least have people stand who might be against it?
1336
1337 Mr. Archer - Yes. We can. We thank you for coming.
1338
1339 Lady from Audience - This is not fair.
1340
1341 Mr. Archer - Ma'am. Please. We're not going to have discussion of this,
1342 tonight. We're just going to defer the case until May 14th. Between now and then, Mr. Tingley
1343 has planned to meet with the neighborhood again. I would hope that you all would try to
1344 attend that meeting.
1345
1346 Mr. Merrithew - Mr. chairman, I believe Mr. Tingley has booked the high school
1347 for the 20th of April to hold that meeting.
1348
1349 Mr. Archer - The 20th of April.
1350
1351 Mr. Merrithew - Beginning at quarter of 7:00, 7:00 o'clock.
1352
1353 Mr. Archer - Okay.
1354
1355 Man from Audience - What for?
1356
1357 Lady from Audience - What for? We already met with him.
1358
1359 Mr. Archer - Ma'am, if we're going to take this case to conclusion, we have to
1360 go through the legal things that we have to do before we can take it off the docket. So, he has
1361 the right to present it if he chooses to. We have to vote on it one way or the other. I would
1362 suggest that you participate to the extent that you already have.
1363
1364 Lady from Audience - We did.
1365
1366 Mr. Archer - And I commend you for your participation, but we can't just drop it
1367 like that. In any event, I move the deferment of C-15C-98 to the May 14th meeting at the
1368 applicant's request.
1369
1370 Mr. Zehler seconded the motion.
1371
1372 Mr. Archer - Motion by Mr. Archer, seconded by Mr. Zehler. All those in favor
1373 say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and Donati
1374 were absent).
1375
1376 Mr. Merrithew - Mr. Chairman, the next case, C-23C-98.
1377
C-23C-98 **Ralph L. Axselle, Jr. and Andrew M. Condlin for Andrew &**
1379 **Kelly Mulconry & Milton E. & Brenda S. Womack:** Request to conditionally rezone from R-2A
1380 One Family Residence District to O-2C Office District (Conditional), Parcels 33-A-41 and 41A,
1381 containing 7.706 acres, located at the northeast corner of Old Francis Road and Bundle of Joy
1382 Lane. Office development is proposed. The use will be controlled by proffered conditions and
1383 zoning ordinance regulations. The Land Use Plan recommends Office development.

1384
1385 The request is for a deferral to the May 14th meeting.
1386
1387 Mr. Archer - Is there any one here in opposition to the deferment of C-23C-98
1388 to the May 14th meeting? No opposition. I move the deferment of C-23C-98 to the May 14th
1389 meeting at the applicant's request.
1390
1391 Mr. Zehler seconded the motion.
1392
1393 Mr. Archer - Motion by Mr. Archer, seconded by Mr. Zehler. All those in favor
1394 say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and Donati
1395 were absent).
1396
1397 Mr. Merrithew - Mr. Chairman, the last deferral this evening is in the Three Chopt
1398 District.
1399
1400 **Deferred from the January 15, 1998 Meeting:**
1401 **P-8-97 J. Thomas O'Brien, Jr. for Short Pump Investors, L.P.:**
1402 Request for approval of a provisional use permit in accordance with Sections 24-58.2(a)(d) and
1403 24-122.1 of Chapter 24 of the County Code to permit outside dining and extended hours of
1404 operation to 2:00 a.m. for proposed restaurants, on Parcels 36-A-19D (pt.), 21, 22, 23, and 24
1405 located on the north line of W. Broad Street, 450' west of its intersection with Pouncey Tract
1406 Road. The site is zoned B-2C Business District (Conditional) and M-1 Light Industrial District.
1407 The site is also within the West Broad Street Overlay District.
1408
1409 They have requested a 90-day deferral to July 9, 1998.
1410
1411 Mr. Archer - Is there any one here in opposition to the deferment of P-8-97 to
1412 the, I'm sorry, John. What was the date?
1413
1414 Mr. Merrithew - That would be 90 days to July 9th.
1415
1416 Mr. Archer - To the July 9th meeting? No opposition. Mrs. Wade.
1417
1418 Mrs. Wade - I move P-8-97 be deferred to the 9th of July at the applicant's
1419 request.
1420
1421 Ms. Dwyer seconded the motion.
1422
1423 Mr. Archer - Motion by Mrs. Wade, seconded by Ms. Dwyer. All those in favor
1424 say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and Donati
1425 were absent).
1426
1427 Mr. Merrithew - Thank you, Mr. Chairman.
1428
1429 Mr. Silber - The first case this evening is P-12-98.
1430
1431 **P-12-98 Charles H. Rothenberg and James W. Theobald for Sprint**
1432 **PCS:** Request for approval of a provisional use permit in accordance with Sections 24-95(a)

1433 and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a
1434 communication tower up to 165' high and related equipment and improvements, on part of
1435 Parcel 89-A-31 (Westhampton Memorial Park), containing 2,500 sq. ft., located at the
1436 northwest intersection of Patterson Avenue (State Route 6) and Gaskins Road. The site is
1437 zoned A-1 Agricultural District.

1438
1439 Mr. Archer - Okay. Is any one here in opposition to P-12-98? We have
1440 opposition. We'll hear from you shortly. Mr. Merrithew.

1441
1442 Mr. Merrithew - Thank you, Mr. Chairman. As Mr. Secretary stated, this is a
1443 request for a monopole communications tower 165 feet high and related ground equipment.
1444 The tower location, as you can see, is in the Westhampton Memorial Park Cemetery. It's
1445 approximately 500 feet from the western property line of the cemetery and about 300 feet from
1446 Patterson Avenue. The tower is located in a wooded portion of the cemetery, which, according
1447 to the owners of the cemetery, will not be used for the duration of the lease. It's an area they
1448 intend to remain wooded and not be used as a part of the cemetery for the years of the lease.

1449
1450 The area is zoned A-1. The surrounding development is a combination of single family
1451 detached and multi-family housing, and to the east on Gaskins Road, you have some
1452 commercial retail development.

1453
1454 The area is planned for Semi-Public uses; that being public utility or quasi-public utility uses
1455 such as schools, churches, hospitals and so on. We feel that the proposed use is in
1456 accordance with the Land Use Plan.

1457
1458 There are several issues that are associated with this application. First of all is the need for
1459 the new tower. There are no co-location opportunities on the existing towers in the immediate
1460 area. The closest existing tower is better than a mile away; either east to Parham, or west to
1461 Lauderdale, or to the north.

1462
1463 There is an anticipated need in this area, given the high traffic volumes on Patterson Avenue,
1464 as well as the concentration of development in the immediate area. We expect that, with the
1465 development of West Creek and new development to the west of the County that this demand
1466 will increase over the years.

1467
1468 The applicant had originally suggested that the tower would accommodate one additional user,
1469 giving a total of two users on the tower. Staff has recommended, and is recommending in the
1470 conditions that were handed out tonight, that more than two users be required to locate on the
1471 tower, if technically possible.

1472
1473 We've also proposed in the conditions that were handed out tonight that the tower should be
1474 allowed to be heightened in the future, if the Board of Supervisors grants a provisional use
1475 permit to allow the height to increase. In this case, the developer would design and construct
1476 the tower at 165 feet, but design it so that it can be constructed to a higher elevation.

1477
1478 Staff's position, in this particular case, because of the anticipated demand in the area, is that
1479 the community would probably benefit from one tower albeit taller than what is being proposed
1480 tonight, than it would be from multiple towers in the same location. Given the sensitivity of the
1481 tower issue in residential areas, as I said before, we are recommending that it be designed to
1482 go taller, but that we still have to have a provisional use permit to allow the taller height.

1483
1484 The site in which the tower is located on the property is wooded, as was mentioned before.
1485 The woods will help, but the tower will continue to be visible obviously. However, the mature
1486 stand of trees, particularly to the west of the tower site, should be preserved at all costs. I
1487 think that stand of trees is what makes this site palatable as a communication tower location.
1488 Staff is recommending language that would provide for the continued maintenance of that
1489 stand of trees and also provide for additional landscaping around the base of the tower to
1490 screen the view of the ground facilities from Patterson Avenue and Gaskins Road.

1491
1492 We feel that the location of the tower is appropriate, albeit it very close to a residential area.
1493 We feel it complies with the Comprehensive Plan. We feel that the conditions that we have
1494 handed out this evening, basically address the major issues.

1495
1496 I'd like to quickly run through those changes; primarily the changes in the conditions and some
1497 of the major features. Conditions 1, 2, 3, and 4 are generally standard provisions which
1498 provide for the tower to be removed if it is no longer used as a communication facility. It
1499 provides for notification of the County if the tower has to have lights or painting because of
1500 FAA requirements. It provides for landscaping and screening of the ground facilities.

1501
1502 Then in Condition No. 5, we stipulate that the tower and foundation shall be designed and
1503 constructed to permit the future extension of the tower up to approximately 199 feet. Any
1504 extension of the tower beyond 165 feet, which is what the current request is for, shall require
1505 an additional provisional use permit.

1506
1507 Ms. Dwyer - I just want to clarify that. This Provisional Use Permit before the
1508 Commission, tonight, only will approve a tower up to 165 feet. It does not approve a tower up
1509 to 199 feet. If it were to be extended to that additional height, an entirely new case would have
1510 to be filed, notice to be given, public hearing before the Commission, public hearing before the
1511 Board of Supervisors, as if it were a brand new tower. Is that correct?

1512
1513 Mr. Merrithew - That is correct.
1514 Ms. Dwyer - Okay. And that's what that additional language means?

1515
1516 Mr. Merrithew - That's correct. Any extension beyond 165 feet, the current
1517 proposal, would require an additional provisional use permit.

1518
1519 As I said before, the applicant also originally suggested that only two users could locate on this
1520 tower. The applicant has discussed with staff the possibility of additional users and has
1521 agreed with Condition No. 6 where staff stipulates that the applicant agrees to allow co-
1522 location of at least three, or as many additional users as technically possible, at this site in
1523 accordance with the provisions of the Letter of Intent to permit co-location on the
1524 communications tower. As you recall, each of the applicant's for a communications tower
1525 submits a Letter of Intent stating that they will allow co-location on their tower as part of their
1526 submittal.

1527
1528 We have increased the number so that now, at least four users could locate on this site. We
1529 believe the language, "as technically possible", would allow additional users. But I believe in
1530 reality, in the actual construction of the tower, that four users would be the maximum that they
1531 prepare for or design for on the tower. Notwithstanding that the height may be heightened in

1532 the future with a future application, the strength of the tower will be for four users and no more.
1533 I think that may be an issue you may want to discuss with the applicant.

1534
1535 Condition No. 7, as I said before, is perimeter landscaping around the base of the tower.
1536 Condition No. 8 provides that the Board of Supervisors will revoke this permit; that is require
1537 the removal of the tower, if the trees located between the tower and the western property line
1538 are removed or/ and if there is no sufficient; and that word, "sufficient," is not in your copy and
1539 should be. If there are no other means provided to mitigate the visual impact, and the Board of
1540 Supervisors finds that the tower has a deleterious effect on the surrounding area. The intent
1541 there is to make sure the trees stay, and then if they do or are removed for some reasons,
1542 some other landscaping or screening of sufficient quality would go in there instead.

1543
1544 We may need to work on this language a little bit more. If the applicant agrees with the intent,
1545 we simply have to work out some language with the County Attorney. Nonetheless, as I said,
1546 the intent is to protect those trees. If those trees do end up going, provide something else that
1547 works at least at an equivalent level as the trees needs to be provided.

1548
1549 Ms. Dwyer - Or the Board could revoke the Provisional Use Permit, and the
1550 tower would have to come down?

1551
1552 Mr. Merrithew - This condition states the Board can revoke it. I would point out
1553 that they can revoke it at any time for any reason if they find it has a deleterious effect on the
1554 surrounding area according to the State code and the county ordinance.

1555
1556 Mr. Silber - Mr. Merrithew, where are you suggesting "sufficient" be added?
1557 Under A?

1558
1559 Mr. Merrithew - I'm sorry. Right after parenthetical B in that paragraph about four
1560 lines down. "No other sufficient means are provided to mitigate the visual impact..."

1561
1562 Mr. Silber - Okay. Thank you.

1563
1564 Ms. Dwyer - Mr. Merrithew, I have one question about Condition 6.

1565
1566 Mr. Merrithew - Yes ma'am.

1567
1568 Ms. Dwyer - The application to allow co-location of at least three or as many
1569 additional uses as technically possible. It seems to me that language could be read to permit
1570 fewer than three co-locations, because of the "or."

1571
1572 Mr. Merrithew - That may be possible.

1573
1574 Ms. Dwyer - I think we want a firm minimum of three.

1575
1576 Mr. Merrithew - Certainly the intent is three or more.

1577
1578 Ms. Dwyer - "or as many or additional," that doesn't...Okay.

1579
1580 Mr. Merrithew - The attorney next to me suggested we add, "whichever is
1581 greater" in there somewhere.

1582
1583 Mr. Archer - We do have a hard time with that language, don't we.
1584
1585 Mr. Merrithew - "At least three or as many additional users as technically
1586 possible, parenthetical, whichever is greater?"
1587
1588 Ms. Dwyer - Okay. That sounds good.
1589
1590 Mr. Merrithew - I like that word, "parenthetical."
1591
1592 Mr. Archer - Good word, John.
1593
1594 Mr. Silber - Mr. Merrithew, also at the Board of Supervisors meeting last night
1595 they were consistently changing the beginning of No. 6 to say, "The applicant shall allow,"
1596 instead of "agrees to." So, to keep that consistency, perhaps we should strike "agrees to" and
1597 insert "shall."
1598
1599 Mr. Merrithew - I don't think the applicant has an issue with that.
1600
1601 Ms. Dwyer - So, perhaps, I should read that first sentence to make sure we're
1602 all in the same line. "The applicant shall allow co-location of at least three or as many
1603 additional users as technically possible (whichever is greater), at the site and in accordance
1604 with the provisions of the letter of intent."
1605
1606 Mr. Merrithew - They indicate the applicant is agreeable to that. Based on the
1607 issues and the lack of demand of the opportunity to co-locate, staff is prepared to recommend
1608 in favor of this application. I'd be glad to answer any other questions by the Commissioners.
1609
1610 Mr. Archer - Any questions of Mr. Merrithew, by Commission members? You
1611 have opposition, I believe.
1612
1613 Mr. Merrithew - Excuse me, Mr. Chairman. I did receive a phone call today from
1614 Mr. Robert Timmons, who is in opposition to the request, but cannot make the meeting tonight.
1615 I indicated I would read his name in the record as being in opposition to it. Not because of the
1616 location in the cemetery, but because of the proximity to the residential subdivision.
1617
1618 Mr. Silber - Mr. Chairman, also, perhaps, because there is opposition to this
1619 case, may be I should remind those here, tonight, of the Planning Commission's rules and
1620 regulations relative to the period time for speaking.
1621
1622 The applicant is given a 10-minute period of time to speak to present his case. The applicant,
1623 or any one that supports the request. Some of that 10-minute period of time may be saved for
1624 rebuttal. Those opposing the request also have 10 minutes to speak—a total of 10 minutes to
1625 speak. Any questions that are asked by the Commission would not be a part of that 10
1626 minutes; deducted from that 10 minutes.
1627
1628 Mr. Archer - Okay. Thank you, Mr. Secretary. Is the applicant here? Mr.
1629 Rothenberg.
1630

1631 Mr. Chuck Rothenberg - Mr. Chairman, ladies and gentlemen, I am here, tonight, on
1632 behalf of Sprint. This is a request for – Mr. Silber, could I reserve three minutes, please? May
1633 I reserve three minutes?

1634
1635 Mr. Silber - Okay.

1636
1637 Mr. Rothenberg - This is a request for a Provisional Use Permit, pursuant to
1638 Sections 24-95 and 24-122.1 of the County Code for the construction, operation and
1639 maintenance of a communication tower and antenna up to 165 feet in height, located in the
1640 Westhampton Memorial Park Cemetery at the northwest corner of Gayton Road and Patterson
1641 Avenue.

1642
1643 Before I move on to the specifics of this request, let me spend a moment on some background
1644 information about Sprint. Sprint is assembling a nation-wide wireless communication system
1645 employing personal communication or PCS technology which is the next generation of wireless
1646 communication technology. Sprint's goal is to design a system for the Richmond area that
1647 requires the fewest antennas and towers necessary to serve its customers. Based on that
1648 design, a certain range for each antenna is established. Available sites in and around that
1649 certain range are investigated, with first consideration given to existing towers or structures,
1650 which Sprint can co-locate its equipment. Only when co-location opportunities are lacking
1651 does Sprint consider building a tower from ground up. Where construction of a tower is
1652 required to fill a hole between co-location sites, Sprint looks for industrial and commercial sites
1653 and sites that are visually screened and spatially distant from residential areas.

1654 Building towers is capital intensive and time consuming. As a result of those costs and delays,
1655 together with the County's very strong policy to limit the number of communication towers,
1656 Sprint is actively pursuing co-location opportunities to install its antennas. Almost half of the
1657 antenna arrays required by Sprints current design for Henrico would be located on someone's
1658 else's existing or proposed tower structure.

1659
1660 Sprint is cooperating with the County's efforts to encourage co-location in other ways. On
1661 several tower sites in the County, Sprint has agreed to design and construct the tower in a
1662 manner that will permit the extension of the tower above the height needed for Sprint's system.
1663 This will provide additional co-location opportunities for other users subject to the Board's
1664 approval for the extension. There are a number of towers throughout the County that Sprint
1665 could have used if it had the ability to extend them in a similar manner.

1666
1667 In addition to giving the County the required letter of intent, confirming Sprint's intent to permit
1668 co-location on its towers, if approached by other providers, when Sprint files and application
1669 for a Provisional Use Permit, it gives written notice to the other providers in the area to
1670 facilitate co-locating by those providers.

1671
1672 The tower proposed for Westhampton will be an unmanned 165 foot monopole with a 5-foot
1673 lightning rod located within a 30 foot by 30 foot compound, along with two small equipment
1674 cabinets. The compound will be enclosed within a 6-foot chain-link fence capped with barbed
1675 wire. This area of the Tuckahoe District is particularly challenging for Sprint. The area is
1676 largely developed with parcels that are located away from residential areas, large enough to
1677 satisfy the setback requirements applicable to towers and provide a good stand of trees as a
1678 visual screen. However, its an important corridor that requires service in Sprint's system, and
1679 Sprint's equipment must be located in the area to serve those customers. Sprint has worked
1680 hard with Ms. O'Bannon and Ms. Dwyer to locate an appropriate site for the proposed tower,

1681 for the reasons I'll discuss in a moment. The Westhampton Cemetery site provides a unique
1682 opportunity to locate the tower on a site, which, we believe, has no adverse impact on the
1683 adjacent neighborhood. Sprint did conduct a balloon test for the neighbors on January 31st to
1684 illustrate the height of the proposed tower. If you haven't seen a balloon test, it's very
1685 technical. They attach a string to a balloon and float it up in the air so that the neighbors can
1686 see where the top of the tower will be. We also had an opportunity to meet with the
1687 neighboring property owners on February 9th to discuss Sprint's proposal, and better
1688 understand and respond to their concerns.

1689
1690 We believe that a Provisional Use Permit is appropriate for the following reasons: As the staff
1691 report indicates, the use is not inconsistent with the Land Use Plan which designates the area
1692 for Semi-Public uses. Very little activity will occur on the site after the initial construction is
1693 complete. The use will require the disturbance of a very small area; one that requires no
1694 County utilities. The site is well screened on the north and west by an existing stand of mature
1695 trees. The nearest home is over 560 feet away. The use proposes no known environmental
1696 or health risks to the public. The required utilities are available at the site; electric and
1697 telephone, as well as adequate access and areas for parking. The necessary safeguards, in
1698 the form of the eight conditions recommended by staff with the modifications to conditions 6
1699 and 8 that Mr. Merrithew discussed before, are acceptable to Sprint and provide protection for
1700 the surrounding property, persons and neighborhood values.

1701 With respect to Condition 6, it's Sprint's intent to construct the proposed tower in a manner that
1702 will structurally permit at least three additional users with the same type of equipment that
1703 Sprint uses so that those users can co-locate on the tower. We believe that condition makes it
1704 clear.

1705
1706 Condition 8, as written, and we discussed this Condition 8. I think we have squared that away.
1707 I think that the revised Condition 8 that Mr. Merrithew explained, gives Sprint the opportunity to
1708 find alternative ways of mitigating the visual impact of the tower if the trees are removed. But,
1709 also, obviously, reserves to the Board the right to revoke the Provisional Use Permit if, for
1710 some reason, we can't accomplish that.

1711
1712 I would like to note that Sprint has already agreed to permit the co-location of an additional
1713 user. I think that's GTE. Okay. GTE has expressed an interest in co-locating on the tower,
1714 potentially eliminating the need for that user to construct an additional tower in the area.

1715
1716 Sprint has investigated the availability of co-location opportunities in the coverage area to be
1717 served by this tower. There are no existing structures in this area that would permit Sprint to
1718 serve the desired coverage area. An antenna is required at this location to provide service to
1719 the coverage area.

1720
1721 We believe that all the grounds for granting a Provisional Use Permit have been satisfied, and
1722 respectfully ask that you recommend to the Board that they approve this request. I'd be happy
1723 to answer any questions.

1724
1725 Mr. Archer - Mr. Rothenberg, I did hear you qualify one of your statements.
1726 I'm a little bit curious about it. You made a statement about co-locating using the same type of
1727 equipment that Sprint uses. How restrictive is that?

1728
1729 Mr. Rothenberg - It is actually not restrictive. That's a good point. Let me respond
1730 to Mr. Merrithew's comment. The tower that Sprint would construct, if actually extended, would

1731 permit up to six users, using the same type of antenna array that Sprint uses. Different
1732 providers have different types of antennas. Some of the antennas have more panels on them
1733 which require more cables which adds more weight to the tower. So, when we discuss the
1734 capacity, it's in relation to users of the same type of technology that Sprint is using. That's
1735 why we are very comfortable saying that a minimum of four users can co-locate, and
1736 potentially more.

1737
1738 Ms. Dwyer - I'm sure that Sprint looked at other sites. Could you talk a little bit
1739 about the other—You talked about that there are no other existing towers on which you can
1740 co-locate, but what other sites did you look at before you selected this one?

1741
1742 Mr. Rothenberg - We looked at a shopping center behind Pump and Patterson.
1743 The compound behind the shopping center was actually in a flood plain. Since Sprint is
1744 regulated by the FCC, they are required to comply with the National Environmental Protection
1745 Act of 1969, which prohibits them from locating in floodplains, wetlands, Indian tribal areas and
1746 other locations.

1747
1748 There is also a site at Gaskins and Patterson that we considered, but it was much closer to a
1749 residential area. Other locations near there were outside of residential zones, but didn't satisfy
1750 the setback requirements or were in floodplain areas.

1751
1752 Ms. Dwyer - Was that the office across the street on the southwest corner of
1753 that intersection?

1754
1755 Mr. Rothenberg - I believe that's right.

1756
1757 Ms. Dwyer - That didn't meet the setback requirements?

1758
1759 Mr. Rothenberg - Right.

1760
1761 Ms. Dwyer - Okay.

1762
1763 Mr. Rothenberg - We also looked into the property at Castile and Otlyn, but the
1764 owner of that property wasn't interested in talking to us.

1765
1766 Ms. Dwyer - The Gaskins and Patterson property on the southwest corner,
1767 that is also zoned residential, isn't it? It is undeveloped?

1768
1769 Mr. Rothenberg - Yes ma'am.

1770
1771 Ms. Dwyer - Okay. All right.

1772
1773 Mr. Rothenberg - There's the O-2 and then the R-6 coming below that.

1774
1775 Ms. Dwyer - What is the acreage of the Westhampton Memorial Park?

1776
1777 Mr. Rothenberg - Approximately 51 acres.

1778
1779 Mr. Archer - Okay. Are there other questions for Mr. Rothenberg?
1780

1781 Ms. Dwyer - One more question. I read in the paper a couple of weeks ago,
1782 we're always hoping for new technology that will eliminate the need for these towers. But
1783 there was an article about some engineering students that were at Tech who had invented
1784 something called, "a smart antenna" for wireless communications. And they claimed, they won
1785 some award, and they claimed this would reduce the number of towers that would be
1786 necessary. I wonder if Sprint knows anything about that, if they could enlighten us in some
1787 hopeful way?
1788

1789 Mr. Rothenberg - Mr. Waller believes that the technology that you're referring to is
1790 called CMI Hick.

1791
1792 Ms. Dwyer - CMI what?
1793

1794 Mr. Rothenberg - "Hick." Let me read this to you. It's "cable microcell integrator"
1795 head end interface converter.

1796
1797 Mr. Zehler - That's what I thought you said.
1798

1799 Mr. Rothenberg - For a number of reasons that would not satisfy Sprint's
1800 requirements, I believe that technology actually involves installing small brief-case sized
1801 antennas or equipment boxes on overhead cable television lines which need to be two-way
1802 lines. You've got to install a lot of those to serve a coverage area. They have had only limited
1803 success employing that out in San Diego. It is something that Sprint is interested in looking at,
1804 but, it, at best, is going to provide sort of "fill in the hole" type of facility than supplanting the
1805 need, unfortunately, for towers.
1806

1807 Ms. Dwyer - Yes. The article didn't say it would supplant the need for towers,
1808 but just that the antenna would be more effective and more efficient. You wouldn't need to
1809 have as many towers. You know you wouldn't have to have towers so close together. At any
1810 rate, we don't need to belabor that. I was just curious. I'm glad to hear that technology is
1811 marching on.
1812

1813 Mr. Rothenberg - Thank you.

1814
1815 Mr. Archer - Thank you, Mr. Rothenberg. I believe we had opposition. We'll
1816 hear from you now.
1817

1818 Ms. Anna Schoenenberger - I am a resident of Three Chopt District in Henrico County. I am
1819 also a property owner in Westhampton Memorial Park. I have family members who are
1820 interred in the garden adjacent to the proposed site for this tower. When we purchased this
1821 property, we were assured of the serenity of this peaceful setting as our final resting place. I
1822 can assure you that I do not look forward to spending eternity staring up at these horrendous
1823 edifices. All one has to do is travel east on I-64 and see the blight that these towers have
1824 brought to our beautiful country side. Not only are these towers eye sores, but I question the
1825 impact that such a heavy structure will have on the existing drainage problems in this area,
1826 particularly on the grave sites in the gardens adjacent to this tower. There is going to have to
1827 be some work done to put this tower in there. We already have a drainage problem when
1828 heavy rains come in this area. The Park has already had to do underground drainage ditches
1829 to take care of some of the drainage problems. So, I question what impact this would have.
1830

1831 Also, it has been mentioned that there are screens to the north and west of the site of the
1832 tower. However, the cemetery is on the east. What screen will we have? Cemeteries were
1833 originally our first parks in this nation and people went to the park to visit their loved ones and
1834 also for recreation. The sign that announced this zoning meeting, most people who have
1835 property in the cemetery thought this referred to the mausoleum which was going to be built
1836 there in the park also adjacent to the tower. What impact is this going to have on the
1837 mausoleum? How is it going to affect the beauty of that when it is constructed? Also, a lease
1838 was mentioned. How long is this lease? Thank you.

1839
1840 Mr. Archer - Ms. Schoenenberger, before you leave, there may be questions.

1841
1842 Mrs. Wade - Have you spoken to the management at the memorial gardens
1843 about your concern?

1844
1845 Ms. Schoenenberger - Yes. Unfortunately, we did not know about this until this morning
1846 when we heard it on T.V.

1847
1848 Mr. Archer - Any other questions? Thank you, ma'am.

1849
1850 Mr. Jamie Phillips - Good evening. Mr. Chairman and members of the Commission, I
1851 am a resident of Canterbury, and I'm one of the 36 people that were notified by letter about
1852 this proposed Sprint tower. I'll be brief, but I don't want to be an NFL three minutes.

1853
1854 Number 1, I don't believe a tower like this belongs in a residential neighborhood. Number 2,
1855 they've mentioned they've looked into other locations for this tower. I don't think they've
1856 looked hard enough. All they have to do is go down the street to Patterson near Arby's. That
1857 is right next to a wetlands. I'm sure it could be rezoned and put into a commercial structure.
1858 What bothers me probably the most is that this cemetery is owned by a company in Texas.
1859 Texas, not Virginia. Thirteen years ago, I lost my mother and she's not buried in this cemetery,
1860 but when I go there to be with her, I can't imagine a tower being next to the grave site. It's too
1861 emotional for me.

1862
1863 The thing that bothers me the most about this business decision is that Sprint only had to
1864 legally notify 36 residences; me, being one of them surrounding the property. My
1865 understanding is that, since 1951, there have been, on average, 400 people interred in this
1866 cemetery. That's 47 years times 400. That's a little over 18,000. I can't understand why the
1867 people who have been interred, who own property right now in that cemetery, and I consider it
1868 property, have not been notified.

1869
1870 I'm also a cell phone user and a cell phone owner. I harbor no grudges against Sprint for
1871 technology. My greatest concern is, why haven't other people been notified who own plots?
1872 Thank you very much for your time.

1873
1874 Mr. Archer - Are there any questions before he takes his seat?

1875
1876 Mr. Phillips - There was a question earlier. It is 25 years for this lease, I
1877 understand. They get paid between \$12,000 and \$20,000 a year to have this tower. It's a
1878 cash crop.

1879
1880 Mr. Archer - Thank you, sir.

1881
1882 Mr. George Whitney, 1202 Gilspur Road - Members of the Planning Commission, my name is
1883 George Whitney. I live at 1202 Gilspur Road. I live on the west side of Gilspur Road,
1884 therefore, my front yard faces the cemetery property. My property is within 500 feet of the
1885 cemetery property. My wife, myself, my children and my grandchildren have enjoyed many
1886 very peaceful evenings sitting in my living room, looking out the front window at the moon
1887 coming up through the trees and over the trees of the cemetery. That is right where this
1888 proposed tower is proposed to be.
1889 I also recall, a good many years ago, my parents were visiting. We stood on the wet grass on
1890 the hillside of Westhampton Memorial Gardens in a most beautiful Easter Sunrise service.
1891 That was a memorial service, memorable and memorial. This proposed tower is right behind
1892 where that pageant took place. How I could ever think of it being a memorial cemetery
1893 anymore is beyond me. It would have to be the Westhampton Steel Cemetery, I guess.
1894
1895 I saw an article in the paper earlier this week, the Richmond Times-Dispatch, "Tower location
1896 draws protest." This is not pertaining to this tower. But there was a short paragraph in here I
1897 was interested in. It said, the drawbacks including the difficulties and limitations of dealing with
1898 a privately owned site and a high potential for radio signal interference as well as block
1899 microwave signals. Only one drawback, the relative proximity to homes were cited for Robious
1900 Landing. The article was on Robious.
1901
1902 The reference to the radio signals, I love the Braves. I'm not talking about the Richmond
1903 Braves. I love them. I'm talking about the Atlanta Braves. I listen to the Atlanta Braves on
1904 750 AM quite often in the evening. That comes direct from Atlanta. Sometimes atmospheric
1905 conditions make a poor signal, but most of the time I can get it. If this tower so close to my
1906 location interferes with those signals, I'm going to be quite upset. I just don't feel like being a
1907 property owner and taxpayer in Henrico County for more than 40 years that we should be
1908 forced to sacrifice for the financial gain of out of state business. Thank you very much,
1909 gentlemen.
1910
1911 Mr. Archer - Thank you, sir.
1912
1913 Ms. Dwyer - Would you show us where you live on the map? I have a pen
1914 here if you'd like to use it.
1915
1916 Mr. Whitney - I might be able to get up there.
1917
1918 Ms. Dwyer - With all of this new technology...
1919
1920 Mr. Whitney - Right here, I believe, is my land. From here to here, is less than
1921 500 feet (referring to slide).
1922
1923 Ms. Dwyer - Thank you.
1924
1925 Mr. Silber - There are three minutes remaining for those speaking in
1926 opposition to this request.
1927
1928 Mr. James Freye, 1213 Gilspur Road - This will be quick. My property backs up to
1929 Westhampton Cemetery. I'm an engineer and I understand why they want to put the tower
1930 back there. It's economics. I can understand that tremendously. But, still yet, if I were an

1931 owner of a plot in that cemetery, I would extremely oppose it. I'm opposed to it because I'm a
1932 property owner anyway. I just cannot believe are the weasel words that are coming out about
1933 how the tower will not be extended and we're going to protect the property with trees and
1934 things of this nature. Once you put the tower in, it's theirs. The out-of-town property owners,
1935 they don't care. It's a financial benefit to them. As far as I'm concerned, I don't want it there.
1936 I'm opposed to it. Thank you. Do you want to see where I live? Way up there right on the
1937 corner.

1938
1939 Mr. Johnny Newcomb - I'm very disappointed that I have to be here tonight. It's a lot of
1940 other things I'd rather be doing. We've heard from Sprint. They gave us three locations, I
1941 think, they said they looked into. One, in particular, caught my mind. He said the property
1942 owner didn't want to talk to us. I'm quite sure that if the wallet was pulled out, they could find
1943 that the owner...This is a very nice location. Very little work has to be done on it. I'm very
1944 disappointed in the owners. I also have lots there in the cemetery. It is very peaceful when my
1945 wife and I went out to look at it. We even picked out our place. I think that ground is sacred.
1946 The true Americans, the native Indians, had sacred grounds. I think they deserve respect and
1947 they get respect for their burial grounds. But, evidently, corporations such as this think that
1948 maybe its not sacred. They didn't take that into consideration when it comes to a dollar. But I
1949 ask you, you were talking about road signs awhile ago on the side of the road. I wonder if
1950 another business may want to put a sign up there saying, "Here's a place you can rest in
1951 peace." I don't think that would be a very adequate sign to put up. Neither do I think a tower is
1952 a good of sign that I know of, whether it be a billboard or whatever you want to call it. They
1953 claim this is going to be a limited use thing. Once the "fox gets into the hen house," he's there.
1954 This will not stop with just one tower, I don't believe.

1955
1956 Awhile ago, you all said that you came in here some years ago debating whether or not to
1957 have billboards put up.

1958
1959 Mr. Archer - Your time is up.

1960
1961 Mr. Newcomb - Yes sir. Let's don't come back here later on. We have loved
1962 ones. I have loved ones. Let's kill this thing. Let's don't support something like this. I think it
1963 would be a tragedy. Thank you very much for your time.

1964
1965 Mr. Archer - Thank you, sir. That is the end of the period for the opposition. I
1966 believe we have three minutes in rebuttal time left.

1967
1968 Mr. Silber - It was 3.5 minutes, Mr. Rothenberg.

1969
1970 Mr. Rothenberg - Thank you. Let me respond quickly to the drainage issue. Of
1971 course, the site will go through site plan approval, POD approval. Any drainage concerns will
1972 be addressed there. It is, obviously, a very small site. I don't expect that to be an issue.

1973
1974 As far as the Arby's site that Mr. Phillips referred to, I believe that site is in wetlands, and as I
1975 explained before, we're prohibited from going in wetlands. It would also be too far from the
1976 coverage area. If we moved the tower down Patterson Avenue towards that location, we
1977 would risk losing – we would probably lose one VEPCO co-location up along Parham and
1978 River Road, and potentially VEPCO co-locations requiring the need to find alternative sites or
1979 raw build sites for those antennas.

1980

1981 We certainly made sure that legal notices were sent to the property owners. The staff is
1982 obligated to do that. We went beyond that, obviously, and notified the adjacent property
1983 owners and invited them to a meeting. We did what we thought was very appropriate in giving
1984 them an opportunity to explain their concerns to us.

1985
1986 I would note, as far as the usage of the cemetery, I believe it has been there for about 40
1987 years. I don't think they've used half of the cemetery yet. So, the cemetery has already
1988 indicated that they expect us to be off the property by the time they need to get into the area
1989 where the tower would be.

1990
1991 Ms. Dwyer - Excuse me. May I stop you there? I've seen the tower location.
1992 I just want it to be clear. The tower site is not among the gravesites. It is an unused portion of
1993 the cemetery which is heavily wooded, at least on the north and western sides. Is that correct?
1994

1995 Mr. Rothenberg - Yes ma'am. That's correct. There is also a significant buffer of
1996 trees that the cemetery intends to keep between the tower and the planned mausoleum.
1997 Obviously, they don't have any desire to ruin the serenity of that site. Let's keep in mind, the
1998 real attractiveness of this site is the buffer that it provides the – the natural buffer, the distance
1999 from residential areas, elevation, the opportunity to permit a number of co-locators, all of which
2000 I think are compelling and affords us an opportunity, hopefully, to put one tower in this area
2001 and allow other users to co-locate on that. The cemetery has already provided a letter, I
2002 believe Ms. Dwyer has seen, confirming that they don't intend to add any other towers on this
2003 site. Nor do they intend to take down the trees between the tower site and the western
2004 property line.
2005

2006 I believe that the tower that the gentlemen was referring to in Chesterfield was actually a 400
2007 foot tower that they had raised concerns about the interference from the County's emergency
2008 broadcast system, not the wireless, private communication companies. Sprint is regulated by
2009 the FCC. They are required by law to design their equipment so it doesn't interfere with baby
2010 monitors, radios, home phones, and other types of equipment.
2011

2012 Ms. Dwyer - The signals that are emanating from this tower and received by
2013 this tower will not interfere with television or radio reception at all?
2014

2015 Mr. Rothenberg - That's right.
2016

2017 Ms. Dwyer - And why is that?
2018

2019 Mr. Rothenberg - It's specifically designed not to and it is a technical question. I
2020 think it has to do with frequency spectrum. The frequency that the equipment operates at
2021 versus the frequency that the other equipment operates at. The FCC says that you can go
2022 within this spectrum or this spectrum, or this frequency or area, and people are lined up around
2023 that or below that. They're allowed to use their areas. Sprint's regulated by the FCC. That's
2024 their lawful obligation.
2025

2026 Ms. Dwyer - If you did not have this site or a tower in this vicinity, what
2027 consequence would that have on your ability to provide wireless communication services that
2028 you're licensed by the Federal government to provide?
2029

2030 Mr. Rothenberg - Well, if we couldn't find a site in this area, obviously, there would
2031 be a gap in the coverage that Sprint is providing. That very important corridor would not have
2032 service. So, Sprint would be unable to provide uninterrupted coverage.
2033
2034 Ms. Dwyer - It could not be able to provide service in that area?
2035
2036 Mr. Rothenberg - That's correct. There would be a gap in that area.
2037
2038 Mr. Zehler - That would not only be for Sprint. That would be for other users
2039 also. Correct?
2040
2041 Ms. Dwyer - Other potential users?
2042
2043 Mr. Rothenberg - I believe that, is it GTE? GTE and Primco are up and running.
2044 I'm not exactly sure where their antennas are set up to provide coverage in this area, but
2045 they're, obviously, out there providing service.
2046
2047 Ms. Dwyer - So, they don't have a gap then?
2048
2049 Mr. Rothenberg - I don't have a problem, I don't think with my GTE phone when I
2050 go down Patterson Avenue. I'm not sure about Primeco.
2051
2052 Mrs. Wade - Is this the same company that owns the cemetery that owns
2053 Woody's now? No?
2054
2055 Mr. Rothenberg - I have no idea.
2056
2057 Lady from Audience - (Comments unintelligible.)
2058
2059 Mrs. Wade - Okay. Thank you. We have found that, since the out-of-town
2060 people have bought Woody's, they're as not as good neighbors as they used to be either,
2061 unfortunately.
2062
2063 Mr. Archer - Any further questions of Mr. Rothenberg?
2064
2065 Ms. Dwyer - Not at the moment.
2066
2067 Mr. Archer - Thank you, sir.
2068
2069 Ms. Dwyer - I do have a question of Mr. Merrithew. Mr. Merrithew, the issue
2070 was raised about notice. I wonder if you could explain what notice was given by the County
2071 and why?
2072
2073 Mr. Merrithew - Yes ma'am. The State Code requires that the County place
2074 notices in the newspaper at least 21 days in advance of the hearing and then a second time
2075 approximately 14 days in advance of the hearing. And the State requires that we send notices
2076 directly to all adjoining property owners surrounding the site, as well as the property owners
2077 immediately across any roads adjoining the site. The letters are sent out one time prior to the
2078 Commission public hearing and then the same routine of notices is sent out prior to the Board
2079 of Supervisors public hearing. We also place a blue rezoning sign at least in one location near

2080 the site for obvious to people driving by the site or near the site with a number that they can
2081 call the County. That is not required by the State Code, but it is something that we do on all
2082 rezoning and provisional use permit requests.

2083
2084 Ms. Dwyer - Why is it that the owners, or people I guess own gravesites or
2085 lease, I'm not sure what the contractual relationship is, but why is it that those families weren't
2086 notified?

2087
2088 Mr. Merrithew - The owner of the property is the operator of the cemetery – the
2089 corporate entity. I believe the applicant can speak to this better than I. But the relationship
2090 between the plot owners and the operator of the cemetery is not such that the plot owners own
2091 the cemetery. So, we are dealing with, and have the signature on the application of the owner
2092 of the property which is the ECI Corporation.

2093
2094 Ms. Dwyer - Okay.

2095
2096 Mr. Archer - Thank you, Mr. Merrithew.

2097
2098 Ms. Dwyer - I'd like to make a few comments before I make my motion, just to
2099 explain the situation as I see it in this case. I'd like to thank everyone who came out and who
2100 has participated. It's very important to participate in the County's planning process, but it's
2101 also important for us to be informed about the facts of every case and also the rules and laws
2102 that govern our decisions as a Planning Commission. No one is going to argue that any
2103 wireless communication tower is an attractive feature in the landscape. It's no more attractive
2104 than telephone poles or electric transmission poles or water tanks, but these are utility
2105 structures that we must have in our community, because we either need or demand the
2106 services that they provide.

2107
2108 Congress has recognized the need for wireless communication towers in the
2109 Telecommunications Act of 1996. It governs the basis upon which we make our decision here
2110 tonight. Local governments can decide where to put towers and, perhaps, make some
2111 decisions about how towers are constructed. But we cannot prohibit towers. Specifically, we
2112 cannot treat companies differently. If one company is in Henrico and is licensed to do
2113 business here and has towers, we cannot prevent other companies from doing business. We
2114 also cannot take any action which has the effect of prohibiting or preventing a wireless
2115 company from being able to do business once its been licensed by the Federal government to
2116 do that. So, in effect, as I mentioned earlier, we cannot prohibit towers. We can only decide
2117 where they will be.

2118
2119 So, the question is, where do we put towers in a district such as the Tuckahoe District, which is
2120 almost fully developed and which is developed with almost exclusively residential
2121 development? It makes tower placement extremely difficult, because there is no place to put a
2122 tower, virtually no place to put a tower in the Tuckahoe District that will not affect residences.

2123
2124 So, what we do, what we look for, given the law that we have to work under, and given the
2125 character and density of development in our district, is we try to find locations for towers that
2126 will effect the least number of residences; the fewest number of homeowners. We also try to
2127 minimize the number of towers that are in our district. I think that this tower location, which is
2128 not among the grave sites, but which is in an unused portion of the Westhampton Memorial
2129 Cemetery meets the goal of finding a tower location that has the least or minimal effect on

2130 residences. It's in an open space which is fairly difficult to find in the Tuckahoe District of
2131 approximately 51 acres. It's an open space that's not occupied by residences or businesses.
2132 The tower is approximately 310 feet away from Patterson Avenue, and almost 600 feet from
2133 the nearest property line for a residence.
2134

2135 In addition, the area between the tower site and the residences is heavily wooded on the north
2136 and western boundaries. There is a condition to this Provisional Use Permit that attempts to
2137 ensure that that wooded area will be maintained. In addition, we're requiring landscaping
2138 around the other portion of the tower that may be exposed to Gaskins or Patterson Avenue.
2139 The County is requiring Sprint to build this tower so that, in the future, if more space is needed
2140 by other co-locator communications companies, this tower can be extended so that we will not
2141 have to face the problematic question of where to cite another tower in this heavily developed
2142 residential district. That, of course, will further our goal of minimizing the number of towers in
2143 the Tuckahoe District.
2144

2145 So, for those reasons, I move, Mr. Chairman, that this Commission recommend for approval P-
2146 12-98, subject to the conditions, get these numbers right. Subject to the revised conditions 1
2147 through 8.
2148

2149 Mr. Archer - With No. 6 modified, is that right?
2150

2151 Ms. Dwyer - Well, the revised conditions include modifications to Conditions 5,
2152 6, and 8.
2153

2154 Mr. Archer - Is there a second? I'll second it. Motion made by Ms. Dwyer,
2155 seconded by Mr. Archer. All those in favor say aye—all those opposed by saying nay. The
2156 vote is 3-1 (Mrs. Wade voted no, Messrs. Vanarsdall and Donati absent).
2157

2158 Mr. Silber - The vote is 3-1. This request will be coming up before the Board
2159 of Supervisors at its meeting on May 13th at 7:00 p.m.
2160

2161 REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Archer, the Planning
2162 Commission voted 3-1 (one no vote, two absent) to recommend that the Board of Supervisors
2163 **grant the requested revocable provisional use permit**, subject to the following conditions:
2164

- 2165 1. If the use of the tower for communication purposes is discontinued, the tower and all
2166 related structures shall be removed from the site within 90 days.
2167
- 2168 2. Application for a building permit to install the tower must be made within one year after
2169 the Provisional Use Permit is granted by the Board of Supervisors, unless an extension
2170 is granted by the Director of Planning upon written request by the applicant.
2171
- 2172 3. The applicant shall obtain approval from the Henrico County Planning Commission
2173 should the FAA require the addition of standard obstruction marking and lighting (i.e.
2174 red lighting and orange and white striping) to the tower. The applicant shall notify the
2175 Henrico County Planning Director prior to making any changes to the original
2176 galvanized finish of the tower.
2177

2227 West, 334.67 feet; Thence North 30° 00'-28" East, a distance of 13.16 feet to the Point of
2228 Beginning, containing 86.31 acres more or less.

2229
2230 Mr. Archer - Thank you, sir. Is there any one here in opposition to Case C-
2231 67C-97 Pendragon Development Company? No opposition. Mr. Bittner.

2232
2233 Mr. Mark Bittner, County Planner - Thank you, Mr. Archer.

2234
2235 Mr. Archer - There is opposition. I'm sorry. We'll hear from you, sir. Not now,
2236 but we will hear from you. Mr. Bittner.

2237
2238 Mr. Mark Bittner, County Planner - Thank you, Mr. Archer. I'd like to point out, we just
2239 handed out some new proffers. In addition to those, the applicant has requested a change in
2240 the zoning they are seeking back to R-2AC. If you recall, they originally came in with R-2AC.
2241 They then changed to R-3AC. They've now come back to R-2AC on their requested zoning.

2242
2243 I'll outline quickly the changes in the proffers which are in front of you. Proffer No. 1 would be
2244 removed. I might also point out there is no need to waive the time limit on these proffers. We
2245 received them approximately three or four days ago.

2246
2247 Proffer No. 1 has been removed. It would have dealt with the R-3AC zoning, and R-2A
2248 combined requirements. Since it is now all R-2A, they don't need the proffer. Proffer No. 2,
2249 they have stated, in addition, that 70 percent of the homes on the property shall be at least
2250 1,800 square feet in size. They're also proffering that they are providing a listing of dwelling
2251 square footage at any time upon the request of the Planning Office. This would assist us in
2252 enforcing this condition.

2253
2254 Proffer 6 regards the building materials of the homes. Staff suggested that they prohibit dryvit
2255 and aluminum homes. They have prohibited aluminum as a material, but they have not
2256 prohibited dryvit. They've also put in a provision that would allow the Planning Commission to
2257 approve alternative materials.

2258
2259 Proffer 16 dealing with access to Doran Road. They are now proffering that no Certificates of
2260 Occupancy shall be issued until this access has been constructed to Doran Road.

2261
2262 Now, these amended proffers, and also the requested zoning change, address all of the
2263 Staff's concerns with this application with the exception of dryvit as a building material for the
2264 dwellings.

2265
2266 The requested R-2AC zoning is consistent with the existing Four Mile Run Subdivision. Staff
2267 feels that the paramount issue with this application is maintaining this consistency. Since this
2268 application does address that, staff recommends approval. I'd be happy to answer any
2269 questions you may have?

2270
2271 Mr. Archer - Thank you, Mr. Bittner. Are there any questions of Mr. Bittner by
2272 the Commission?

2273
2274 Mr. Zehler - Mr. Bittner, are we still keeping Condition 9?

2275

2276 Mr. Bittner Which one is that, sir?
2277
2278 Mr. Zehler - Condition 9?
2279
2280 Mr. Bittner Nine? Let's see. How does that read, exactly?
2281
2282 Mr. Zehler - "One and one-half or two-story dwellings shall have a minimum of
2283 1,600 square feet finished livable floor area. Ranch-style dwellings shall have a minimum of
2284 1,400 square feet of finished livable floor area."
2285
2286 Mr. Bittner Yes. We will keep that condition. They have also proffered that
2287 at least 70 percent of all homes would be 1,800 square feet. But in that 30 percent that could
2288 be under 1,800 square feet, they would still need to meet these minimums.
2289
2290 Mr. Zehler - So, it does not address that anywhere in that proffer, this is
2291 reflecting on the 30 percent?
2292
2293 Mr. Bittner - Right. This would affect that 30 percent that could be under the
2294 1,800 square feet.
2295
2296 Mr. Zehler - Do you find it would be difficult to police this the way it is written
2297 here?
2298
2299 Mr. Bittner - Yes. We have found that it would be difficult. They have made it
2300 a little bit simpler, by stating that they'll provide a list of the number and percentage and size of
2301 homes, so forth, at any time that we request it, but I would not go so far to say that it makes it
2302 easy to enforce.
2303
2304 Mr. Zehler - Who would actually do the policing of this; Building Inspections?
2305
2306 Mr. Bittner - The Planning Office would, I believe, through the Building
2307 Inspection process.
2308
2309 Mr. Silber - The Planning Office would be responsible for policing that, Mr.
2310 Zehler. As far as you mean the size of the dwellings, that would be done at the time of review
2311 of building permits. We would have to try to keep track of how many met that percentage. But
2312 we've placed the burden, somewhat, here on the applicant has agreed to help by providing
2313 those numbers. But the responsibility is still that of the Planning Office.
2314 Mr. Zehler - I have no other questions, Mr. Chairman.
2315
2316 Mr. Archer - Okay. Any further questions of Mr. Bittner by Commission
2317 members?
2318
2319 Mr. Silber - I do have a question, Mr. Bittner. On revised Condition No. 16,
2320 what's the difference between those two sentences? They seem to be attempting to
2321 accomplish the same thing.
2322
2323 Mr. Bittner - Well, they originally came in with just the first sentence, saying
2324 they would not sell any homes prior to the access being constructed to Doran Road. We just
2325 saw no way for us, as a Planning Office, to be able to enforce that condition. So, we

2326 suggested they proffer no Certificates of Occupancy would be permitted until that access is
2327 constructed. They just didn't take out that first sentence.
2328

2329 Mr. Silber - So, is there a need for that first sentence? I don't see the need
2330 for that.
2331

2332 Mr. Bittner - No. I don't see a need for it. No.
2333

2334 Ms. Dwyer - Mr. Bittner, I have a question about Condition 13 or Proffer No.
2335 13. It says, "The existing trees within the buffer shall be preserved by property owners,
2336 successors and assigns..." It just strikes me that we can't really hold future property owners to
2337 that in the proffer, or can we? That's the question, whether we can.
2338

2339 Mr. Bittner - Legally, we probably could. Practically, I think it would be
2340 difficult. We generally have problems with buffers being reduced or cut into as homes are built
2341 and change hands and sold to different people. So, I think we would have problems enforcing
2342 it. Yes.
2343

2344 Mr. Archer - Any further questions?
2345

2346 Mrs. Wade - No. 2, maybe somebody asked this. The 1,800 square feet or
2347 larger, is that finished? Did they say?
2348

2349 Mr. Bittner - I'll double check real quick here. It does not stipulate whether its
2350 all finished or not.
2351

2352 Mr. Zehler - It does not mean its "finished livable."
2353

2354 Mr. Bittner - It does not mean its "finished".
2355

2356 Mr. Zehler - Of which 30 percent is allowed to be unfinished?
2357

2358 Mr. Bittner - Yes. I believe one-third of the house size can be unfinished.
2359

2360 Mrs. Wade - Is No. 1 all right? It says, Proffer No. 1 is withdrawn.
2361

2362 Mr. Bittner - We would cut it out in the final approval letter. Or else we could
2363 clean up those little technical concerns between now and the Board of Supervisors.
2364

2365 Mrs. Wade - So, they can be cantilevered.
2366

2367 Mr. Bittner - I believe they proffered, "no cantilevered chimneys."
2368

2369 Mrs. Wade - But, there are other boxes, structures that go on the side of
2370 houses that are chimneys.
2371

2372 Mr. Bittner - It would not apply to direct gas fireplaces or appliances.
2373

2374 Mr. Archer - Okay. Any other questions for Mr. Bittner? Thank you, Mr.
2375 Bittner. We'll hear from the applicant?

2376
2377 Mr. Zehler - Yes sir.
2378
2379 Mr. Silber - Would you like to save any time for rebuttal?
2380
2381 Mr. Scott Stolte - Two minutes. I represent the applicant who is also represented
2382 here this evening by Mr. Ayres, who is one of the members and manager of the LLC, Charles
2383 E. Ayers, Jr. We would like to amend two of the proffers at this time. That would, I think,
2384 clarify some of the issues that were just addressed. The first being, Proffer No. 2. We'd like to
2385 amend that to read that, "All homes to be built on the subject property shall be 1,600 square
2386 feet or larger and 70 percent of all homes to be built, shall be 1,800 square feet or larger."
2387 That would be living space, Mr. Zehler, to clarify your question.
2388
2389 Mr. Zehler - Would you read that, again, for me, please?
2390
2391 Mr. Stolte - Yes sir. "All homes to be built on the subject property shall be
2392 1,600 square feet or larger and 70 percent of all homes shall be 1,800 square feet or larger."
2393 Then we'd like to amend Proffer No. 20 to read, "A member of the Four Mile Creek Baptist
2394 Church shall be appointed to serve on the architectural review committee, along with two
2395 members of the community. The applicant will stipulate that the initial two community
2396 members of the architectural committee shall be Mrs. Janna Ray Williamson and Henry F.
2397 Moseley."
2398
2399 Ms. Dwyer - You're not putting their names in the proffer?
2400
2401 Mr. Stolte - Yes. We are.
2402
2403 Ms. Dwyer - Well, I think that's probably not a good idea.
2404
2405 Mr. Stole - I think the wording said, "the initial two community members shall
2406 be..."
2407
2408 Mrs. Wade - By "community," you mean that this...
2409
2410 Mr. Stolte - The Varina District community surrounding homeowners.
2411
2412 Mr. Zehler - If I may can I take you back to No. 2, again?
2413
2414 Mr. Stolte - Yes sir.
2415
2416 Mr. Zehler - All homes will be 1,600 square feet finished "livable" or larger?
2417
2418 Mr. Stolte - Yes sir.
2419
2420 Mr. Silber - Mr. Chairman, for the record, I really would prefer and would
2421 recommend against having a name of an individual in the proffer. I think there's some inherent
2422 risks that go along with that. I think that it's just poor practice from a land use and zoning
2423 standpoint to mention the name of someone in the proffer. Something could change between
2424 now and then. The individual may not want to serve, and you would have to come back before

2425 the Planning Commission and the Board and go through the rezoning process to put a new
2426 name in there. I just think its inappropriate.

2427
2428 Mr. Zehler - I believe, if I'm not mistaken, Mr. Secretary, the applicant did
2429 make a statement that he was willing to change that to two Varina citizens who live in the
2430 neighborhood without specifying any names.

2431
2432 Mr. Stolte - We would defer to the Commission on that, if that makes life
2433 easier for everybody in managing that.

2434
2435 Mr. Silber - I didn't hear that.

2436
2437 Mr. Stolte - And one other item that I would like to clarify before formally
2438 asking for your support is with respect to Proffer No. 13. That buffer and those trees, there are
2439 restrictive covenants that would be recorded against the property. Those would provide for
2440 that protection so that the homeowners can be bound by that.

2441
2442 Ms. Dwyer - It might be good to say that, "Restrictive covenants will require
2443 existing trees to be preserved by property owners," or something like that. It's almost
2444 impossible to enforce this as a proffer, in the form of a proffer.

2445
2446 Mr. Stolte - I believe we have that covered under Proffer 14. I'm sorry.
2447 There is a proffer in here, that restrictive covenants will be recorded.

2448
2449 Ms. Dwyer - Right. And I'm just suggesting that it might be cleaner to say that
2450 this sentence will be taken care of by the restrictive covenants.

2451
2452 Mr. Stolte - And I have no objection to that.

2453
2454 Mr. Archer - Okay. Any further questions? I think we do have opposition.

2455
2456 Mr. Zehler - For what reasons did you go R-3, and then back to R-2A again?

2457 Mr. Stolte - The initial reason to go to R-3 was that, in meeting with the
2458 citizens of the district, there was a desire to build larger homes in the subdivision. My client
2459 has found that the setback requirements for the R-2A District are somewhat limiting the size of
2460 the homes that can be built with garages or side and rear entry, which is a desirable aspect of
2461 these homes. So, that's why we were looking at the R-3A, and, quite frankly, saw that there
2462 would be too much opposition to that. We'd have to work around the R-2A, at this time in
2463 order to meet the building designs that my client was working with.

2464
2465 Mr. Zehler - After looking at the setback requirements; the difference between
2466 the R-2 and the R-3, my finding, the only difference I can find, is five feet difference on the rear
2467 yard setback.

2468
2469 Mr. Stolte - Correct. The major difference was the side yards. That was
2470 going to be helpful to the situation.

2471
2472 Mr. Zehler - Have you thought about increasing your lot sizes to suffice and
2473 satisfy the needs for the garages?

2474

2475 Mr. Stolte - We have.
2476
2477 Mr. Zehler - Has that been taken into consideration?
2478
2479 Mr. Stolte - It has been taken into consideration. There has not been a
2480 decision on it yet. My understanding is, the engineers are looking into ways of changing that.
2481 Of course, we have to see how much lot loss there would be in the development by going with
2482 a larger size and is it economically feasible?
2483
2484 Mr. Zehler - Is that why I see no proffer that states; doesn't say anything
2485 about garages?
2486
2487 Mr. Stolte - We just really didn't address that.
2488
2489 Mr. Zehler - But it has been an issue all along between you and the citizens?
2490
2491 Mr. Stolte - Yes. It has.
2492
2493 Mr. Zehler - And still at this point in time, we have not, in writing anywhere,
2494 addressed that issue?
2495
2496 Mr. Stolte - That's correct.
2497
2498 Mr. Zehler - Do you anticipate doing that?
2499
2500 Mr. Stolte - We did not anticipate putting it in formally, with these garages,
2501 because we just don't know that there's so many different aspects of property that can dictate
2502 what the garages will be. We have committed to the homeowners to build rear and side entry
2503 garages where and whenever possible. But the topography of the various and different lots
2504 will dictate at times whether those garages can be rear or side entry versus front entry. We
2505 feel, that to proffer a number of garages; "All garages would be side or rear entry," is just too
2506 limiting.
2507
2508 Mr. Zehler - Of course, we all learn off of mistakes and I believe we learned
2509 that mistake in Phase 1, and that's why we're here tonight to try and address that issue.
2510
2511 Mr. Stolte - Yes sir.
2512 Mr. Zehler - And I'm sure we'll hear it from the citizens out here before the
2513 night is over with. It's something that you could go back to the drawing board and entertain the
2514 thought. Based on your layout and design, your R-2 is minimum. You could increase that
2515 number to satisfy and suffice the needs of the community. That's something you might want to
2516 take a look at.
2517
2518 Mr. Stolte - Yes sir.
2519
2520 Mr. Zehler - Thank you. I have no other questions.
2521
2522 Mr. Archer - Okay. Anybody else have questions? Thank you, sir. We'll hear
2523 from the opposition.
2524

2525 Ms. Janna Ray Williamson - I came here, tonight, to try to get this deferred. But in speaking to
2526 the applicant, they have agreed to sit down with some of the community members and some of
2527 the Planning representatives and to see if we can't get some of these concerns worked out.
2528 Such as the size of residence to be built in the new section, in the 86 acres, and the concerns
2529 of the garages; the lot sizes. I mean we have several concerns, at this point in time, we think
2530 we can get worked out. The applicant seems to be very agreeable to sitting down with us and
2531 working out our concerns. We are amenable to that. Are there questions?'

2532
2533 Mr. Archer - Thank you, ma'am.

2534
2535 Mr. Henry Nelson - I am representing Four Mile Creek Baptist Church. We have sort
2536 of a trust agreement, if you will, with the developers. We trust that they are going to do what
2537 they say. We trust that the proffers for the Church will be completed. At this point, they have
2538 not been, but there's been some mitigating circumstances which may have precluded that from
2539 going on. However, members of the Church are quite concerned that they are going to be
2540 completed, and we are also worried about that to be done. One of the things that has held us
2541 up has been some of the areas around the Church. One of the things that has concerned us
2542 most is we have some impacted handicapped area that has not been completed yet, and that's
2543 cost us some membership from at least two families. I am sure that will be done as soon as
2544 possible, but we're still worried about it.

2545
2546 The other concerns we have are (unintelligible) at home, have certainly been amicable with the
2547 developer. He's been very amicable with us. We have toured the houses and they have been
2548 very gracious to allow myself to represent the Church on the architectural review committee.
2549 And what they have decorated so far is very nice, we think, however, we have the two
2550 concerns that have been expressed the size of the homes be upgraded which has been
2551 proffered tonight. We're are also concerned about the curb appeal with the front loading
2552 garages which, right now, are in this first section. We have assurances from the developer
2553 that they will do all possible to have as many side loading and rear loading garages as they
2554 possible can. We don't know exactly how to address that other than to trust, because at this
2555 moment, there's no proffer, there's no agreement as to how many there should be. However,
2556 one of the things we don't want to see, at the conclusion of this project would be that we'd
2557 have all these houses with the front loading garage, because we can't imagine what it might
2558 look like on a Saturday morning with that opening yawning at us. I don't know how many lots
2559 they'd limit themselves as they're currently configured to that or not. We do have that concern.

2560
2561 We are willing to work with the developer. We do believe that they can be trusted. We do
2562 believe that they've shown good faith. We do believe that making these comments public will,
2563 I'm sure, encourage them to continue to work with us, as we would be encouraged by this.

2564
2565 The Church and the community benefit from good development. We all benefit from houses
2566 that are attractive; that have good curb appeal; that meet the growth needs of our community;
2567 and have a variety of sizes, so that all groups can be addressed. We think that the proffers
2568 that have been provided tonight will lend itself to that. The other, we would be willing for trust
2569 to take care of, should you grant it. Thank you.

2570
2571 Mr. Archer - Thank you, sir. Any one else to speak in opposition?

2572
2573 Mr. Silber - There's approximately five minutes left for those who are
2574 speaking in opposition.

2575
2576 Mr. Henry F. Moseley - I'm surely not going to take five minutes. Mr. Chairman, members
2577 of the Commission, again, I'm Henry F. Moseley. I live on the property adjacent to the property
2578 in question here. I, too, came this evening with some questions. I have talked to the
2579 developer. He seems to be very willing to work with us in the community to build a home that
2580 would be amenable. For this, I'm very thankful. One question I do have, we're talking about
2581 building 70 percent of one size and may be 30 percent of another. Now, are we going to know
2582 when they build 33 percent and 67 percent? Where will this responsibility lie?
2583
2584 Mr. Zehler - I asked that question earlier, Mr. Moseley, and the Director of
2585 Planning said it's going to be the responsibility of the Director of Planning. When they submit
2586 their plans, through Building Inspections, it is sent up to Planning. Planning will keep that
2587 count. Hopefully, as well as the building/developer himself will be totally aware of his count,
2588 since it is in a proffered condition and it is law.
2589
2590 Mr. Moseley - Another question that has come up since arriving here, there's a
2591 lot of talk about side and rear entering garages. Has the developer offered anything on the
2592 homes that is being built in Sections 1 and 2 as to...
2593
2594 Mr. Silber - One and two, Mr. Moseley, you're referring to the area that's
2595 shown as platted on the slide?
2596
2597 Mr. Moseley - Yes.
2598
2599 Mr. Silber - The proffered conditions that are before us, tonight, simply relate
2600 to the area that's shown...
2601
2602 Mr. Moseley - Relate to the 86 acres. Thank you.
2603
2604 Mrs. Wade - Which one is your house? I should know where it is.
2605
2606 Mr. Moseley - My house. My house is right under the large A-1 (referring to
2607 slide).
2608
2609 Mrs. Wade - So, you're right by the interstate.
2610
2611 Mr. Moseley - Right near the interstate. Right.
2612
2613 Mr. Archer - Thank you, sir. Do we have any more time left for the opposition
2614 or is there any more opposition? Is there any rebuttal reserved?
2615
2616 Mr. Silber - There was five minutes left.
2617
2618 Mr. Archer - Sir, do you need any time?
2619
2620 Mr. Stolte - I won't need much of it. I just would like to thank the citizens for
2621 their comments. My client has been working with these people all along and is committed to
2622 continue to work with them as they bring a fine community to the Varina District. We ask for
2623 your support and thank you for your time.
2624

2625 Mr. Archer - Thank you, sir.
2626
2627 Mr. Zehler - Mr. Stolte, it appears, of course, this case has gone on since
2628 October of 1997, we have come a long way. I still think we have a little way to go. Of course,
2629 as making notes tonight, there were concerns as far as the lot sizes, garages, the
2630 handicapped area not being finished for the church that was promised in Phase 1, as curb
2631 appeal for the homes. I believe the biggest concerns that the citizens have, as well as myself,
2632 is the garages. Is there a possibility that we could take a 30-day deferral; give you an
2633 opportunity to address these concerns with myself, as well as the rest of the citizens?
2634
2635 Mr. Stolte - The problem we have with that, Mr. Zehler, is a contractual
2636 obligation for my client to purchase this property, which, of course, is subject to the zoning.
2637 That would delay their "drop dead" point on their contract to the point they'd be in danger of
2638 losing the property.
2639
2640 Mr. Zehler - Well, if you're forcing me to make a decision, tonight, your
2641 phrase, "drop dead," I might make an arrangement. So, my question to you is, "Would you like
2642 to defer this case for 30 days?"
2643
2644 Mr. Stolte - Yes sir.
2645
2646 Mr. Zehler - With that, Mr. Chairman, I move that Case C-67C-97 be deferred
2647 for 30 days, per applicant's request to the 14th of May, I believe it is.
2648
2649 Mr. Archer - Is there a second?
2650
2651 Mrs. Wade seconded the motion.
2652
2653 Mr. Archer - Motion made by Mr. Zehler, seconded by Mrs. Wade. All those in
2654 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
2655 Donati absent). The case is deferred to the May 14th meeting at the applicant's request.
2656
2657 Mr. Stolte - Thank you.
2658
2659 Mr. Silber - Mr. Stolte, I'd suggest that you work on some of the proffers that
2660 you discussed, tonight, and try to get those into the staff as early as possible so that can be
2661 shared with the Commission.
2662
2663 Mr. Stolte - I'll get with Mr. Bittner the first of the week.
2664
2665 **P-13-98 James W. Theobald and Charles H. Rothenberg for Sprint**
2666 **PCS:** Request for approval of a provisional use permit in accordance with Sections 24-95(a)
2667 and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a
2668 communication tower up to 160' high and related equipment and improvements, on part of
2669 Parcel 154-A-17A (4101 S. Laburnum Avenue), containing 2,500 sq. ft., located on the east
2670 side of S. Laburnum Avenue approximately 1200' north of I-64. The site is zoned M-1 Light
2671 Industrial District. The site is also in the Airport Safety Overlay District.
2672

2673 Mr. Archer - Is any one here in opposition to P-13-98 Sprint PCS? No
2674 opposition. Mr. Yolton.

2675
2676 Mr. Lee Yolton, County Planner – Good evening, Mr. Chairman, members of the Commission.
2677 As mentioned, this is a request to construct a cellular telephone tower near the intersection of
2678 Laburnum Avenue and I-64. This is on property owned by the Hopper family, which is along
2679 side the interchange ramp at I-64 and Laburnum. This is the first public hearing we've had on
2680 this matter.

2681
2682 The Hopper family property consists of about 38 acres that is zoned M-1 Light Industrial. They
2683 have a home on the property and a Virginia Power transmission line essentially runs through
2684 the middle of their land. The driveway that leads to their house is between two gasoline filling
2685 stations that front on Laburnum Avenue. One of the filling stations is currently under
2686 construction. The proposed tower would be a little over 70 feet from the rear property line of
2687 the filling station that's under construction. It's roughly about 150 feet from the Virginia Power
2688 line easement.

2689
2690 The Sprint PCS Company originally proposed a 150 foot tall monopole-type tower at this
2691 location. At the request of staff, however, the design of the tower has been changed to a steel
2692 lattice tower that could be extended in the future to accommodate additional users. The steel
2693 lattice tower would be erected at 150 feet with an 8-foot lightning arrestor mounted on top to
2694 bring the total height to just under 160 feet. If, in the future, another company wanted to
2695 extend the tower, another Provisional Use Permit would be needed.

2696
2697 From a land use perspective, the location of this tower seems reasonable. There are no
2698 homes in the vicinity other than the Hopper home which is about 600 feet away. The location
2699 does meet all the setback requirements as specified in the zoning ordinance. And, as
2700 mentioned, the property is zoned for light industrial use, so new homes would not be expected.

2701
2702 The only concern with this application is to make sure that all possible co-location opportunities
2703 have adequately been addressed so that another tower is not constructed unnecessarily. Staff
2704 has asked the applicant to demonstrate to the Planning Commission why co-locating on the
2705 Virginia Power Transmission towers is not a feasible alternative in this instance. From a
2706 laymen's point of view, the electric transmission towers seem like they are on high ground in
2707 this vicinity, and co-locating on the existing tower certainly would be preferable to building a
2708 new one.

2709
2710 We had originally thought the FAA would restrict the height of this tower to 160 feet. The
2711 applicant did indicate the FAA came back and said, "No. You can go ahead and build it to 199
2712 feet." So, the question at this point in time, which I'd like to pose to the Commission, is that we
2713 have an opportunity here to, perhaps, readvertise this case before it gets to the Board for a
2714 tower at 199 feet. In that way we would not need to have another Provisional Use Permit in
2715 the future to extend the tower an additional 40 feet. Sprint would built it at 160. Another user
2716 could come along in the future and decide that they'd like to add another 40 feet to the top of
2717 this tower. All they would have to do is get a building permit. They would not have to have
2718 another public hearing. I would like to suggest that as a possible alternative.

2719
2720 Since there's no opposition here, tonight, I think we could readvertise it between now and the
2721 Board meeting for a 199-foot tower. The Sprint Corporation is concerned that this wouldn't
2722 delay them. They are very concerned about getting their system up and operating as soon as

2723 possible. So, they would agree to do that if it does not delay them. So, therefore, we'd have
2724 to advertise it between now and the Board so they could continue along this track, assuming
2725 its approved tonight.

2726
2727 Ms. Dwyer - You mean between now and the Board?

2728
2729 Mr. Yolton - I'm sorry. Between here and the Board.

2730
2731 Mr. Zehler - So, if that's the case, Lee, are there a couple of these conditions
2732 we can eliminate?

2733
2734 Mr. Yolton - Yes. I believe so. For instance, the condition about requiring an
2735 additional use permit, as stated here in No. 5.

2736
2737 Mr. Zehler - I was looking at it, even before you made that statement. Is there
2738 anyway we can put No. 5 and 6 together?

2739
2740 Mr. Yolton - Combine the two conditions, basically?
2741 Mr. Zehler - Well, we know the tower is going to be 199 feet now. So, we
2742 don't need the extension of the tower beyond 160 feet requiring an additional Provisional Use
2743 Permit. With that in the same phase, you can say, "The applicant shall allow co-location."

2744
2745 Mr. Yolton - I want to clarify that they have agreed to build the tower at 160
2746 feet. Then, if somebody comes along the future and wants to add that additional 40 feet on
2747 there, then they would permit them to do that...

2748
2749 Mr. Zehler - So, we're going to continue on like we have here, then?

2750
2751 Mr. Yolton - Yes. Except for the phrase that says, "Any extension of the tower
2752 beyond 160 feet shall require an additional Provisional Use Permit." I would suggest that we
2753 could drop that phrase and then advertise this at 199 feet and we wouldn't need to have an
2754 additional Provisional Use Permit, if that's acceptable to the Commission.

2755
2756 Mr. Zehler - So, on Number 5, we're going to eliminate the last sentence?

2757
2758 Mr. Yolton - Yes sir. And on Condition No. 6, we did add a little bit of
2759 language that said, "whichever is greater." So, we would also make that change. The
2760 parenthetical phrase.

2761
2762 Mr. Zehler - Is it necessary to have the last sentence in No. 6?

2763
2764 Mr. Yolton - That, I believe, would still be necessary because this came out of
2765 the discussion at the Board meeting last night. Basically, they said, "Will you please guarantee
2766 to us that you will allow another user to come and extend it to 199 feet?" So, the County
2767 Attorney consulted with us today and said he felt this condition, basically, would guarantee that
2768 there would be no interference from Sprint should another corporation wish to extend the tower
2769 an additional 40 feet in this case.

2770

2771 Mr. Zehler - So, they're not going to build a 199 foot tower? They're going to
2772 build 160 feet and leave the right to extend it an additional 39 feet, if more users decide to
2773 come in. If that's the case, all that will be required is a building permit?
2774

2775 Mr. Yolton - Exactly.
2776

2777 Mr. Zehler - They won't have to come back before the Commission?
2778

2779 Mr. Yolton - Correct. So, that, in this instance, staff would recommend
2780 approval of this Provisional Use Permit, with the conditions that we just discussed, dropping
2781 the last phrase on Condition #5 and adding the parenthetical "whichever is greater" on
2782 Condition No. 6.
2783

2784 Mr. Zehler - What did we do on No. 6?
2785

2786 Mr. Yolton - We added the phrase, after the "user is technically possible," we
2787 insert in parenthesis, the phrase "whichever is greater."
2788

2789 Mr. Archer - Maybe we can standardize that language now.
2790

2791 Mr. Yolton - Yes. With that, Mr. Chairman, I'd be happy to try to answer any
2792 questions about this particular request.
2793

2794 Mr. Archer - Thank you, Mr. Yolton. Are there any questions of Mr. Yolton by
2795 the Commission?
2796

2797 Mr. Zehler - No opposition, Mr. Chairman?
2798

2799 Mr. Archer - No.
2800

2801 Mr. Zehler - Mr. Chairman, I move that Case P-13-98 be recommended to the
2802 Board for approval with the six conditions; Condition 5 dropping the last sentence off,
2803 Condition 6, adding "whichever is greater."
2804

2805 Mrs. Wade seconded the motion.
2806

2807 Mr. Archer - Motion made by Mr. Zehler, seconded by Mrs. Wade. All those in
2808 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
2809 Donati absent).
2810

2811 REASON: Acting on a motion by Mr. Zehler, seconded by Mrs. Wade, the Planning
2812 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors **grant the**
2813 **requested revocable provisional use permit**, subject to the following conditions:
2814

2815 1. If the use of the tower for communication purposes is discontinued, the tower and all
2816 related structures shall be removed from the site within ninety (90) days.
2817

- 2818 2. Application for a building permit to install the tower must be made within one year after
 2819 the Provisional Use Permit is granted by the Board of Supervisors, unless an extension
 2820 of time is granted by the Director of Planning upon written request by the applicant.
 2821
- 2822 3. The applicant shall obtain approval from the Henrico County Planning Commission
 2823 should the FAA require the addition of standard obstruction marking and lighting (i.e.
 2824 red lighting and orange and white striping) to the tower. The applicant shall notify the
 2825 Henrico County Planning Director prior to making any changes to the original
 2826 galvanized finish of the tower.
 2827
- 2828 4. When site construction will be initiated as a result of this Provisional Use Permit, the
 2829 applicant shall complete requirements prescribed by Chapter 10 of the Henrico County
 2830 Code. In particular, land disturbance of more than 2,500 square feet will require that
 2831 construction plans include a detailed drainage and erosion control plan prepared by a
 2832 professional engineer certified in the State of Virginia. Ten (10) sets of the construction
 2833 plans shall be submitted to the Department of Public Works for approval.
 2834
- 2835 5. The proposed tower shall be designed and constructed to permit the future extension
 2836 of the tower up to approximately 199 feet.
 2837
- 2838 6. The applicant shall allow the co-location of at least 3, or as many additional users as
 2839 technically possible (whichever is greater), at this site in accordance with the provisions
 2840 of the Letter of Intent to Permit Co-Location on Communications Tower filed by the
 2841 applicant with this request. If necessary to ensure compliance with this condition, the
 2842 applicant shall permit the tower height to be extended up to 199 feet.
 2843

2844 The Planning Commission recommendation was based on its finding that the Provisional Use
 2845 Permit is reasonable; it would provide added services to the community; and it would not be
 2846 expected to adversely affect public safety, health or general welfare.
 2847

2848 **P-14-98 Charles H. Rothenberg and James W. Theobald for Sprint**
 2849 **PCS:** Request for approval of a provisional use permit in accordance with Sections 24-95(a)
 2850 and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a
 2851 communication tower up to 199' high and related equipment and improvements, on part of
 2852 Parcel 177-A-50 (4116 E. Williamsburg Road), containing 2,500 sq. ft., located on the north
 2853 side of E. Williamsburg Road approximately 340' east of its intersection with Meadow Road.
 2854 The site is zoned A-1 Agricultural District.
 2855

2856 Mr. Archer - P-14-98. Is there any one here in opposition to P-14-98? We do
 2857 have opposition.
 2858

2859 Mr. Yolton - Mr. Chairman, members of the Commission, as mentioned, this is
 2860 a request to construct a cellular telephone tower near the overpass where Meadow Road goes
 2861 over I-64. This is property owned by the estate of the Brown family whose address is 4116
 2862 Williamsburg Road. This is the first public hearing we've had on this matter.
 2863

2864 The Brown family property consists of about four acres that is zoned A-1 Agricultural. It
 2865 stretches between Williamsburg Road and I-64. There is a home on the property, but the
 2866 tower would be constructed at the rear of the property, adjacent to I-64, about 600 feet away

2867 from the house. The existing driveway would be extended to provide access to the cellular
2868 telephone tower compound. The Sprint PCS Company proposes a 190-foot tall steel lattice
2869 tower with a five-foot lightning arrestor mounted on top, to bring the total height to 195 feet.
2870 Thus, the proposed tower is at a height that would maximize the possible co-location
2871 opportunities in the future.

2872
2873 From a land use perspective, the location of this tower seems reasonable. It is well removed
2874 from any existing uses in the vicinity. It is an area of sparse development and population
2875 density. It is not within an area of expected development in the near term. The location does
2876 meet all the setback requirements as specified in the Zoning Ordinance, and staff is satisfied
2877 that there are no existing co-location opportunities in this vicinity. Therefore, staff would
2878 recommend approval of the proposed new tower, subject to the conditions listed in the staff
2879 report with the changes as shown to you for Condition No. 5, and also including the
2880 parenthetical expression that we had included on the other conditions. So, with that, Mr.
2881 Chairman, I'd be happy to try to answer any questions.

2882
2883 Mr. Archer - Thank you, Mr. Yolton. Are there questions of Mr. Yolton by
2884 Commission members.

2885
2886 Mr. Zehler - Mr. Yolton, I'm going to test your knowledge of the Varina District.
2887 How tall is the existing lookout tower that's now on the corner?

2888
2889 Mr. Yolton - I don't know for sure. I would estimate that it's probably about
2890 120 feet.

2891
2892 Mr. Zehler - That's not lighted?

2893
2894 Mr. Yolton - That's not lighted and apparently it's not being used either.

2895
2896 Mr. Zehler - I have no other questions, Mr. Chairman.

2897
2898 Mr. Archer - Any further questions by other Commission members?

2899
2900 Mr. Silber - Mr. Yolton, on the staff report, in one location, where it says,
2901 "proposed," it says 199 feet. The advertisement says 199 feet. You refer to 195 feet. Can
2902 you help me with that?

2903
2904 Mr. Yolton - The advertisement is up to 199 feet. So, they could, theoretically
2905 build it an extra four feet tall, but their site plan and tower design shows it at 190 with a five
2906 foot lightning arrestor on top that brings the total height to 195, which is essentially the
2907 maximum height.

2908
2909 Mr. Archer - Any further questions of Mr. Yolton? Okay. Thank you, Mr.
2910 Yolton. We'll hear from the applicant. Mr. Rothenberg.

2911
2912 Mr. Chuck Rothenberg - Mr. Chairman, ladies and gentlemen, I'm here this evening...

2913
2914 Mr. Silber - Do you want to save some time for rebuttal?

2915

2916 Mr. Rothenberg - Yes sir. Why don't I reserve three minutes, please? Thank you
2917 very much. My name is Chuck Rothenberg and I'm here tonight on behalf of Sprint. This is a
2918 request for a Provisional Use Permit, pursuant to Section 24-95 and 24-122.1 of the County
2919 Code for the construction, operation, and maintenance of a communication tower up to 199
2920 feet in height located at the northeast corner of Williamsburg and Meadow Roads along I-64,
2921 west of the truck weighing station.

2922
2923 Because of limitations imposed by the FAA that we were made aware of Tuesday, the
2924 proposed tower would be limited to 190 feet, as opposed to our plan for a 195 foot tower. The
2925 tower would be located within a 40-foot by 35-foot compound along with two small equipment
2926 cabinets. The compound would be enclosed within a six-foot chain-link fence capped with
2927 barbed wire. We believe that a Provisional Use Permit is appropriate for the following reasons:
2928 As the staff report indicates, the use is not inconsistent with the Land Use Plan which
2929 designates this largely undeveloped area for residential use. Very little activity will occur on
2930 the site after the initial construction is complete. The use requires the disturbance of a very
2931 small area of land and requires no County utilities. The nearest home is approximately 400
2932 feet away from the proposed tower. The existing stand of trees is located between the tower
2933 and I-64. The tower is set back approximately 650 feet from Williamsburg Road and 500 feet
2934 from Meadow Road. The use proposes no known environmental or health risks to the public.

2935
2936 The required utilities are available at the site, as well as adequate access and areas for
2937 parking. The necessary safeguards in the form of the five conditions recommended by the
2938 Staff, with the changes on the number of users that we've discussed tonight in connection with
2939 the other cases, are acceptable to Sprint and provide protection for the surrounding property,
2940 persons, and neighborhood values.

2941
2942 Sprint has investigated the availability of co-location opportunities in the coverage area to be
2943 served by the proposed tower. The closest tower is 1.5 miles from this site and would not
2944 permit Sprint to serve the desired coverage area. An antenna is required at this location to
2945 provide uninterrupted service to Sprint's customers.

2946
2947 We believe that all the grounds for granting a Provisional Use Permit have been satisfied, and
2948 we respectfully ask that you recommend to the Board that they approve this request. I would
2949 be happy to answer any questions.

2950
2951 Mr. Archer - Thank you, Mr. Rothenberg. Are there questions for Mr.
2952 Rothenberg by the Commission?

2953
2954 Mr. Zehler - Have you already been in front of FAA? Are there any
2955 requirements on this tower that you know of?

2956
2957 Mr. Rothenberg - There are no requirements for lighting or striping this tower. We
2958 are limited to 190 feet.

2959
2960 Mr. Zehler - So you have been in front of the FAA, and that's their decision?

2961
2962 Mr. Rothenberg - Yes.

2963
2964 Mr. Zehler - I have no other questions, Mr. Chairman.

2965

2966 Mr. Archer - Do any other Commission members have questions? Thank you,
2967 Mr. Rothenberg. We have opposition. Sir, you can come up first.
2968

2969 Mr. Meredith Winn - I have been asked to speak by my elderly and shut-in parents
2970 who live at 4190 E. Williamsburg Road, which, I believe, is plot No. 53 on the map. Is there a
2971 pointer? Is that it? Which is this property here (referring to slide), which, as you see, abuts
2972 this property. Also, for further information, the forest fire lookout tower is approximately in this
2973 location right here (referring to slide).
2974

2975 As I said, my parents are very elderly. Their only asset is this property. They are quite
2976 concerned that anything that might be done near this property might affect the value of their
2977 only asset. I'm not here to speak against the use of the tower or the installation of a tower.
2978 What I am here to bring to your attention is the fact that it appears that this particular piece of
2979 property is a narrow sliver of land where the owner has decided to try to put a tower at his
2980 most convenient spot, however, affecting the neighboring people. I'm not going to try to inform
2981 the staff of the radius of the effect of a tower on property values, but my guess is that, a 200-
2982 foot tower will affect property values within a radius of, perhaps, more than 200 feet; perhaps
2983 300 or 400 feet. As you can see, if you draw a circle around this, other properties are more
2984 affected than the owner's property. I find that this is a situation where the owner of this
2985 property is using other people's destruction of property to his benefit without regard for their
2986 property. There would seem to be other possible locations for this in the area that would not
2987 be in such a narrow area that, as I said, creates this circle affect on other people's property. It
2988 is my belief that the other property values will be affected. I don't know the numbers. I'm not
2989 in that profession. But I do think that this is something you should take into account in not
2990 letting someone take a small sliver of land shoved right into the middle of other people's
2991 property and allow them to put something on there that affects their property. In these other
2992 cases you've been talking about, there have been large acreages around them and so forth.
2993 Here we have something that's a dagger right into the heart of these people's places. I urge
2994 you to take that into account when you consider this. Thank you very much.
2995

2996 Mr. Archer - Thank you, Mr. Winn.
2997

2998 Mr. Morgan Harris - I'm here on two respects. One, the adjacent property right next to
2999 that, to the right hand side, is my mother-in-law's property. She just showed me a lot of
3000 concern, number 1, that she's concerned about her property values and a tower being back
3001 there that she would have to look at. I'm also an adjoining property owner. I own a larger tract
3002 of land over on Meadow Road; the 6.5 acres; Parcel No. 49. I have a real concern and I have
3003 talked to the people when they did come around with the tower about, was it going to be
3004 lighted? I'm in the aviation business. I work for the Virginia Department of Aviation. I have
3005 seen these towers all the time.
3006

3007 My real concern is, if that tower was to be mandated to be lighted by the FAA, that light would
3008 be flashing in everybody's bedroom windows because this tower is at the back corner of all
3009 these properties. It would be in my bedroom window. The people that rent this property that
3010 the tower would be built on; my mother-in-law next door; and the other properties around.
3011

3012 It does concern me, every time a new company comes up, that we have to grant a whole new
3013 array of towers for these companies. I do know of the FCC Act of 1996, I think it is. That they
3014 mandate that you have to give these people the right to put in a tower. I am concerned that
3015 some place with the known use of cellular use coming up, sooner or later it looks like to me

3016 that's going to have to stop and be assessed of finding some central locations that they can
3017 place a lot of; maybe even have to exceed to be taller towers to handle more whatever.
3018 Because, if not, we don't have to worry about how many towers we have, and where we put
3019 them, and whether they can see each other in a line of sight. We actually just only have to
3020 string cable between them, because that's about what it's getting to. When they come up
3021 before Zoning Boards and whatever, they just get approved. Everybody just goes back and
3022 says, "The FCC says, us on this Act."
3023

3024 Just that, I really don't want to look at a tower. I do know that they are looking at a lattice-type
3025 tower. Also, sometimes a monopole is less obtrusive looking to some people and maybe
3026 would affect land values less than the other type. I have not heard that there even was a
3027 discussion of which type they would install.
3028

3029 I asked the question about the fire tower. It was stated to me that someone had deemed the
3030 fire tower as unsafe and that possibly would not be a site. I don't know if that's in writing; if
3031 that's actually been done, but that's what was told to me by the cellular people. That's,
3032 basically, all my comments.
3033

3034 Mr. Zehler - Mr. Harris, you seem very knowledgeable on towers. Have you
3035 talked with the applicant? Has he met with you and discussed this case?
3036

3037 Mr. Harris - The only person, there were two gentlemen in the back of the
3038 room, came by my house and they informed me that they wanted to talk to me; there was a
3039 tower going up. I informed them, I think at that time, I was very concerned whether it was to be
3040 beyond the 199 feet and lighted or not.
3041

3042 Mr. Zehler - Did Sprint come by and talk to you and your mother-in-law as far
3043 as placing a tower on your property?
3044

3045 Mr. Harris - No sir. I was never approached. I know my mother-in-law never
3046 was either. So, I don't know where they actually looked for these towers in other places. I do
3047 know that I took a ride on I-295 the other day and that I did find out, there are three towers,
3048 currently on I-295 at Bottoms Bridge. Another one has already been proposed and permitted
3049 in that same I-295 area. A quarter of a mile up the road on I-295, there's two more cellular
3050 towers up there.
3051

3052 I'm aware enough that I know cellular works on a line of sight. Okay. The meeting that I was at
3053 recently, they stated that the line of sight was roughly three miles, which means six miles
3054 between towers. We're talking in the area of possibly seven towers in an area less than five
3055 miles. That concerns me about, "When does the County stop?"
3056

3057 Mr. Zehler - It concerns us, too, sir.
3058

3059 Mr. Harris - I know. I talked to Mr. Donati about it. And he wants to talk to
3060 me again.
3061

3062 Mr. Zehler - On this parcel of land that you own, is your house there, or is that
3063 just a raw piece of land?
3064

3065 Mr. Harris - No. My house is there.

3066
3067 Mr. Zehler - It is there?
3068
3069 Mr. Harris - Yes. I have, I think it is about a 1,800 or 1,900-foot brick rancher
3070 there. And I am concerned about the land values. I have not addressed that issue a whole lot.
3071
3072 Mr. Zehler - Thank you.
3073
3074 Mr. Archer - Mr. Harris, may I ask you a question before you sit down?
3075
3076 Mr. Harris - Yes sir.
3077
3078 Mr. Archer - How does the FAA determine when to light a tower?
3079
3080 Mr. Harris - I think, if I remember correct, anything above 199 feet has to be
3081 lighted and painted with red stripes from top to bottom. Anybody who wishes to build a tower
3082 has to file a 7460 permit with the FAA. Okay, with that 7460 permit, they look at the
3083 approaches to the airport and see if these towers penetrate any of these approaches. Three
3084 years ago the State required, through the legislature, that the Department of Aviation became
3085 the governing body for the localities until they could set up their own zoning. This is statewide
3086 until they could set up their own zoning to look after their own tower where they interfere with
3087 the airport. But we do still get the permits and also the FAA. They will deem whether they are
3088 a hazard to approaches or not. The only other thing is, they are looking at now, the hazard to
3089 approaches at this point in time. Okay, to the runways and the instrument equipment that are
3090 there at this moment.
3091
3092 If that airport expands, a whole lot of towers could come into the situation of being an
3093 obstruction to the airport. It may not be deemed that it actually penetrates the surface of the
3094 runway approach area, but it would have, to a point, that they could dictate that they're on
3095 these approach paths and this be lighted. Okay. So, at this point, with the Richmond Airport,
3096 with the things that have gone on, they're trying to consider expansion. At this point, they don't
3097 know where they're going because they're still working on that. But it could affect a lot of
3098 areas in Henrico County, especially in the east end. I think that's another issue that probably, I
3099 think somebody is going to need to look at.
3100
3101 Mr. Archer - Thank you, sir.
3102
3103 Mr. Tom Brown - Mr. Chairman, and Commission members, my name is Tom
3104 Brown. I am the property owner of the proposed tower site. It's 4.5 acres in that parcel. It is
3105 an existing tower within, I'd say, 600 feet of that; the fire tower, and that's been there for over
3106 50 years. That tower was there when all the houses in that area were built. I don't think that
3107 has any effect on the property values.
3108
3109 As far as the FAA, my former employer was the FAA. I was in charge of instrument
3110 procedures and we evaluated obstructions. My job was to set the minimums for instrument
3111 approaches. This tower does not have any effect on Byrd Field. Thank you.
3112
3113 Mr. Archer - One second, Mr. Brown.
3114
3115 Mr. Zehler - Do you have a residence on this parcel of land?

3116
3117 Mr. Brown - Is it a what?
3118
3119 Mr. Zehler - Is your house on this parcel of land?
3120
3121 Mr. Brown - Yes.
3122
3123 Mr. Zehler - Do you actually live in front of...
3124
3125 Mr. Brown - No. I don't live there.
3126
3127 Mr. Zehler - Okay. Where do you live, sir.
3128
3129 Mr. Brown - I live at 5550 Ashland Farm Road in Quinton, Virginia.
3130
3131 Mr. Archer - Sir, you need to go to the microphone. We need to record your
3132 remarks. If you'd speak into the microphone, please. That's fine.
3133
3134 Mr. Brown - My home address is Ashland Farm Road in Quinton, Virginia.
3135
3136 Mr. Zehler - You said there was a residence on the property. Do you own that
3137 residence?
3138
3139 Mr. Brown - I do.
3140
3141 Mr. Zehler - Are you renting that residence out?
3142
3143 Mr. Brown - Yes. I've talked to my next door neighbor and she had no
3144 objection to the tower.
3145
3146 Mr. Zehler - Has your tenant given his notice?
3147
3148 Mr. Brown - Do what?
3149
3150 Mr. Zehler - Has your tenant given his notice of moving?
3151
3152 Mr. Brown - No.
3153
3154 Mr. Zehler - It doesn't bother him?
3155
3156 Mr. Brown - No.
3157
3158 Mr. Zehler - Is it a family member?
3159
3160 Mr. Brown - He's got a daughter living with him.
3161
3162 Mr. Zehler - Is that a family member of yours that lives in that house?
3163
3164 Mr. Brown - Oh, no. The tenant's name is Bill Cash.
3165

3166 Mr. Zehler - Thank you, sir.
3167
3168 Mr. Archer - Thank you, Mr. Brown. I think that's all the opposition, Mr.
3169 Secretary.
3170
3171 Mr. Rothenberg - Let me respond just to the issue about the impact of the tower on
3172 the surrounding area. I suspect that the feature that has the greatest impact is I-64, and the
3173 taking that occurred for that right of way. With respect to Mr. Winn's property, that property,
3174 obviously, is landlocked back there. It's a narrow strip. No disrespect to Mr. Winn, but when
3175 we discussed this case, we were trying to figure out what his concerns were. He asked if
3176 there's a way that we could locate the tower on his property. It's actually too narrow back
3177 there. I don't think it would satisfy the setbacks if we did that.
3178
3179 I think it's important, again, in response to the question about the number of towers going up;
3180 we have proffered this case to make sure that it provides additional co-location opportunities
3181 for other providers who need to be in the area.
3182
3183 With respect to the fire tower, that structure is not very tall. And also, the letter that we got
3184 from the Commonwealth of Virginia, Department of Forestry, states a couple of concerns
3185 about permitting somebody to co-locate on a fire tower. One is, they don't own the land. They
3186 simply have an easement. We would need to get permission from the underlying property
3187 owner. But, also, their letter states that the status of the tower is in limbo. "Many of our other
3188 towers are in a similar position. We have been in the process of giving up our easements in
3189 the more developed areas of the State and the Meadow tower may be considered for
3190 abandonment." I'd be happy to answer any questions.
3191
3192 Mr. Archer - Okay. Thank you, Mr. Rothenberg. Are there questions for Mr.
3193 Rothenberg by Commission members?
3194
3195 Mr. Zehler - No questions, Mr. Chairman.
3196
3197 Mr. Archer - Ready for a motion.
3198
3199 Mr. Zehler - As Ms. Dwyer has dwelled on in her case, unfortunately the FCC
3200 has control. We cannot discriminate to build. We have to look at sites that probably affect the
3201 least amount of neighbors in the neighborhood. When I was first contacted by Mr. Rothenberg
3202 about this site, my first impression was, the fire tower has been there for years. I remember
3203 when it was manned. So, that has been a few years. I think, in my personal opinion, this
3204 tower has the least affect on the neighborhood. It would affect, as far as the neighbors are
3205 concerned, at least the amount backing up to the Interstate. It is hard and difficult to screen a
3206 199-foot tower. Unfortunately, we have to have them to have our telecommunications. So,
3207 with that, I move that P-14-98 be recommended to the Board for approval with the five
3208 conditions and the corrected No. 5 condition.
3209
3210 Ms. Dwyer seconded the motion.
3211
3212 Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those in
3213 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
3214 Donati absent).
3215

3216 Mr. Silber - Once again, this is a recommendation by the Planning
3217 Commission. It will be going to the Board of Supervisors on the 13th of May at 7:00 o'clock.
3218

3219 REASON: Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning
3220 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors **grant the**
3221 **requested revocable provisional use permit**, subject to the following conditions:
3222

- 3223 1. If the use of the tower for communication purposes is discontinued, the tower and all
3224 related structures shall be removed from the site within ninety (90) days.
3225
- 3226 2. Application for a building permit to install the tower must be made within one year after
3227 the Provisional Use Permit is granted by the Board of Supervisors, unless an extension
3228 of time is granted by the Director of Planning upon written request by the applicant.
3229
- 3230 3. The applicant shall obtain approval from the Henrico County Planning Commission
3231 should the FAA require the addition of standard obstruction marking and lighting (i.e.
3232 red lighting and orange and white striping) to the tower. The applicant shall notify the
3233 Henrico County Planning Director prior to making any changes to the original
3234 galvanized finish of the tower.
3235
- 3236 4. When site construction will be initiated as a result of this Provisional Use Permit, the
3237 applicant shall complete requirements prescribed by Chapter 10 of the Henrico County
3238 Code. In particular, land disturbance of more than 2,500 square feet will require that
3239 construction plans include a detailed drainage and erosion control plan prepared by a
3240 professional engineer certified in the State of Virginia. Ten (10) sets of the construction
3241 plans shall be submitted to the Department of Public Works for approval.
3242
- 3243 5. A landscaping plan for the purpose of screening the base of the tower from view shall
3244 be submitted to the Planning Office for approval prior to the issuance of a building
3245 permit for the tower. The Director of Planning may waive the enforcement of this
3246 condition if it is deemed unnecessary.
3247
- 3248 6. The applicant agrees to allow the co-location of at least 3, or as many additional users
3249 as technically possible (whichever is greater), at this site in accordance with the
3250 provisions of the Letter of Intent to Permit Co-Location on Communications Tower filed
3251 by the applicant with this request.
3252

3253 The Planning Commission recommendation was based on its finding that the Provisional Use
3254 Permit is reasonable; it would provide added services to the community, and when properly
3255 developed and regulated by the recommended special conditions, it would not be detrimental
3256 to the public health, safety, welfare and values in the area.
3257

3258 **C-22C-98 Henry L. Wilton for Wilton Development Corp.:** Request to
3259 conditionally rezone from A-1 Agricultural District to R-3AC One Family Residence District
3260 (Conditional), part of Parcel 50-A-15, described as follows:
3261

3262 Beginning at a point 372.54' from the west line of Honey Lane; Thence S. 46° 25' 37" W.,
3263 838.69 feet to a point; Thence S. 46° 25' 37" W., 134.63' feet to a point; Thence S 67° 45' 46"

3264 W., 359.43 feet to a point; Thence N 44° 04' 35" E 463.67 feet to a point; Thence S. 45° 55'
3265 25" E., 149.92 feet to a point, containing 1.0 acre.

3266
3267 Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to C-22C-98? No
3268 opposition. Mr. Merrithew.

3269
3270 Mr. Merrithew - Thank you, Mr. Chairman. This is the latest, in a series of requests by
3271 Mr. Wilton, to consolidate properties into the Hungary Glen Subdivision. The subject property
3272 is the rear one acre portion of the Richmond Buddhist Association property immediately to the
3273 east of the proposed subdivision.

3274
3275 A preliminary design sketch has been included in the packet to illustrate that the one-acre site
3276 will allow connection of a street, and apparently utilities, to the subdivision, but, by itself, will
3277 not add density to the overall project.

3278
3279 As with the previous cases, this application is consistent with the 2010 Land Use Plan, and
3280 consistent with surrounding zoning and development patterns. The proffers submitted with this
3281 case mirror those approved those previously zonings within the subdivision, and should
3282 provide for consistent development.

3283
3284 The principal proffer is the minimum finished floor areas 1,100 square feet, 1,250 square feet,
3285 and 1,350 square feet for ranchers, cape cods, and two-story homes respectively. The
3286 applicant has also proffered to develop this site as part of Hungary Glen Subdivision. To date,
3287 staff has heard of no opposition to the application. Staff supports the proposal because it will
3288 ensure consistency within the planned subdivision and provide for better internal road network.
3289 Staff is in support of the rezoning request. I'd be glad to answer any questions.

3290
3291 Mr. Archer - Thank you, Mr. Merrithew. Are there any questions of Mr. Merrithew by the
3292 Commission?

3293
3294 Mr. Zehler - Mr. Chairman, it just appears staff is in approval of this case, and it is definitely
3295 a house clean up case to complete the existing subdivision. So, therefore, I move Case C-
3296 22C-98 be recommended to the Board for approval.

3297
3298 Mrs. Wade seconded the motion.

3299
3300 Mr. Archer - Motion made by Mr. Zehler, seconded by Mrs. Wade. All those in
3301 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
3302 Donati absent).

3303
3304 REASON: Acting on a motion by Mr. Zehler, seconded by Mrs. Wade, the Planning
3305 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors accept the
3306 proffered conditions and grant the request because it is reasonable; it is appropriate residential
3307 zoning at this location; and it would permit infill development with the proper connection for
3308 roads and other public facilities.

3309
3310 Mr. Archer - Now, for the 8:00 o'clock cases.
3311 **Deferred from the February 12, 1998 Meeting:**

3312 **C-64C-97** **Abigail S. Phillips for Dodson Bros. Exterminating Co.:**
3313 Request to conditionally rezone from R-4 One Family Residence District to B-3C Business
3314 District (Conditional), part of Parcel 53-A-12, described as follows:
3315

3316 Beginning at a point approximately 36S' South of the South line of Virginia Avenue and
3317 275.66' West of the West line of U.S. Route 1; Thence along the R-4/B3-3 zoning line, as
3318 determined by Henrico County, S. 20° 57' 33" E., 125.03' to a point; Thence S. 70° 57' 41" W.,
3319 105.06'; Thence N. 20° 57' 33" W., 125. 08' to a point; Thence N. 70° 59' 32" E., 105.60' to
3320 said place and point of beginning, containing 0.301 acres.
3321

3322 Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to
3323 C-64C-97 Dodson Bros. Exterminating Co.? Mr. Merrithew.
3324

3325 Mr. Merrithew - Mr. Chairman, we're handing out revised proffers this evening.
3326 The principal change is the removal of the proffers with regard to the appearance of the
3327 building and the removal of the restriction on the use of the overall lot. I'll explain why those
3328 changes have been made in just a second.
3329

3330 This property is located at 9014 Brook Road. It is on the west side of Brook Road, north of
3331 Parham. It's located next to the Aunt Sarah's Pancake House Restaurant. The rezoning
3332 request applies to only the rear one-third of the lot planned for use by Dodson Brothers. The
3333 front two-thirds, as you can see on the map, is already zoned unconditional B-3. The proposal
3334 is to bring the last portion, or the rear portion of the site, into the B-3 category, albeit the rear
3335 portion will be conditionally zoned.
3336

3337 The bulk of the lot, as I just said, is B-3. The rezoning request is needed first, to eliminate the
3338 need for a 35-foot buffer between the front two-thirds of the lot and the rear one-third of the lot,
3339 which, essentially would preclude the use of the lot overall for a business purpose.
3340

3341 Secondly, the rezoning would allow the company to provide space for parking in the future, if
3342 they were to expand. Its my understanding, and they can speak to this issue. It's my
3343 understanding that the company does not need the rear one-third of the portion for parking,
3344 currently, but, in the future, may need it if they do expand their operation. So, in the
3345 meantime, the site would remain as it currently is, which is wooded and vacant.

3346 The applicant has proffered that the rear portion of the lot, and that is Proffer No. 1, would only
3347 be used for parking associated with the development of the remainder of the lot. And there will
3348 be no buildings constructed on the site.
3349

3350 The proposed rezoning was deferred previously by the applicant to work out potential issues
3351 with neighbors. Those meetings have resulted in a couple of the proffers you see tonight,
3352 specifically, the 40-foot buffer that would be maintained around the perimeter of the rear of the
3353 lot adjoining the residential properties, as well as a 7-foot privacy fence, which would be
3354 constructed by the owner around the perimeter of the parking area. I believe on the plans that
3355 they had shown staff, and I hope they have some tonight, will illustrate that the parking area
3356 does not take in the whole site. So, you'd have the buffer around the outside, the fence
3357 around the inside of the buffer, and then the parking area.

3358 The proposal is consistent with the 2010 Land Use Plan. It's also consistent with surrounding
3359 development. The applicant had previously proffered stone and brick for portions of the
3360 building. Staff recommended that those proffers not be included. They could make the

3361 statement here at the meeting, but since the proffers are off-site and would not apply to
3362 property, subject to the rezoning, we recommended they be removed.

3363
3364 The applicant has also indicated a willingness to limit the use of this site to the pest control
3365 operation, and again, staff recommended that be deleted because it reflected or referred to
3366 property not a subject of the rezoning, and also put a quite tight restraint on the future
3367 development of the site if they were ever to leave it.

3368
3369 With the revised proffers, excuse me. You will have to waive the time limit on them. This is a
3370 situation that it does comply with the Plan. It's pretty consistent with the development pattern
3371 in the area, we feel the new construction in the area will be a benefit to the existing commercial
3372 corridor. Staff is prepared to support the application. I would be glad to answer any questions.

3373
3374 Mr. Archer - John, did you receive, and maybe you mentioned that, in the
3375 original staff report, the layout proposal?

3376
3377 Mr. Merrithew - We saw the layout proposal in a meeting, but we did not receive
3378 a copy of it. I believe we have copies here that we might be able to show. We don't have the
3379 elevation? Okay. We had seen an elevation of the building in which we discussed...

3380
3381 Mr. Archer - In the meeting we attended, we talked about the construction
3382 material and so forth?

3383
3384 Mr. Merrithew - That's correct.

3385
3386 Mr. Archer - I don't have any further questions of Mr. Merrithew. Does the
3387 Commission? Thank you, John. Would the applicant come forward, please?

3388
3389 Ms. Abigail Phillips, Dodson Brothers - Dodson Brothers Exterminating is a small family-owned
3390 business that's been searching for an appropriate site in the west end for a couple of years
3391 now. The entire piece of property is small, and only the back one-third, as Mr. Merrithew
3392 mentioned, needs to be rezoned. Dodson Brothers needs to use that portion in the event that
3393 they expand because the setback, as Mr. Merrithew mentioned, would be 35 feet from the
3394 back third of their property, rather than from the very back of their property.

3395
3396 The rezoning, at this time, would eliminate the dual zoning on a single parcel of land, where
3397 most of the zoning is already commercial. Mr. Dodson, whose here tonight, has met with the
3398 neighbors, and agreed wholly to their conditions, and I believe he's alleviated their concerns
3399 because they're not here.

3400
3401 The parking lot would be well screened. The rezoning would be consistent with the Land Use
3402 Plan, the commercial development, but with sensitivity to the adjoining residential
3403 neighborhood. Really, it's a good compromise between this area and the neighborhood area
3404 to have only a parking lot with both visual and sound buffers. We ask for your support.

3405
3406 Mr. Archer - Thank you, ma'am. We met with, and I don't remember the
3407 names, the meeting that Mr. Merrithew and I attended. We talked about, and I realize its not
3408 proffered in the case, but we did talk about the construction of the building. I think he literally
3409 said, that anything we wanted was what they would build. So, do we still have some leeway to
3410 suggest what the construction would be?

3411
3412 Ms. Phillips - Yes. I think they'd be very open to suggestions. Certainly.
3413
3414 Mr. Archer - Mr. Merrithew, does that satisfy what we were trying to achieve
3415 with that meeting in terms of the construction?
3416 Mr. Merrithew - I believe so.
3417
3418 Mr. Archer - We just didn't want a proffer it, is that...
3419
3420 Mr. Merrithew - That's correct. I thought we were on tenuous legal ground having
3421 a proffer relating to property that was not subject to the rezoning. But their drawings have
3422 indicated the brick and stone finish nine feet up the walls facing the street on the side wall,
3423 that would also be obvious from the street, and on a portion of the rear wall.
3424
3425 Mr. Archer - That's what we were trying to achieve.
3426
3427 Mr. Merrithew - I mean, we don't have it in writing, obviously, but I believe that's
3428 what we were trying to look for, and they've been consistent throughout.
3429
3430 Mr. Zehler - Is the applicant in agreement with that?
3431
3432 Mr. Archer - Yes. They are.
3433
3434 Mrs. Wade - So, what would the rest of it be?
3435
3436 Mr. Merrithew - I believe the rest was shown as vinyl siding.
3437
3438 Ms. Phillips - Metal.
3439
3440 Mr. Merrithew - Metal siding on the rear and the back wall of the building.
3441
3442 Ms. Phillips - It doesn't face the street.
3443
3444 Mrs. Wade - The privacy fence would be wood and what?
3445
3446 Ms. Phillips - The privacy fence would be around the portion adjoining the
3447 residential...
3448
3449 Mr. Merrithew - Would it be wood?
3450
3451 Mrs. Wade - Is that what you mean by "privacy fence?" I wasn't sure.
3452
3453 Ms. Phillips - I don't know that we talked about materials.
3454
3455 Mrs. Wade - Or something else.
3456
3457 Mr. Bert Dotson, Jr., President of Dodson Brothers - My father started the company in 1944.
3458 We've been in Richmond since the mid-1950's. We have an existing place on south side.
3459 We've grown so much we wanted to have a place on the north side of the river. We're talking
3460 about a 7-foot privacy fence. It's a metal fence. It has slats in it to keep the appearance from

3461 the next door neighbors. It's a typical metal security fence. We've done it in a couple other
3462 areas that we've built offices. With the slats in it, its for privacy. That's what the neighbors
3463 wanted.

3464 Mrs. Wade - Just a chain link with slats.

3465

3466 Ms. Dwyer - Would that go around three sides of the parking lot or just?

3467

3468 Mr. Dotson - It would go around behind the lot that we're talking about
3469 rezoning. There is going to be left in woods. We are leaving the natural habitat. Any other
3470 questions?

3471

3472 Mr. Archer - Mr. Dotson, just for the record, you are agreeable to the building
3473 specifications that Mr. Merrithew mentioned?

3474

3475 Mr. Dotson - Yes sir. We will be a good neighbor and a good taxpayer to
3476 Henrico County.

3477

3478 Mr. Archer - We appreciate that. We weren't able, by not being able to proffer
3479 it, we just want to have it on the record.

3480

3481 Mr. Dotson - Yes sir.

3482

3483 Mr. Archer - Any further questions?

3484

3485 Mr. Dotson - Thank you, sir.

3486

3487 Mr. Silber - Let me ask a question, if I may. The chain-link fence with metal
3488 slats is not the typical type of screening device that we'd usually see. You said that was the
3489 fencing that was preferred by the neighbors?

3490

3491 Mr. Dotson - No. We talked about it because there are some pictures of
3492 another office we've built. But anything we can work with Mr. Merrithew on. It's just a minor
3493 type of expense. We can work with anything aesthetic to the area.

3494

3495 Mr. Silber - Okay. I think there may be a better type fencing than that.

3496

3497 Mr. Dotson - Okay. That's fine.

3498

3499 Mr. Archer - Does that satisfy you, Mr. Silber?

3500 Mr. Silber - Yes sir.

3501

3502 Mr. Archer - Okay. Thank you, sir. In this particular case, we have met with
3503 Mr. Dotson, Mr. Merrithew, and myself, and I do know, in talking with one of the neighbors who
3504 spoke to me about another case that's coming up tonight, that they have met with the
3505 neighborhood and gave them pretty much of a free hand in some of the landscaping. I have
3506 also spoken with Mr. Dankos who runs the Aunt Sarah's Pancake House next door. And he
3507 doesn't have any objections to this use. So, with that, I first move to waive the time limits on
3508 the restated proffers.

3509

3510 Mr. Zehler seconded the motion.

3511
3512 Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler to waive the
3513 time limits on the proffers. All those in favor say aye—all those opposed by saying nay. The
3514 vote is 4-0 (Messrs. Vanarsdall and Donati absent). I also move to recommend to the Board
3515 approval of C-64C-97 with the conditions tonight and the restated proffers.

3516
3517 Ms. Dwyer seconded the motion.

3518
3519 Mr. Archer - Motion made by Mr. Archer, seconded by Ms. Dwyer. All those in
3520 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
3521 Donati absent).

3522
3523 REASON: Acting on a motion by Mr. Archer, seconded by Ms. Dwyer, the Planning
3524 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors accept the
3525 proffered conditions and grant the request because it is reasonable; it would not be expected
3526 to adversely affect the pattern of zoning and land use in the area; and it would not adversely
3527 affect the adjoining area if properly developed as proposed.

3528
3529 **P-6-98 Charles H. Rothenberg and James W. Theobald for Sprint**
3530 **PCS:** Request for approval of a provisional use permit in accordance with Sections 24-95(a)
3531 and 24-122.1 of Chapter 24 of the County Code in order to construct and maintain a
3532 communications tower up to 160' high and related equipment and improvements on part of
3533 Parcel 53-A-20A, containing 3,450 sq. ft., located on the east side of Mountain Road,
3534 approximately 600' northwest of Yellow Tavern Park Road. The site is zoned M-2C General
3535 Industrial District (Conditional).

3536
3537 Mr. Archer - Thank you, Mr. Secretary. Is any one here in opposition to P-6-
3538 98 Sprint PCS? Mr. Yolton.

3539
3540 Mr. Yolton - Mr. Chairman, members of the Commission, this request
3541 originally was scheduled for the February meeting of the Planning Commission, but there was
3542 a problem because staff determined that the existing proffers on this property would not allow
3543 the construction of the proposed cellular telephone tower. Therefore, the applicant received a
3544 deferral of this request and got permission from the property owner, named Mr. McIntyre, to
3545 amend the proffers that were placed on this property back in 1994. Last night, the Board of
3546 Supervisors did approve the proffered condition amendment on this property. Therefore, this
3547 Provisional Use Permit can move forward and this is the first public hearing we've had on this
3548 matter.

3549
3550 The McIntyre property consists of about three acres that was zoned M-2 General Industrial in
3551 1994. It is surrounded by property on all sides that is zoned for commercial and industrial use.
3552 There is, however, a residence located on property zoned B-3 immediately adjacent. I know
3553 it's difficult to see, but that's the property right there (referring to slide). There's a home on this
3554 property, and it's currently used as a dwelling, even though it is zoned B-3.

3555
3556 Even though the residence is on commercially-zoned property, the Zoning Ordinance requires
3557 the proposed tower to be set back a minimum of the height of the tower, plus 10 percent more.
3558 The site plan submitted with this request shows the tower being located 180 feet from the
3559 house. That would be fine for a tower constructed at 160-feet tall. However, Sprint has

3560 agreed to construct a tower with a base and a foundation that could be extended up to 199
3561 feet. Thus, the proposed tower needs to be relocated on this property so that it is a minimum
3562 of 219 feet from the existing dwelling.

3563
3564 I should emphasize that Sprint would construct the tower at only 160 feet. Any additional
3565 height would require that another Provisional Use Permit be granted for that. The applicants
3566 have assured me that they are attempting to relocate the tower on this site to meet the
3567 minimum setback requirement for an ultimate height of 199 feet. Mr. McIntyre apparently is out
3568 of town, and they can't get in touch with him, and they would need his permission for the tower
3569 to be rearranged on this site. There is room on this site to meet the setback requirements
3570 once they get the permission from the property owner to relocate this, and kind of adjust the
3571 tower slightly.

3572
3573 Overall, from a land use perspective, the location of this tower is reasonable. It's well removed
3574 from residentially-zoned areas. It would not be detrimental to the development of this
3575 commercial and industrial area. The applicant has revised the analysis of possible co-location
3576 opportunities in this vicinity. The nearest towers are the State Police tower on Route 1 and
3577 Connecticut Avenue and the tower that's located behind the golf cart manufacturing company
3578 on Telegraph Road. The State Police tower has a spot available, but it's only at the 100-foot
3579 level. There would be interference from the trees and so forth on that site at that height.

3580
3581 The tower on Telegraph Road is not structurally capable of supporting another user.
3582 Therefore, staff is satisfied that there are no realistic co-location opportunities in this vicinity.

3583
3584 The applicant asked if the issue of relocating the tower on Mr. McIntyre's property could be
3585 resolved between the Planning Commission and Board hearing on this matter. Staff is
3586 agreeable to that approach, if the Commission so desires. My feeling is that the Board of
3587 Supervisors would not approve this request unless the tower can meet the 199 foot setback
3588 requirements. So, given all of these considerations, staff would recommend approval of the
3589 proposed new tower, subject to the conditions listed in the staff report, with the change to
3590 Condition No. 7. We do have that same change to the condition that we had had on the
3591 previous cases. So, staff would recommend approval of this tower request, and I'd be happy
3592 to try to answer any questions the Commission may have.

3593 Mr. Archer - Are there any questions for Mr. Yolton by Commission members?

3594
3595 Ms. Dwyer - How far is the R-4 from the tower site?

3596
3597 Mr. Yolton - I would have to guess, but I'd say it's probably 800 feet.

3598
3599 Mr. Archer - Okay. Any further questions? Do you want to hear from the
3600 applicant, Mr. Rothenberg?

3601
3602 Mr. Chuck Rothenberg - Mr. Chairman and members of the Commission, and I'm here
3603 again on behalf of Sprint. This is a request for a Provisional Use Permit to permit a tower up to
3604 160 feet. The property is zoned M-2. It is surrounded by commercial and industrial property.
3605 We have met with the neighbors who expressed an interest in meeting with us and addressed
3606 their concerns and answered their questions. We think they're satisfied. We are pursuing
3607 contacting the owner of the site, who apparently is cavorting in Florida, and we know that it's
3608 very important that we get his consent to relocate the tower on the southern boundary of the
3609 property, prior to the Board of Supervisor's hearing.

3610
3611 We do agree with, and accept the condition as modified, to require Sprint to allow a minimum
3612 of three co-locators, or as many as technically possible, and the change to the condition
3613 requiring construction of the tower to provide for the ability to extend it up to 199 feet. I'd be
3614 happy to answer any questions.
3615
3616 Mr. Archer - Mr. Rothenberg, just so other Commission members will know,
3617 you and I had talked, I guess two or three times in the last week, about trying to locate Mr.
3618 McIntyre, is it, who is in Florida, I believe, and we haven't been able to. But I just wanted them
3619 to understand that you had made the effort. I don't have any questions, unless somebody has
3620 some.
3621
3622 Ms. Dwyer - I have one.
3623
3624 Mr. Archer - Yes ma'am.
3625
3626 Ms. Dwyer - Your letter of April 4, Mr. Waller's letter, states that the tower at
3627 Telegraph and Mountain Roads is not structurally capable of accommodating Sprint's
3628 equipment and why is that?
3629
3630 Mr. Rothenberg - It's already got a number of users on it and it physically can't
3631 support Sprint's equipment.
3632
3633 Ms. Dwyer - Is it because it can't handle the weight, or it doesn't have the
3634 space, or?
3635
3636 Mr. Rothenberg - I believe it's the weight.
3637
3638 Ms. Dwyer - Is it also the space?
3639
3640 Mr. Rothenberg - It was one of the first towers in the area that was installed. The
3641 foundation and actual structure of the tower simply are not capable of supporting the weight
3642 and the equipment.
3643
3644 Ms. Dwyer - Do we know how many users are on that tower?
3645
3646 Mr. Rothenberg - It's GTE and a microwave dish. I believe that's a 138-foot tower.
3647 The other issue is that we need to be higher than that, even if we could locate on it. We would
3648 need to be higher to provide service to the coverage area.
3649
3650 Ms. Dwyer - So, it didn't have an extension provision for the tower at the time
3651 it was built?
3652
3653 Mr. Rothenberg - No ma'am.
3654
3655 Ms. Dwyer - Thank you. So, that's just one user, right?
3656
3657 Mr. Rothenberg - It's actually two, isn't it? It's part of GTE. It's actually one user.
3658 GTE uses a microwave dish to communicate between another tower.
3659

3660 Ms. Dwyer - Okay.

3661
3662 Mr. Zehler - Mr. Chairman, our decision tonight will be based upon that the
3663 applicant will agree to move the tower to meet the required setback requirements. Is that
3664 correct?

3665
3666 Mr. Archer - Between now and the time it goes to the Board. Okay. I don't
3667 have any further questions unless other Commission members do. I do know that Mr.
3668 Rothenberg has been in touch with Mr. Brewster, who, I think, coordinated the efforts of the
3669 adjoining neighborhood. He's in agreement to the extent he's able to answer tonight. The site
3670 location is a very industrial site. As was stated previously, the extent that we can locate sites
3671 that are suitable, this would probably be one. So, my motion would be to approve this, with the
3672 condition that the setback requirement be met prior to the time it goes to the Board of
3673 Supervisors.

3674
3675 Mr. Zehler seconded the motion.

3676
3677 Ms. Dwyer - I'm sorry. Did we have an amended condition also; No. 7?

3678
3679 Mr. Archer - With the inclusion of the amended Condition No. 7. Thank you,
3680 Ms. Dwyer. Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—
3681 all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and Donati absent).

3682
3683 REASON: Acting on a motion by Mr. Archer, seconded by Mr. Zehler, the Planning
3684 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors **grant the**
3685 **requested revocable provisional use permit**, subject to the following conditions:

- 3686
3687 1. If the use of the tower for communication purposes is discontinued, the tower and all
3688 related structures shall be removed from the site within ninety (90) days.
- 3689
3690 2. Application for a building permit to install the tower must be made within one year after
3691 the Provisional Use Permit is granted by the Board of Supervisors, unless an extension
3692 of time is granted by the Director of Planning upon written request by the applicant.
- 3693
3694 3. The applicant shall obtain approval from the Henrico County Planning Commission
3695 should the FAA require the addition of standard obstruction marking and lighting (i.e.
3696 red lighting and orange and white striping) to the tower. The applicant shall notify the
3697 Henrico County Planning Director prior to making any changes to the original
3698 galvanized finish of the tower.
- 3699
3700 4. When site construction is initiated, the applicant shall complete requirements
3701 prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance
3702 of more than 2,500 square feet will require that construction plans include a detailed
3703 drainage and erosion control plan prepared by a professional engineer certified in the
3704 State of Virginia. Ten (10) sets of the construction plans shall be submitted to the
3705 Department of Public Works for approval.
- 3706
3707 5. A landscaping plan for the purpose of screening the base of the tower from view shall
3708 be submitted to the Planning Office for approval prior to the issuance of a building

3709 permit for the tower. The Director of Planning may waive the enforcement of this
3710 condition if it is deemed unnecessary.

3711
3712 6. The proposed tower and foundation shall be designed and constructed to permit the
3713 extension of the tower up to approximately 199'. Any extension of the tower beyond
3714 160' shall require an additional Provisional Use Permit.

3715
3716 7. The applicant agrees to allow the co-location of additional users at this site in
3717 accordance with the provisions of the Letter of Intent to Permit Co-Location on
3718 Communications Tower filed by the applicant with this request.

3719
3720 The Planning Commission recommendation was based on its finding that the Provisional Use
3721 Permit is reasonable; it would provide added services to the community; and it would not be
3722 expected to adversely affect public safety, health or general welfare.

3723
3724 **Deferred from the March 12, 1998 Meeting:**
3725 **C-13C-98 Ralph L. Axselle and Andrew M. Condlin for Windsor**
3726 **Enterprises, LLC:** Request to conditionally rezone from A-1 Agricultural District and C-1
3727 Conservation District to R-3C and R-3AC One Family Residence Districts (Conditional), Parcel
3728 42-A-42 and part of Parcels 52-A-20 and 24B, described as follows:

3729
3730 R-3
3731 Beginning at an iron rod, said point being the northwestern most corner of Lot 1, Mountain
3732 Ridge, Block D, Section B, as shown on the plat recorded in Plat Book 39, Page 23 in the
3733 County of Henrico, Virginia; Thence S 26° 21' 30" E 185.00 feet along the rear of Lots 1 and 2,
3734 Mountain Ridge, Block D, Section B, to an iron rod; Thence N 63° 38' 00" E., 5.00' to an iron
3735 rod; Thence S. 26° 17' 41" E 464.62 feet along the rear of Lots 2 through 6, Mountain Ridge,
3736 Block D, Section B, to an iron rod; Thence S. 47° 56' 58" E., 271.10 feet along the rear of Lots
3737 7 through 9, Mountain Ridge, Block D, Section B, to an iron rod; Thence S. 05' 45' 38" E.,
3738 116.19 feet along the rear of Lot 3, North Mountain Ridge, Block 6, Section A, to an iron rod;
3739 Thence N. 72° 45' 28" W., 281.96 feet to a point in the centerline of North Run; Thence
3740 922'feet along North Run as it meanders south to a point; Thence S. 82° 56' 04" W., 794.59
3741 feet to an iron rod; Thence along a non-tangent curve to the left, said curve having a radius of
3742 740.00 feet, a length of 489.55 feet, a chord of 480.67 feet, and a chord bearing of S 16° 36'
3743 18" E., to an iron rod; Thence S. 35° 33' 26" E., 239.70 feet to an iron rod; Thence along a
3744 tangent curve to the right, said curve having a radius of 820.00 feet and a length of 114.20
3745 feet to an iron rod; THENCE S. 27° 34' 39" E., 77.89 feet to an iron rod; Thence along a
3746 tangent curve to the right, said curve having a radius of 215.77 feet and a length of 27.66 feet
3747 to an iron rod; Thence along a tangent curve to the right, said curve having a radius of 825.00
3748 feet and a length of 20.21 feet to an iron rod; Thence S. 53° 49' 17" W., 47.28 feet along Old
3749 Hungary Road to a point; Thence along a non-tangent curve to the left, said curve having a
3750 radius of 780.00 feet; a length of 241.84 feet, a chord of 240.88 feet, and a chord bearing of
3751 N. 26° 40' 29" W., to a point; Thence N. 35° 33' 26" W., 239.70 feet to a point; Thence along a
3752 tangent curve to the right, said curve having a radius of 780.00 feet and a length of 647.73
3753 feet to a point; Thence along a tangent curve to the left, said curve having a radius of 300.00
3754 feet and a length of 76.81 feet to a point; Thence N. 02° 38' 49" W., 107.18 feet to a point;
3755 Thence along a tangent curve to the left, said curve having a radius of 800.00 feet and a
3756 length of 440.42 feet to a point; Thence N. 32° 21' 12" W., 590.30 feet to a point; Thence S.
3757 57° 38' 48" W., 167.82 feet to a point; Thence N. 27° 35' 36" W., 943.40 feet to a point in the

3758 centerline of Hungary Creek; Thence 1510 feet along Hungary Creek and North Run as it
3759 meanders East to a point; Thence N 63° 38' 31" E., 254.60 feet to said point of Beginning,
3760 containing 38.4 acres more or less.

3761
3762 R-3

3763 Beginning at an iron rod, said point being the intersection of the northern right of way of
3764 Hungary Road and the southern right of way of Old Hungary Road; Thence N. 53° 49' 17" E.,
3765 682.31 feet along Old Hungary Road to a point; THENCE along a tangent curve to the right,
3766 said curve having a radius of 60.15 feet and a length of 85.79 feet to a point; Thence S. 44°
3767 27' 47" E., 65.81 feet along Old Hungary Road to a point; Thence 408 feet along North Run as
3768 it meanders south to a point; Thence along a non-tangent curve to the right along Hungary
3769 Road, said curve having a radius of 1170.92 feet, a length of 269.79 feet, a chord of 269.19
3770 feet, and a chord bearing of S 78° 47' 35" W., to a point; Thence S 72° 11' 32" W., 136.76 feet
3771 along Hungary Road to said point of Beginning, containing 1.6 acres more or less.

3772
3773 R-3A

3774 Beginning at an iron rod, said point being the southeastern most corner of Lot 1, Woodman
3775 Terrace, Block S, Section J, as shown on the plat recorded in Plat Book 3 1, Page 54 in the
3776 County of Henrico, Virginia; Thence N. 27° 47' 11" W., 705.13 feet along the rear of Lots I
3777 through 6, Woodman Terrace, Block S, Section J, and Lots I through 2 Woodman Terrace,
3778 Block R, Section K, to an iron rod; Thence N. 27° 04' 53" W., 718.87 feet along the rear of Lots
3779 2 through 5, Woodman Terrace, Block R, Section K, and Lots 6 through 8 Woodman Terrace,
3780 Block R, Section L, and the east line of Lot 18, Woodman Terrace, Block L, Section M, to an
3781 iron rod; Thence N. 26° 23' 32" W., 347.28 feet to a point in the centerline of Hungary Creek;
3782 Thence 739 feet along Hungary Creek as it meanders East to a point; Thence S. 27° 35' 36"
3783 E., 943.40 feet to a point; Thence N 57° 38' 48" E., 167.82 feet to a point; Thence S. 32° 21'
3784 12" E., 590.30 feet to a point; Thence along a tangent curve to the right, said curve having a
3785 radius of 800.00 feet and a length of 440.42 feet to a point; Thence S. 02° 38' 49" E., 107.18
3786 feet to a point; Thence along a tangent curve to the right, said curve having a radius of 300.00
3787 feet and a length of 76.81 feet to a point; Thence along a tangent curve to the left, said curve
3788 having a radius of 780.00 feet and a length of 647.73 feet to a point; Thence S. 35° 33' 26" E.,
3789 239.70 feet to a point; Thence along a tangent curve to the right, said curve having a radius of
3790 780.00 feet and a length of 241.84 feet to a point; Thence S. 53° 49' 17" W., 74.20 feet along
3791 Old Hungary Road to an iron rod; Thence N. 43° 55' 15" W 209.57 feet to an iron rod; Thence
3792 N. 55° 52' 28" W 142.98 feet to an iron rod; Thence N. 44° 34' 25" W 1307.03 feet to said
3793 point of Beginning, containing 43.6 acres more or less.

3794
3795 Mr. Archer - Is there any one here in opposition to C-13C-98 Windsor
3796 Enterprises, LLC? Mr. Merrithew.

3797
3798 Mr. Merrithew - Thank you, Mr. Chairman. The subject property is an 83-acre
3799 infill site bounded on three sides by residential single family subdivisions, including Woodman
3800 Terrace, North Run, Mountain Ridge, and the County's Woodman Road maintenance facility is
3801 immediately to the north. The surrounding subdivisions are zoned R-3. The site is generally
3802 open with wooded floodplain along the perimeters, approximately 200 feet wide along the
3803 eastern perimeter and then narrower, but it's floodplain to the north and south. There's a
3804 smaller tree line or hedge row separating the site from the Woodman Terrace Subdivision,
3805 which lies to the west.

3806

3807 The applicant has submitted with the application an illustrative plan outlining proffered
3808 perimeter landscaping, street scape treatments, common recreation space, and the access to
3809 the property. Principal access to the site is from Hungary Road. This will require vacating and
3810 realigning Old Hungary Road. Secondary access will be through Woodman Terrace to the
3811 west on Naselle Lane, and in the future, potentially Leslie Lane. The project, if built, is
3812 proffered to be limited to 193 units and will generate approximately 2,500 vehicle trips per day.

3813
3814 Our transportation engineers indicated that the surrounding network can accommodate the
3815 traffic load.

3816
3817 The project will also generate approximately 120 students, all of whom can be accommodated
3818 in the existing school system. However, school staff does note, continued development in the
3819 area is putting pressure on the capacity limits of the existing school.

3820
3821 This request is generally consistent with the 2010 Land Use Plan which divides the site
3822 between SR-2 Suburban Residential 2 to the north portion, and Suburban Residential 1 on the
3823 south. The density would exceed the SR-1 recommended caps, but it falls mid-range in the
3824 SR-2 recommended density ranges. The proffered density cap of 193 units would equate to a
3825 density between 2.8 and 3.0 units per net acre within the SR-2 range, as I said earlier.

3826
3827 Staff had discussed, and would prefer to see, that the application be submitted as R-3 to make
3828 it absolutely consistent with the surrounding neighborhood, which, as you can see, are R-3
3829 zoned. However, staff does note the significant difference in the R-3A and R-3 zoning districts
3830 is a 10 foot difference in lot width, and a slightly, obviously, larger lot size for the R-3. But the
3831 buildable area in the R-3A district is larger than that in the R-3 District. The density, as I said
3832 before, is not that far apart from the surrounding development. Therefore, we feel the project,
3833 although it is zoned R-3A, is compatible with the surrounding and existing neighborhoods.

3834
3835 The applicant has proffered a number of conditions addressing the quality of development,
3836 including minimum finished floor areas which exceed the zoning ordinance requirement by
3837 1,000 feet in the R-3 District. These are finished floor areas, and exceed the R-3A floor area
3838 by 350 square feet floor area.

3839
3840 The landscaped main street, the tot lot, and the proffered C-1 open space also add to the
3841 green space and quality of the project, if you will, from the terms of green space and common
3842 open space, and potential for trails and sidewalks and what have you. Overall, staff finds the
3843 request to be reasonable. I think the density difference between this site and what's already
3844 on the ground out there will not be noticeable. I think the house sizes will be very comparable,
3845 if not larger than existing houses, at least on the Woodman Terrace Subdivision side.

3846
3847 The applicant has natural buffers to separate his development from the existing
3848 neighborhoods. He has proffered a smaller, I believe 20 feet on the western edge of the
3849 property, separated from Woodman Terrace where there is no natural flood plain buffer.

3850
3851 Traffic can be accommodated and is to be focused towards Hungary Road, so it should
3852 minimize the impact on the surrounding neighborhoods despite having the access in through
3853 Woodman Terrace. Traffic and the number of school children can all be accommodated within
3854 existing systems.

3855

3856 The fact that it is single family development at a density that's comparable to surrounding
3857 areas and compatible with the SR-2 recommended land use density, makes this a reasonable
3858 application, and staff is prepared to recommend approval of it. I'd be glad to answer any
3859 questions.

3860
3861 Mr. Archer - Thank you, Mr. Merrithew. Are there questions of Mr. Merrithew
3862 by Commission members?

3863
3864 Mr. Silber - John, did you say that there's a 20-foot buffer between this
3865 development and the subdivision to the west?

3866
3867 Mr. Merrithew - Yes sir. I believe the buffer is located on Proffer 12, "Restricted
3868 Area. No building or other structures shall be placed within or no trees or foliage may be
3869 moved unless dead, fallen, or diseased from the area 20 feet in width as measured from the
3870 boundary line of any adjacent Woodman Terrace Subdivision lot." So, it's a "no build zone"
3871 where they agree to preserve the existing trees.

3872
3873 Ms. Dwyer - So, there will be no access then to Woodman Terrace from this?

3874
3875 Mr. Merrithew - Well, they will have access through Naselle Lane and in the
3876 future, through Leslie Lane. It doesn't prohibit the access...

3877
3878 Mrs. Wade - How does one enforce that restricted area? These lots are so...

3879
3880 Mr. Merrithew - It's, basically, a building setback.

3881
3882 Mrs. Wade - Oh. Okay. It's just structure and building. It also says, "No trees
3883 or foliage may be removed."

3884
3885 Ms. Dwyer - We're not adding to the setback here, though?

3886
3887 Mr. Merrithew - No. I don't believe so. I believe we're establishing a 20-foot
3888 setback on that back side. I don't believe it's an addition.

3889
3890 Ms. Dwyer - Just establishing a 20-foot area that can't be...

3891
3892 Mr. Merrithew - Cannot have structures in it.

3893
3894 Ms. Dwyer - Right.

3895
3896 Mr. Merrithew - Right.

3897
3898 Mr. Silber - So, that, also, could prohibit a fence from being placed in that
3899 area?

3900
3901 Mr. Merrithew - As currently written. My understanding would be it prohibits a
3902 fence. Yes. That's a good point.

3903
3904 Mr. Silber - So, what it really ends up being is just sort of a 20-foot
3905 encumbrance on that piece of property the owner can't use?

3906
3907 Ms. Dwyer - Are you thinking what I'm thinking?
3908
3909 Mr. Silber - I don't see what we're gaining by it.
3910
3911 Mr. Merrithew - I believe the applicant may need to respond to that question. But,
3912 you're correct. I agree with you. It reads, "No structure."
3913
3914 Mr. Archer - Any further questions of Mr. Merrithew? Ma'am, we didn't have
3915 any opposition, but I'll allow you to speak if you'll come down to the microphone. Let us finish
3916 first. Any other questions for Mr. Merrithew by Commission members? Ma'am, let's let Mr.
3917 Axselle present the case and then we'll get to your questions.
3918
3919 Ms. Dwyer - I have just a couple more questions, now that you've put your
3920 folder away. You had suggested the statement, "There shall be no connection to any road to
3921 Aeronca Avenue." You had recommended that be removed?
3922
3923 Mr. Merrithew - No.
3924
3925 Ms. Dwyer - On Proffer No. 4. Did you recommend that be omitted?
3926
3927 Mr. Merrithew - No. Aeronca Avenue, we really had no discussion with that
3928 particular access point. They just came in, I believe based on conversations with the
3929 neighborhoods saying they would not use it.
3930
3931 Ms. Dwyer - And the intrusions into the Hungary Road buffer area, it doesn't
3932 say that they will be perpendicular; utilities, drainage, that sort of thing, does not state
3933 that...Then I noticed on the chimney proffer, it says that the "Chimneys will be masonry,
3934 although the foundations are proffered to be brick or stone." So, I just noticed the difference in
3935 terminology there. I can ask the applicant about that.
3936
3937 Mr. Merrithew - It's probably typographical change he'd be willing to make.
3938
3939 Mr. Archer - Are there further questions for Mr. Merrithew? Thank you, John.
3940
3941 Mr. Merrithew - Yes sir.
3942
3943 Mr. Bill Axselle - Mr. Chairman, ladies and gentlemen of the Commission, I am
3944 here on behalf of the applicant, Greg Windsor, who is with us and Andy Condlin of our office.
3945 We've had two neighborhood meetings. We've had very good meetings. I will not go through
3946 all of the points of the case, in light of the favorable staff report, and comments, but I would
3947 like to address a couple of points that I know have come up at some of the neighborhood
3948 meetings.
3949
3950 Randy, I'd like to reserve four minutes, if I may.
3951
3952 Basically, this is a planned community with a boulevard-type entrance with a planting strip 10-
3953 feet on each side that would be landscaped, irrigated. No access onto that Cedar Grove Way.
3954 Brick entrance, lighted, so forth. Tot lot. Jogging exercise trail, so forth and a lot of nice
3955 amenities. The proffers have been designed to assure the quality.

3956
3957 Some of the folks who received the County's notice noted, and I think properly so, that the
3958 notice said that, under the R-3 and R-3A zoning you could have up to 3.96, almost four units
3959 per acre, or about 4.6 units per acre. That caused them some concern, because for 84 acres,
3960 that would be a lot of houses. What the notice does not note, and as you know from the
3961 proffers, we have limited the density to 193 units. How that was determined was that, if you
3962 took the same property and developed it as a straight R-3, the same zoning that's on each
3963 side, the maximum you could get is 193 units. So, we're not exceeding what would be
3964 permitted if it were a full R-3. So, the point is, as Mr. Merrithew said, the density is about 2.9
3965 units per acre. The Land Use Plan recommends Single Family Residential here. It
3966 recommends up to 3.4 units per acre. We're at 2.9 units per acre which is consistent with the
3967 R-3 on both sides of the property.
3968

3969 The other point that I wanted to bring to your attention that we met with the folks in North Run
3970 Estates, who some of them are here. They have no opposition to the case. I think, in fairness
3971 to them, I should mention two things that they mentioned was of concern to them. Not as it
3972 relates solely to this case, but just generally. One, is a drainage problem along North Run
3973 Creek. About 6,000 acres drains into North Run Creek. Then it goes under Hungary Road.
3974 That's a choke point. It causes flooding and problems there. Our property, when developed,
3975 will have 55 acres of land developable, so it's less than one percent of the whole drainage
3976 area. Nevertheless, they do have some existing drainage problems because of North Run
3977 creek and that flood plain area. It's not a basis, and they're not opposed to the case. I think its
3978 fair, for their benefit, to note that to the County. They are meeting with Mr. Thornton and some
3979 of the County engineers to address that point.
3980

3981 The second is a concern about, not access, but traffic along Hungary Road, which any time
3982 you have any development, but to do that, they're aware of the County staff in the case the
3983 road network can handle and we will have to make whatever changes the County staff asks for
3984 in that respect.
3985

3986 So, they are the main points that have come up. As Mr. Merrithew indicated, the square
3987 footage of the homes; there are different things that are proffered, are in excess of what the
3988 surrounding neighborhoods have. We think, and I think, the neighbors have concluded it
3989 would be a nice transition between the two subdivisions to enhance that.
3990

3991 To address a couple of points, I think that between the Planning Commission and the Board,
3992 on Proffer 5 provide that any of the utility and drainage easements and roads, obviously,
3993 should go in a perpendicular fashion. I think Ms. Dwyer's correct, in that respect. Also, the
3994 word for the proffer regarding the chimney should say, "brick or stone," which is what the
3995 foundation says. That's what was intended, but the words were slightly not used correctly in
3996 that respect.
3997

3998 In Woodman Terrace the folks that we met with there, as you know, most subdivisions, you
3999 back up a subdivision lot to a subdivision lot. There's no buffer. There's no County
4000 requirement for a buffer.
4001

4002 Go down to Proffer No. 12, which is a 20-foot "no build" area. An area that we would, by
4003 restrictive covenants, but that people could not build on that. That was just to try to provide
4004 some protection for them.
4005

4006 We, originally, on the proffers, had put a fence. Some of the neighbors didn't want the fence,
4007 and some did. So, what Mr. Windsor, on an individual basis, as to the ones who want the
4008 fence, we'll put it in, and the ones who don't, which is a majority, we took it out of the proffers.
4009 I think, between the Planning Commission and the Board, Proffer 12 needs to be changed to
4010 allow that the structures, it can be a fence, to avoid the problem to which reference was made.
4011 Most of them will not have fences, but some of them who want to have fences, Mr. Windsor
4012 has committed to them to put the fence in.

4013
4014 Ms. Dwyer - So, your intent, then, would be to change Proffer 12 to allow a
4015 fence along the property line outside of this 20-foot area or on the edges?

4016
4017 Mr. Axselle - It actually would be on the edge of the property line which would
4018 be within the 20-foot area.

4019
4020 Ms. Dwyer - Right. Because "structure," as you know, is a very broad term,
4021 and you know, we decided on the other case, that other infamous case that even a bird house
4022 could be put in there because it had to be natural. That also had the distinction it had to
4023 remain natural, and no structure could be put in there.

4024
4025 Mr. Axselle - I cannot believe my County is not going to allow bird houses.
4026 But, nevertheless...

4027
4028 Mr. Archer - We might require a building permit for that.

4029
4030 Mr. Axselle - I agree. I think that's a good point that Ms. Dwyer's pointed out to
4031 us.

4032
4033 Mr. Silber - Mr. Axselle, on that same proffer, is there any reason why that
4034 couldn't be placed, instead of a proffered condition, be placed as a requirement of the
4035 restrictive covenants?

4036
4037 Mr. Axselle - In other words, move it up to Paragraph No. 10? It has the same
4038 practical effect.

4039
4040 Mr. Silber - Yes sir.

4041
4042 Mr. Axselle - We can do that.

4043
4044 Mr. Silber - That takes the enforcement aspect off the County and puts it on
4045 the subdivision.

4046
4047 Mr. Axselle - There will be a homeowners association. We, basically, made a
4048 commitment to the folks in Woodman Terrace that we would put that in there. So, we can do
4049 that. I'd be glad to respond to any questions you have. But this is, we think, a very nice
4050 subdivision that's going to enhance what is a very nice area now.

4051
4052 Ms. Dwyer - The common area that would be used for trails would be along
4053 the northern and eastern boundary in the floodplain?

4054

4055 Mr. Axselle - Yes. There's about, it varies in width, but probably 150 to 200
4056 foot floodplain area there. That part would allow not an asphalt trail, or a paved trail, but just a
4057 cut out trail for exercise and jogging, and that type of thing, all around North Run Creek and
4058 the areas that you described. Yes.
4059

4060 Ms. Dwyer - How would that be distinguished from people's rear yards?
4061

4062 Mr. Axselle - It would not be a part of their rear yards. It would be separate, off
4063 their property, in that area.
4064

4065 Ms. Dwyer - Would there be a fence between the rear yards and the common
4066 area, or how would that distinguish...
4067

4068 Mr. Axselle - No. It would just be the rear of your lot would kind of drift into the
4069 floodplain, you know, into that area. A part of the commitment that we made, consistent with
4070 the County policy, is that, once we've determined the exact location of the rear lot lines, we will
4071 come back to you with a zoning case to zone that property C-1. The County likes the property
4072 along the floodplain; the creek, zoned C-1.
4073

4074 Ms. Dwyer - I guess I'm thinking, I know of subdivisions where there is
4075 common area and people tend to sort of put their dog houses back there and sort of
4076 appropriate the common area for their own use. I'm wondering how that; I mean you'll have a
4077 neighborhood association, I guess you could handle any complaints, but I'm wondering if you
4078 have any development steps that you'll take to distinguish the...
4079

4080 Mr. Axselle - I understand the situation you're trying to address. The problem
4081 is, if you try to distinguish the rear of all the lots from the wooded floodplain area, then you
4082 cause some disruption which may cut down on the vegetation in the buffer that's available for
4083 the people, you know in North Mountain Ridge, and Mountain Ridge and so forth. That was
4084 the reason it had not been considered. The folks over there are blessed with the fact they
4085 have a good natural buffer separating them. We want to preserve that.
4086

4087 Mr. Silber - Can you elaborate on that a little further on that point, Mr.
4088 Axselle, if you would, why you chose that method of development, of leaving that as common
4089 area versus running the lot lines all the way back to the edge of the subdivision?
4090

4091 Mr. Axselle - Maybe Mr. Windsor may want to try to speak to that. I think, if
4092 you would, Greg come up.
4093

4094 Mr. Silber - I guess my concern is, while he's coming up, in the typical
4095 subdivision, even if it is zoned C-1, and you can see further down on the slide where there is
4096 some C-1. There's a subdivision. You can see the lot lines go all the way back through the C-
4097 1 to the end of the subdivision, that sometimes there are problems with the common area
4098 being put into or floodplain being put into common area and the maintenance of that being a
4099 burden on the homeowners' association in the future. I was wondering why you chose that
4100 means of handling the floodplain, versus just running the lot lines back?
4101

4102 Mr. Greg Windsor - We find, in the past, it works better to have the homeowners
4103 association maintain it. Again, what Ms. Dwyer was saying, where the people, if it becomes a
4104 part of their lot, you can have an easement across their lot. There's insurance problems with

4105 that, where individuals would be trespassing. And each homeowner gains a liability. A lot
4106 owner has a liability for allowing those people to trespass by that easement.

4107

4108 We find that its just better...

4109

4110 Mr. Silber - So, you see as being part of the amenity package of the
4111 subdivision to use this as a trail system and it will be utilized and developed as a part of the
4112 overall package?

4113

4114 Mr. Axselle - And also, one thing I failed to mention which is not related
4115 directly, but it is part of the amenities is that, in the middle of the subdivision, there is a rather
4116 significant tot lot taking up, basically, a couple of lots that is dedicated and set aside and will
4117 be built. Along this Cedar Grove Way, in addition to the 10-foot planting strips on each side,
4118 there's going to be a sidewalk. The only thing can be in the 10-foot planting strips is
4119 neighborhood signs. That is signs for different neighborhoods, but no access from the lot into
4120 this Cedar Grove Way. The access will be onto the cul-de-sac road. The idea is to try to
4121 provide the amenities to which you made reference.

4122

4123 Mr. Archer - Mr. Axselle, will there be any instance where a lot will touch and
4124 own the flood plain?

4125

4126 Mr. Windsor - I can imagine that some would, but not as part of the minimum lot
4127 area. Certainly, that's required. We checked on all the insurance codes, and the mortgage
4128 policies. As long it is separated from the house, has sufficient distance...

4129

4130 Mr. Archer - They won't require flood insurance?

4131

4132 Mr. Windsor - No. I checked into that. I'll make sure that none of the houses,
4133 at least, under the present guidelines...

4134

4135 Mr. Archer - Okay. Because mortgage companies can sometimes be over
4136 responsive to houses that are built in the flood plain, even though they're a good distance from
4137 where the floodplain might.

4138

4139 Mr. Windsor - I think they quoted a figure of 10 feet today.

4140

4141 Mr. Zehler - Mr. Axselle, in your proffer No. 2, your finished floor area, you're
4142 addressed in the R-3, 1,800 square feet of finished floor area, but in your R-3A, you're
4143 stipulating 1,200 square feet. Is that "finished floor area,"

4144

4145 Mr. Axselle - Yes.

4146

4147 Mr. Zehler - Or is 30 percent allowed to be unfinished?

4148

4149 Mr. Axselle - The contemplation is that would be "finished floor area" also.
4150 Thank you. That language is inserted to prohibit the one-third unfinished.

4151

4152 Mrs. Wade - And in No. 7 on the chimneys cantilevered fireplaces and vents
4153 would be allowed?

4154

4155 Mr. Axselle - No.
4156
4157 Mrs. Wade - You don't intend to exclude those? I don't know that it matters,
4158 but I just...
4159
4160 Mr. Axselle - No cantilevered chimneys are allowed I think under any
4161 circumstances.
4162
4163 Mrs. Wade - But some of them, now, they have the fireplace units that's flush
4164 on the inside and has a box on the outside. Sometimes they have foundations and sometimes
4165 they don't.
4166
4167 Mr. Axselle - They will all have to have foundations on these homes. If it
4168 qualifies as a chimney, it has to have a base, under this proffer.
4169
4170 Mr. Archer - No cantilevered.
4171
4172 Mrs. Wade - But it's not really a chimney.
4173
4174 Mr. Archer - Okay. Further questions for Mr. Axselle?
4175
4176 Mr. Silber - One other question, if I may. Proffer 8 speaks to the planting
4177 strip along Cedar Grove Way and mentions it would include a concrete sidewalk. The
4178 sidewalk would then be in the planting strip easement, or it would not be in the right of way?
4179
4180 Mr. Axselle - I think the staff report suggests that we work with the County and
4181 try to put it in the right of way, but it does allow it to be in the planting strip, if that is necessary.
4182
4183 Mr. Silber - It does say, "to include a concrete sidewalk which shall be made
4184 a part of Cedar Grove Way." To me, that's confusing. It will be made a part of the right of
4185 way? Is that what you're attempting to deal with, flexibility?
4186
4187 Mr. Axselle - We're trying to deal with the flexibility to allow it to be within the
4188 planting strip. If it's not, then the right of way.
4189
4190 Mr. Silber - Okay. Do you prefer that it not be in the right of way?
4191
4192 Mr. Axselle - We don't really care, just that...
4193
4194 Mr. Silber - Most sidewalks in the right of way, the County maintains them.
4195 Are you wanting in this case, Mr. Windsor, not to be in the right of way?
4196
4197 Mr. Windsor - In my past experience was that the Public Works Department
4198 won't let us put it in the right of way?
4199
4200 Mr. Silber - Won't?
4201
4202 Mr. Archer - Won't or will?
4203
4204 Mr. Silber - Typically, the sidewalks are in the right of way.

4205
4206 Mr. Axselle - Well, our resident expert on sidewalks, Mr. Condlin, just
4207 whispered to me that's what they told us. They did not want them in the right of way. That's
4208 the reason the language there...
4209
4210 Mr. Windsor - My last one was outside. It's in the planting strip.
4211
4212 Mr. Silber - Well, they have allowed them outside, in the case, I think of
4213 Wyndham and, perhaps, do you have some in Millstone where they may meander through
4214 some of the planting strip easements?
4215
4216 Mr. Windsor - Yes.
4217
4218 Mr. Silber - I think, if that's what you're attempting to do, that's fine, but
4219 typically, a standard five-foot sidewalk is within the right of way, a foot or two off the curb or
4220 adjacent to the curb.
4221
4222 Mr. Axselle - What we're trying to do is not, certainly, mimic totally, but this is
4223 modeled after the same type of development that you have at Millstone out at Wyndham. So,
4224 that's the reason there is some similarities there.
4225
4226 Mr. Silber - You may want to, between now and the Board meeting, improve
4227 that language and we can work with you.
4228
4229 Mr. Axselle - Thank you.
4230
4231 Mr. Archer - Is that agreeable for you to do that, Mr. Axselle? Get that in
4232 shape a little bit between now and Board time?
4233
4234 Mr. Axselle - Whichever the County does, if it allows us to put them in the right
4235 of way, we'd be glad to do that. It makes it easier for us, but preliminary indications, that
4236 wasn't possible. So, we will check that with somebody in the County.
4237
4238 Ms. Dwyer - Are you finished?
4239
4240 Mr. Archer - Yes ma'am. Go right ahead.
4241
4242 Ms. Dwyer - At the bottom of Page 3, and we don't need to discuss this, but I
4243 just wanted to point out, that's where Mr. Merrithew, mentioned Aronica Avenue. It says, "Staff
4244 discourages such prohibitions and would recommend it be deleted." referring to the prohibition
4245 of access to Aronica in Proffer 4. That might be something else to look at between now and
4246 the Board.
4247
4248 Mr. Axselle - I want to be candid with you. We can look at that one, but I don't
4249 think that we can be forthcoming with a change on that, because of the discussions with the
4250 neighbors and the nature of Aronica. There's a real bad drainage ditch, and so forth, and I
4251 think the consensus, it's best not to access there.
4252
4253 Mr. Archer - Mr. Axselle, I only have one more question and this is something I
4254 want to have a little bit of assurance about. The area that will be eventually designated as C-

4255 1, is an area that is useable, not an area that's wild and overgrown and nobody would be able
4256 to cut a bush in there? The common area that's?

4257
4258 Mr. Axselle - The common area, that part that's set aside in the homeowners
4259 association will be maintained will be something that is, in fact, useable. There are parts of the
4260 flood plain that would be zoned C-1 that probably would not be useable, and I think the
4261 neighbors and me pretty much want to leave that in its natural state.

4262
4263 Mr. Archer - Okay. Any further questions of Mr. Axselle? Ma'am, you had a
4264 question that you wanted to ask. You can come up now, if you would, please.

4265
4266 Ms. Gladys Barrett - Mr. Chairman and Commission members, my name is Gladys
4267 Barrett and I'm serving as President of the North Run Terrace Civic Association. The North
4268 Run Terrace area lies in the area right about there, where the R-3 is printed (referring to slide).
4269 We feel the planned community is a plus for us. However, the concern, that I want to voice at
4270 this time, is what I just heard a few moments ago, the future planned access road onto Electra
4271 Lane. We are currently experiencing a very, very serious problem with traffic speeders and
4272 kinds of debris that's being littered along that area. We have police out there at least every
4273 month because of speeders.

4274
4275 Now, we're aware that any improvement in that area will certainly increase traffic. The major
4276 concern that we have has already been addressed, because the density problem was one of
4277 our main concerns. That's been addressed because it's been reduced. The second concern
4278 for us was the access road which is down at Naselle. It was mentioned a few minutes ago, by
4279 this gentleman that the future plan for an access road at Leslie Lane is a critical concern for
4280 us, because the traffic coming off of, more or less, a portion of the development will come
4281 down Electra Lane. This is primary concern for us. That is the only issue that we have at this
4282 moment.

4283
4284 Mr. Archer - Thank you, Mrs. Barrett. Mr. Axselle, would you care to address
4285 that in any fashion, please?

4286
4287 Mr. Axselle - This is dealing solely with the access. This is a fairly standard
4288 discussion we have when you have an existing subdivision and you bring in another
4289 subdivision adjacent to it. You're familiar with the County requirements for a second point of
4290 access. And the roads in the existing subdivision have been "stubbed in," if you will, to accept
4291 that. We have tried to limit the number of access points by the proffers, but proposed, there
4292 would be one at Necell Lane, just as Mrs. Barrett said. We do not propose an access at Leslie
4293 Lane. There's an intervening tip of a triangular piece there that we don't own; don't have any
4294 contract on. So, what I think Mr. Merrithew is saying, that may be in the future come, but it
4295 would be someone else. We, basically, have to provide a second point of access. If you'll
4296 notice the layout, and if you'll remember the layout that was with your package, if I can hold
4297 this up and show you. This is that single access point here. The traffic is designed and will
4298 flow towards Hungary Road. We think the people in the subdivision will, as a general rule, all
4299 flow to Hungary Road. But, I cannot, in good conscious, say to you that someone here may
4300 not come over in through Woodman Terrace and down here. But I think it's only going to be
4301 those people on the far eastern end that would have that inclination. I think that Cedar Grove
4302 Way is going to be their entrance area and it's going to probably be the one that they will use.
4303 But, that access point is required by the county for traffic and fire protection and police
4304 protection consideration.

4305
4306 But we've tried to design it in a fashion that it goes towards Hungary Road. So, we think that,
4307 and we've reduced the density into comparable levels, so that, we think, will help address the
4308 problem.

4309
4310 Mr. Archer - Thank you, Mr. Axselle. And just so the members of the
4311 community would know, when a subdivision reaches 50 dwelling units, there has to be, by
4312 ordinance, a second point of access to allow for things, as Mr. Axselle said, for traffic, fire
4313 department, and emergency vehicles and so forth to be able to travel smoothly. I'm sorry. It is
4314 not an ordinance. It is a policy, but it's a good one. Any further questions of anybody?

4315
4316 Lady from Audience - ...from what I understand the gentleman stated there would be a
4317 third entrance on Cedar Grove Way, Naselle, and Leslie? (Comments unintelligible). The
4318 future plan for Leslie which would make the third access road.

4319
4320 Mr. Archer - Yes ma'am. John, can you address that while you're up?

4321
4322 Mr. Merrithew - What I was suggesting that, in the future, when the R-2A property
4323 is developed, right in here (referring to slide), the potential for that road to cut through as a
4324 third access, the owner does not have control of that property and can't speak to whether or
4325 not that actually will happen. Staff's position, as is the County's policy, always encourages as
4326 many access points as possible to spread the traffic out so it is not all concentrated in one
4327 area. That's my intent by pointing out that's another possibility in the future, but not a part of
4328 this particular application.

4329
4330 Mr. Archer - That R-2A is not a part of this case?

4331
4332 Mr. Merrithew - That's correct.

4333
4334 Mr. Archer - Okay. Thank you, Mr. Merrithew. Sir, did you want to speak?
4335 Come down.

4336
4337 Mr. Cephus Barnett - I live in North Run Terrace. The issue that I was thinking about
4338 was the zoning like R-3. Why was there any change at all? Really, I would prefer the
4339 buildings to be zoned R-3, instead of changing it to R-3A, where they permit more units per
4340 acre. But R-3 says it's like up to two units per acre. If they increase it, then they can gradually
4341 continue to increase. That would be more houses in a smaller area; more traffic. But if we
4342 keep it at R-3, you have supposedly large square footage in the houses, and the value of the
4343 homes will not decrease, with like he said, a lot size of 11,000 square feet. That would be,
4344 basically, a lot of 75 feet x 150 feet and 1,200 square feet for a rancher or something like that.
4345 But in a certain section, he's going to have like houses with 1,800 square feet. But if the area,
4346 basically, three-fourths of the area are houses 1,800 square feet and above. That is why it
4347 would seem like R-3 would best suit the neighborhood and the property value. That's the main
4348 concern. I don't want to have anything that would decrease the value of the homes that's
4349 there right now. Thank you.

4350
4351 Mr. Archer - Thank you. Mr. Axselle, would you care to respond to that, sir?

4352
4353 Mr. Axselle - I would hope, and keep in mind, that if we came in, and as I said
4354 in the presentation, that we made the entire property zoned R-3, as was suggested here. The

4355 County staff report says we could develop it for 193 units. So, what we're doing by this zoning,
4356 we're not adding any more units than what could be obtained if we zoned it just like North Run
4357 Terrace, Woodman Terrace and the other areas. So, it has nothing to do, quite frankly, with
4358 density, by virtue of the proffer. The proffer is what makes it different in that respect. Keep in
4359 mind, the proffers, as Mr. Merrithew pointed out, generally are in excess of what is required for
4360 the R-3 zoning requirements that the County had. So, the R-3A provides some flexibility. This
4361 is a planned community. There are probably a couple of reasons that you would want to have
4362 this type of arrangement. The Woodman Terrace, in particular, has smaller lots and homes
4363 are correspondingly and over in the North Mountain Ridge, Mountain Ridge and North Run
4364 Estates on the other side are larger lots and larger homes. And so the case is partly R-3A and
4365 R-3, consistent with the differences between the two adjacent subdivisions. That's the reason.
4366 So, it accommodates the transition, if you will. The smaller, if you will, R-3A is adjacent to
4367 Woodman Terrace, and the larger R-3 is adjacent to North Mountain Ridge, Mountain Ridge,
4368 and North Run Estates. The second part is that it would allow you to have within your planned
4369 community different size neighborhoods with the same features, price points, and so forth, that
4370 would add some variety rather than just having a typical subdivision. We think it is important to
4371 develop a planned community and the amenity packages that we want to have. But it does
4372 not, and I don't think the staff would recommend the case, does not diminish the development
4373 standards beyond what would be if you had an R-3.

4374
4375 Mr. Archer - Any further questions of Mr. Axselle by Commission members?
4376

4377 Okay. This case initially was scheduled for our March 12th meeting and it was deferred in order
4378 to give Mr. Axselle and Mr. Windsor an opportunity, and Mr. Condlin to meet again with the
4379 neighborhood. I know there were two sizeable meetings that were held. Of course, Mrs.
4380 Barrett called me or wrote me last week, I believe. I think you spoke with her after that time.

4381
4382 I think that an effort is being made to deliver, what I think, is a commendable package for a
4383 subdivision. The amenities package that would be included in this, if developed the way that it
4384 is proposed, I think is a significant trade off for the community and would make this quite an
4385 attractive project. The proffered density at 2.9 or less. Also, I think it alleviates the problem
4386 that would exist by this not being all R-3. They have also been provided opportunities for
4387 adjoining neighbors, I believe, to purchase adjacent land that they might want to purchase in
4388 excess of this property. I think also, in terms of the amenities package, that we need to
4389 consider what the people who would live in this project would have, as well as we need to
4390 consider what happens to the adjoining areas.

4391
4392 So, with that, I move for recommendation of approval of C-13C-98 Windsor Enterprises with
4393 the condition that Proffer 12 be moved into No. 10. Was that what we were doing, Mr.
4394 Secretary, into the covenants?

4395
4396 Mr. Silber - Yes.

4397
4398 Mr. Archer - Okay. And the other conditions as so stated.

4399
4400 Mr. Zehler seconded the motion.

4401
4402 Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in
4403 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and

4404 Donati absent). I'd like to thank the adjacent neighbors that met with Mr. Axelle for being so
4405 studious and coming out and taking care of your property.

4406
4407 REASON: Acting on a motion by Mr. Archer, seconded by Mr. Zehler, the Planning
4408 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors accept the
4409 proffered conditions and grant the request because it conforms with the objectives and intent
4410 of the County's Comprehensive Plan; it is appropriate residential zoning at this location; and
4411 the proffered conditions will assure a level of development otherwise not possible.

4412
4413 **C-25C-98 Henry L. Wilton for Wilton Development Corp.:** Request to
4414 conditionally rezone from A-1 Agricultural District to R-2C One Family Residence District
4415 (Conditional) part of Parcel 9-A-36, described as follows:

4416
4417 Beginning at a point at the intersection of the southwest corner of Windsor Woods and the
4418 right-of-way line of Nuckols Road just North of Pouncey Tract Road, Thence with the lands of
4419 Windsor Woods Development Corp. N. 62° 27' 11" E., 589.59 feet to a point; Thence N. 19°
4420 04' 29" W., 624.09 feet to a point; Thence with the lands of Cross Creek Subdivision Section I
4421 N. 71° 41' 21" E., 509.55 feet to a point; Thence S. 45° 36' 39" E., 1643.64 feet to a point;
4422 Thence along the north right-of-way line of Nuckols Road S. 71° 27' 12" W., 922.00 feet to a
4423 point, Thence along a curve to the right with a radius of 1093.92 feet, length of 1246.80 feet,
4424 an included angle of 65° 18' 12" and a CH = 69 07' 58" W., 1180.41' to the point of beginning
4425 at the intersection of the right-of-way of Nuckols Road and Windsor Woods Development
4426 Corp. and containing 35.512 acres of land.

4427
4428 Mr. Archer - Okay. Is there any one here in opposition to C-25C-98 Henry
4429 L. Wilton for Wilton Development Corp.? There being none, Ms. Gardner.

4430
4431 Ms. Nancy Gardner, County Planner - Good evening. This is a request to rezone 35.5 acres
4432 to the R-2C District. This request has been revised since the staff report was issued. The site
4433 is Planned Rural Residential. It's located at the intersection of Pouncey Tract and Nuckols
4434 Roads, known as the Circus Farm. New proffers that have been handed out to you. You do
4435 have to waive the time limits to consider these proffers. The applicant did submit revised
4436 proffers on time, however, in the subsequent review by staff, we found a language problem, so
4437 the applicant was very responsive and fixed that language problem this afternoon.

4438
4439 I would turn to the new proffers just to give you the highlights. Minimum floor area: Each
4440 house will be a minimum of 2,500 square feet, except for those on those lots adjacent to Cross
4441 Creek, in which the minimum would be 2,800 square feet. They have a standard condition
4442 regarding foundations and chimneys. Proffer No. 3, The Planting Strip Easement: In light of
4443 the discussion on the previous case, we may want to look at this in detail. The applicant has
4444 proposed a 25-foot planting strip in addition to the setback on lots adjacent to Nuckols Road.
4445 There would be a six-foot privacy fence within that planting strip of at least 23 feet from the
4446 right of way, about two feet off the edge of the planting strip.

4447
4448 The reason that I point that out is because, although the setback is in addition to the 25-foot
4449 planting strip, the lots are not. So, as I understand, the applicant intends the planting strip to
4450 be occupied by a portion of the lots along Nuckols Road.

4451
4452 Ms. Dwyer - I'm sorry. I didn't understand that.

4453
4454 Ms. Gardner - Rather than the planting strip being a single common area, the
4455 lots will extend all the way down to Nuckols Road.
4456
4457 Ms. Dwyer - Right. But it will be an addition to the setback?
4458
4459 Ms. Gardner - It will be an addition to the setback, but that area, the 25-foot
4460 depth and whatever width, would count towards the minimum lot area. So, that would be part
4461 of individual residential lots.
4462
4463 Ms. Dwyer - Where does it say in the new proffer that it's an addition to the
4464 required setback?
4465
4466 Ms. Gardner - The last sentence. "Any dwelling setback requirement shall be
4467 computed exclusive of this area." That's the last sentence of Proffer No. 3. We may wish to
4468 discuss that in detail with the applicant.
4469
4470 Any outbuildings would have to be built on foundations. Finally, the maximum number of lots
4471 would be 60. The applicant has stated that this may be an overstatement of how many lots
4472 are achievable because there are substantial wetlands. Sixty lots on this property would be
4473 equivalent to roughly 1.7 dwelling units per acre. Staff feels that's a reasonable density on this
4474 location. Pending the resolution of that one proffer, staff recommend approval.
4475
4476 Mrs. Wade - Okay, you're talking about No. 3?
4477
4478 Ms. Gardner - Yes ma'am.
4479
4480 Mrs. Wade - And the problem is?
4481
4482 Ms. Gardner - The particular issue is that the 25-foot planting strip along
4483 Nuckols Road, rather than being a common area to be maintained by the homeowners
4484 association, would be owned individually by the lot owners along Nuckols Road. So, you will
4485 have lot lines coming all the way to Nuckols Road, as I understand. We should ask the
4486 applicant if that is still the intent. That was my understanding that was the intention.
4487
4488 Mrs. Wade - Some of it will be that many feet outside the fence?
4489
4490 Ms. Gardner - Right. Exactly. So, each individual homeowner owning a lot
4491 along Nuckols Road would be responsible for maintaining a 25-foot depth of property on the
4492 other side of the fence.
4493
4494 Ms. Dwyer - That doesn't sound practical to me to expect someone to haul
4495 their lawnmower down the street and land onto Nuckols Road and cut their little 25-foot strip.
4496
4497 Ms. Gardner - Yes. The applicant may have already thought of a way to
4498 address it, but the proffers do not.
4499
4500 Mr. Zehler - Maybe the applicant plans on doing that.
4501

4502 Mr. Silber - Was that different from the proffers accepted on the property just
4503 to the east of this?
4504

4505 Ms. Gardner - On the rezoning case that the Planning Commission just saw a
4506 few months ago to the east, that R-2C further east on Nuckols Road, there was a 25-foot
4507 planting strip easement, but that was to be outside of the lots. That was to be a common area.
4508

4509 Ms. Dwyer - So, why does this 25-foot area need to be computed as part of
4510 the lot area? It's an addition to the required setback, so why? I don't understand. You
4511 mentioned that it would be included as part of the lot area. For what purpose?
4512

4513 Ms. Gardner - Well, the applicant may be able to answer that. They have not
4514 shown us what they consider to be a final subdivision plan or anything even close enough to
4515 show this evening, unless something's changed in the last few hours. But they wanted to keep
4516 the flexibility to be able to count that area within the minimum lot size.
4517

4518 Ms. Dwyer - And we received these proffer amendments today?
4519 Ms. Gardner - Right. Although the bulk of these changes were submitted two
4520 days ago, there was a language change that I requested this morning that they responded to
4521 this afternoon.
4522

4523 Mrs. Wade - There was a citizens meeting last week. Most of the changes
4524 were made, I understand, you got them two days ago. You had one wording change that was
4525 more recent.
4526

4527 Mr. Archer - Okay. Any further questions of Ms. Gardner?
4528

4529 Mr. Silber - Maybe one question? Ms. Gardner, it seems like, in the staff
4530 report, you had mentioned that some of the proffered conditions we had suggested be in the
4531 restrictive covenants; specifically, driveways and outbuilding restrictions. That didn't occur?
4532

4533 Ms. Gardner - I discussed that with the applicant and he may be willing to make
4534 that change. I think they wanted to, to see if that was the feeling of the Planning Commission
4535 that that should be the case. But, no, that has not yet been done. They may still be willing to
4536 do that, to put that into restrictive covenants.
4537

4538 Mr. Silber - We'll let them address that.
4539

4540 Mr. Archer - All right. Any one else? Mr. Wilton, sir.
4541

4542 Mr. Henry Wilton - Members of the Commission, for the record, my name is Henry
4543 Wilton. I represent the Wilton Investment Corporation. I'm proposing a development on the
4544 35.5 acres that you see before you, tonight. We will also be adding approximately eight acres
4545 to this development, which you see before you, and the maximum density would be normally
4546 proffered once we found out what the wetlands delineation is. It would be no more than 1.6
4547 units per acre. We originally requested an R-2A zoning case. But after looking at the
4548 wetlands and the effect of the wetlands on the overall layout, we now come before you with an
4549 R-2C community with homes ranging we predict from \$300,000 to \$500,000.
4550

4551 The majority of the lots are over one half of an acre to two-thirds of an acre. As you can see, I
4552 passed out to you, the format; the layout that we have tonight. The engineers have estimated
4553 the square footage per lot. You can see the range of the square footage goes all the way up
4554 to more than an acre. Again, partly is due because of the wetlands. But again, we've kept the
4555 density down to about 1.6 units per acre.

4556
4557 The R-2 zoning allows for 18,000 square foot lots. You can see, again, the lots are much
4558 larger than the minimum allowed. The staff report pointed out some problems with the original
4559 R-2A request which we have now addressed by the reclassification to an R-2 and the revised
4560 proffers which we've all reviewed.

4561
4562 We've divided, as a format into this layout, into two separate subdivisions. The one on the
4563 right would be approximately 15 acres with its own access point. The value of those lots would
4564 be around \$65,000 on average. We predict the other lots up around Cross Creek would be in
4565 the \$85,000 range. Again, this will give you the \$300,000 to \$500,000 price point.

4566
4567 It was suggested that, during the meeting we had with the people, that we tie these two
4568 communities together. You can see through the center portion, these are wetlands through
4569 the 35.5 acre site, plus some in the 8 acres that we're also going to add to this case. In fact,
4570 the acreage to the left, which you can see to the left of where the entrance road is, that five
4571 acres, we will be submitting that case for R-2. Right now, I think it's A-1, but we're coming
4572 back in with the same proffers to incorporate that five acres in this.

4573
4574 As far as tying the two communities together, giving it two access points out, we told them we
4575 would consider that, but after we delineated the wetlands and had them approved by the Army
4576 Corps of Engineers.

4577
4578 We've also granted a request by the Cross Creek community to come back before them, prior
4579 to the POD coming before this body, and said that we can address any concerns that they may
4580 have.

4581
4582 Mrs. Wade - The subdivision plat?

4583
4584 Mr. Wilton - The subdivision plat. Yes. I'm sorry. We've also agreed, at the
4585 upper corner, to sell parcels of the property to the three most affected lots. The slide Numbers
4586 2, 3, and 4 up there, in negotiations with these people, because they are the most affected
4587 lots. They have the least amount of depth and we're working with them.

4588
4589 In regard to the marketing strategy, we've engaged Mr. Greg Windsor. It's according to sales
4590 activity. He does have expertise in this area. Working with him, we plan to ensure we
4591 maintain the integrity and the value of the nearby neighborhoods. Many of the neighborhoods,
4592 he has developed himself; Cross Creek and Millstone.

4593
4594 In regard to the proffers, obviously, there was a question in regard to the planting strip. It is
4595 the intent that the planting strip be a part of the property, because of the wetlands and how
4596 that enters into the equation as far as additional square footage in the lot. We do want them,
4597 the homeowners association, to maintain the planting strip and the fencing. We have agreed;
4598 the case that came before the Commission a few months ago with Mr. Gibson Wright, we're
4599 going to have the same fencing going from the entrance to Wyndham through Gibson's
4600 Wright's piece and then coming into a parcel that Mr. Windsor owns. We could continue the

4601 same planting strip and fencing all the way to the point where we would connect to this lot to
4602 the extreme left (referring to slide). So, we're consistent; same type of fence, same type of
4603 landscaping from the access at Wyndham coning all the way around to Cross Creek.

4604
4605 The three developers have also agreed, and, basically, what we said at the last meeting, was
4606 we would have a letter of agreement to the County that we're agreeable to do the same type of
4607 landscaping plan in the road; in Nuckols Road, itself, that the Wyndham people have done up
4608 to that Wyndham access point. We would continue that on. We would irrigate it; put it in
4609 ourselves, and then when the homeowner associations that are adjacent to those particular
4610 areas, they will maintain it. They will be responsible for it in a continuing way.

4611 Mrs. Wade - In Nuckols Road, too?

4612
4613 Mr. Wilton - Yes. In Nuckols Road, too. We'll go ahead and put the additional
4614 landscaping in there; irrigate it and have our associations maintain their respective portions of
4615 it.

4616
4617 Mr. Silber - You're not talking about in the median? You're talking about in
4618 the right of way adjacent to the road?

4619
4620 Mr. Wilton - The median strip of Nuckols Road. The median strip.

4621
4622 Mr. Silber - The lot owners are going to maintain the median strip?

4623
4624 Mr. Wilton - That is our intent. We are agreeable to putting in the irrigation;
4625 the planting, the same way that was done when Wyndham did their landscaping. But it stops
4626 at their entrance. What we're proposing to do, and what we're proposing to pay for is, go
4627 ahead and put that in. Now, if the County would rather maintain it, we have no problem with
4628 that. But we want that same pattern; that same landscaping to be a part of this.

4629
4630 Mrs. Wade - It sounds like he'd have to work it out with Public Works.

4631
4632 Mr. Silber - Right. You said the, "lot owners." You're talking about the
4633 homeowners association would maintain it?

4634
4635 Mr. Wilton - Yes sir.

4636
4637 Mr. Silber - I think that would have to be worked out with Public Works. I
4638 wouldn't rule that out.

4639
4640 Mr. Wilton - That is our intent, and it's a promise from us that we will do that, if
4641 allowed to.

4642
4643 Mrs. Wade - But the lots then are still on out to Nuckols, but they'll have a
4644 mutual agreement for maintenance?

4645
4646 Mr. Wilton - There are two separate issues here. One, is the 25-foot strip
4647 within the community, which the homeowners will own and the Association will take care of.
4648 Then we move out into Nuckols Road. And what we're trying to do is beautify Nuckols Road
4649 coming out. That's something separate that we cannot proffer, but it's something that we can
4650 commit to. Then we'll welcome the County to finalize that.

4651
4652 Mrs. Wade - Shouldn't there be something in here about the homeowners
4653 maintaining this?
4654
4655 Mr. Wilton - Yes ma'am. We can rewrite that proffer so it will say that. The
4656 driveways; I understand some of the things you want in the restrictive covenants and some of
4657 them you would like to have proffers on them. The only problem is working with the County on
4658 what they want proffered and what they want in the restrictive covenants. I'd make
4659 commitments to the people at the zoning meeting. I'm going to make sure that they're there
4660 whether they are proffers or restrictive covenants.
4661
4662 Ms. Dwyer - Just to make sure I'm clear on this. The 25-foot planting strip
4663 along Nuckols Road has to be included as part of a lot because you need that to meet your lot
4664 area requirement for R-2. Is that right?
4665
4666 Mr. Wilton - On some of the lots, yes. It is also because of the wetlands.
4667 That also enters into it. Again, we don't have the exact delineation of the wetlands. The Army
4668 Corps of Engineers has to come in and delineate that.
4669
4670 Ms. Dwyer - How does the wetlands enter into it?
4671
4672 Mr. Wilton - Well, some of the property is useable and some of it is not
4673 useable. So, if we can get useable property closer, you can see the wetlands come right down
4674 to the lot that's adjacent to the first road entrance. So, that would come into play there as far
4675 as being useable property; side yards, setbacks, and so on. That's the way it was explained to
4676 me.
4677
4678 The other proffers, if you have any questions about them, I'd be happy to answer them.
4679
4680 Mr. Silber - Mr. Wilton, I think you may have said this and it didn't sink in.
4681 The driveways, you said you are willing to put that into the restrictive covenants?
4682
4683 Mr. Wilton - Yes. A number of things, you know, that the staff report said. I
4684 don't mind switching them into restrictive covenants. I understand as far as you don't want the
4685 enforcement of that proffer.
4686
4687 Mr. Silber - I guess my concern is, I know you're aware of this in some other
4688 subdivisions, perhaps, you've been involved with. But when the proffer says, "The driveway
4689 must be a concrete or asphalt driveway," when the builder has completed the structure and is
4690 ready to issue or request a CO and the driveway is not in and the weather is not appropriate to
4691 put the driveway in, the CO can be held up, and often would be. It becomes a problem for the
4692 prospective buyer of the home. It is a real enforcement problem for us. It's a real problem for
4693 the builder as well. I think if it goes into the restrictive covenants, it becomes a situation that
4694 the Association has to deal with. I think it's more workable for all parties involved.
4695
4696 Mr. Wilton - I'll be happy to reword that so it becomes a restrictive covenant
4697 and say the enforcement isn't on you and it's on us.
4698
4699 Mrs. Wade - But the access would still stay in the proffer?
4700

4701 Mr. Silber - That part of it, yes ma'am, could still stay in the proffers. Yes, the
4702 access part.
4703

4704 Mr. Wilton - In regard to the Comprehensive Plan, we do feel that it does
4705 follow the Land Use Plan. I believe it now will support the case with watered and sewerred lots
4706 and it's doesn't exceed 1.6 units per acre as was suggested in the staff report. I also would
4707 suggest that the Land Use Plan would agree that its consistent with some of the other
4708 rezonings that have taken place recently in the area. Some of them R-2A.
4709 We also comply with the goals, objectives, and policies. The Thoroughfare Plan shows that
4710 the road network is adequate to accommodate the additional traffic volume. At one point there
4711 was discussion about one point of access. But there are 35 lots on one side with one access,
4712 and approximately 15 lots with the other access point. So, we won't run into that problem.
4713

4714 Due to these reasons, I respectfully request that you grant approval of C-25C-98.
4715

4716 Mrs. Wade - What happened to the garages?
4717

4718 Mr. Wilton - The garages will be a part of the restrictive covenants. All
4719 houses will have two garages. But that's one of the things they did not want in the proffers.
4720 We're going to put it in the restrictive covenants.
4721

4722 Mr. Archer - Okay. Any further questions of Mr. Wilton?
4723

4724 Mrs. Wade - Okay. They've seen this, basically? The latest ones, the
4725 neighbors with whom you've been working. Have they seen this?
4726

4727 Mr. Wilton - Yes ma'am. After we revised them, we mailed them out to the
4728 people. So, yes, everybody's seem them. Any revisions that we do tonight I will send out
4729 again. If they need another meeting, I'd be happy to have another one.
4730

4731 Mrs. Wade - Thank you. Yes. They all seem to be happy.
4732

4733 Mr. Wilton - Yes ma'am. It's unusual.
4734

4735 Mr. Archer - Mr. Wilton, I have one question. Under the garage requirement
4736 that you just spoke about, it says, "Each dwelling developed on the property shall have an
4737 attached two-car garage." Is it always attached or is it ever built in?
4738

4739 Mr. Wilton - The restrictive covenants, they all will have a two-car garage. It
4740 can be attached or detached, as far as I'm concerned. I think they should have the availability
4741 to have a detached garage. Every home will have a two-car garage. Now, whether it be
4742 detached or attached, I think that's up to the people. Most of these houses will be custom
4743 homes. The people do like them detached.
4744

4745 Mr. Archer - Any further questions for Mr. Wilton? Mrs. Wade.
4746

4747 Mrs. Wade - I move we waive the time limits to accept the amended and
4748 restated proffers.
4749

4750 Mr. Zehler seconded the motion.

4751
4752 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Zehler. All those in
4753 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
4754 Donati absent). And the case.

4755 Mrs. Wade - Most of the changes we discussed tonight are more technical and
4756 can be attended to I think between now and the Board meeting, including changing some of
4757 these to covenants from proffers, as discussed. This is in conformance with the Land Use
4758 Plan; and, basically, compatible with the adjacent area. I think it continues to set a good
4759 precedent for this area along Nuckols. He's going to notify the neighbors about the subdivision
4760 because there are still some access questions to work out, as well as, I believe they expressed
4761 some concern about some flag lots. You can work on that at subdivision time. Therefore, I
4762 move that Case C-25C-98 be recommended for approval with the amended and restated
4763 proffers.

4764
4765 Ms. Dwyer seconded the motion.

4766
4767 Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those
4768 in favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
4769 Donati absent).

4770
4771 Mrs. Wade - That will include the provision about the Homeowners Association
4772 maintaining...

4773
4774 REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning
4775 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors accept the
4776 proffered conditions and grant the request because it is reasonable; it is appropriate residential
4777 zoning at this location; and it conforms with the objectives and intent of the County's
4778 Comprehensive Plan.

4779
4780 **C-26C-98 Glenn R. Moore for Impac Hotel Development:** Request to
4781 conditionally rezone from O-3C Office District (Conditional) to B-2C Business District
4782 (Conditional), part of Parcel 37-2-E-1 (Innsbrook Subdivision), described as follows:

4783
4784 Beginning at a point on the west line of Dominion Boulevard, said point being 40.82' south of
4785 the south line of Innslake Drive, being the place and point of beginning; Thence along a curve
4786 to the right with a radius of 1447.45' and an arc length of 63.98', being subtended by a chord of
4787 S. 17° 28' 17" W. for a distance of 63.98' to a point; Thence S. 18° 44' 16" W., a distance of
4788 65.65' to a point; Thence S. 74° 54' 47" W., a distance of 481.33' to a point; Thence S. 87° 12'
4789 00" W., a distance of 124.99' to a point on the north line of Sadler Road; Thence along the
4790 north line of Sadler road, S. 85° 37' 50" W., a distance of 190.00' to a point; Thence leaving
4791 the north line of Sadler Road, N. 11° 42' 38" E., a distance of 575.58' to a point on the south
4792 line of Innslake Drive; Thence along the south line of Innslake Drive, N. 87° 47' 39" E., a
4793 distance of 55.86' to a point; Thence along a curve to the right with a radius of 378.85' and an
4794 arc length of 245.61', being subtended by a chord of S. 73° 38' 01 " E., for a distance of
4795 241.33' to a point; Thence S. 55° 03' 41" E., a distance of 191.89' to a point; Thence along a
4796 curve to the left with a radius of 440.00' and an arc length of 171.08', being subtended by a
4797 chord of S. 66° 11' 59" E., for a distance of 170.00' to a point; Thence S. 77° 20' 19" E., a
4798 distance of 85.84' to a point; Thence along a curve to the right with a radius 25.00' and an arc
4799 length of 40.82', subtended by a chord of S. 30° 34' 00" E., for a distance of 36.43' to the

4800 place and point of beginning. Together with and subject to covenants, easements, and
4801 restrictions of record. Said property contains 6.78 +/- acres.

4802 Mr. Archer - Is there any one here in opposition to C-26C-98? No known
4803 opposition. Ms. Gardner.

4804
4805 Ms. Gardner - This is a request to rezone roughly seven acres to a B-2C district
4806 to allow a hotel, specifically a Marriott Hotel. Hotels are allowed in the O-3C District, but the
4807 site does not meet the new criteria for hotels in the O-3 District. There are new proffers on the
4808 case. However, you do not have to waive the time limits to consider these proffers.

4809
4810 Just very briefly to go over these proffers. Uses will be limited to O-3 uses, plus hotels, as
4811 regulated in the B-2 District. Parking lot lighting will be limited to 20 feet. Rooftop HVAC
4812 equipment will be screened. New landscaping will be irrigated. There will be no direct access
4813 to Dominion Boulevard. Maximum site coverage will be 65 percent. Refuse containers will be
4814 screened. The final proffer is slightly unusual, but perfectly all right. The buffer area will be
4815 expanded to 25-feet if the applicant, at the time of Plan of Development, is successful in
4816 getting a reduction in the parking requirements. Otherwise, it will be a 15-foot buffer.

4817
4818 The applicant has addressed staff concerns raised in the staff report. I can recommend
4819 approval. I'd be happy to answer any questions.

4820
4821 Mr. Archer - Thank you, Ms. Gardner. Any questions of Ms. Gardner by
4822 Commission members?

4823
4824 Ms. Dwyer - I'm just thinking, Ms. Gardner, we had some problems with hotels
4825 in Office districts, so we made the ordinance stricter so now, we're not even using the Office
4826 for hotels. We're rezoning from business. Does that seem to what's happening?

4827
4828 Ms. Gardner - Well, actually, I would hazard a guess that its probably consistent
4829 with the intent of that revision. You see directly to the south (referring to slide), there is
4830 property zoned R-6C, which, while it is a residential district, strictly speaking, it's not being
4831 used for residential purposes. As I understand, there is a funeral home there.

4832
4833 Ms. Dwyer - Right.

4834
4835 Ms. Gardner - This is the old R-6 which allowed non-residential uses. Also, you
4836 see there's a very slender area adjacent to the A-1 (referring to slide), fronting on Broad
4837 Street, and there is a residence on that A-1 District. So, I suspect that if there's an
4838 inconsistency, it is only very minor and I seriously doubt that home would be grievously
4839 affected by a hotel on this property, being located in such an intensely developed area of
4840 Broad Street.

4841
4842 Mrs. Wade - You had mentioned about the screening of the service area in the
4843 rear. Did you get the rendering that looked like this (referring to rendering)?

4844
4845 Ms. Gardner - Yes.

4846
4847 Mrs. Wade - Well, I can ask them. Those top two pieces there, do you think
4848 that's screening, or is that some of the roof?

4849

4850 Ms. Gardner - It's a combination. But, certainly, I think that those are intended
4851 to cover the HVAC equipment. I don't recall if both of them are going to screen the equipment,
4852 but that would be part of the apparatus; the structure to hide it.
4853
4854 Mrs. Wade - But they've got the sign up there, the reason I asked that
4855 question.
4856
4857 Ms. Gardner - Of course, this is a part of Innsbrook. I forgot to mention that.
4858
4859 Mr. Archer - Okay. Any further questions of Mr. Gardner? Mr. Moore, sir.
4860 Good morning.
4861
4862 Mr. Glenn Moore - Almost. Mr. Chairman, members of the Commission, my name is
4863 Glenn Moore. I'm an attorney. I'm here on behalf of the Impac Hotel Group this evening, the
4864 applicant in this case. With me, tonight, from Impac Hotel Group is Monty T. Baugh and Scott
4865 Madison. They came up from Atlanta for this meeting. They'll be the developers of the
4866 property. I'm going to pass out some elevations; well, these are perspective drawings of the
4867 building that will be built (passed out renderings to the Commission).
4868
4869 Mr. Zehler - Are you proffering these?
4870
4871 Mr. Moore - I'll explain that in just a second. Mr. Zehler, while we're not
4872 proffering these, if we're successful in obtaining the recommendation this evening, we expect
4873 to file a POD tomorrow that incorporates those architectural drawings. If the proposed
4874 rezoning is approved, Impac proposes to develop the property with a compact full service
4875 hotel. I think you saw attached to your staff report a proposed layout of the hotel. You'll see
4876 that the front of the hotel, the front will be oriented toward Dominion Boulevard.
4877
4878 As the elevation shows, the building will be six stories in height. The hotel's expected to have
4879 242 rooms, and approximately 6,500 square feet of meeting and banquet space. Including,
4880 within those meeting spaces, a ballroom, of approximately 3,500 square feet. I think people
4881 are familiar with this area of the County know, there's a shortage of those types of facility
4882 currently in this area of the county.
4883
4884 In addition, the hotel will have a full service restaurant, a lounge, indoor swimming pool, and an
4885 exercise room. We would submit, again, a hotel of this nature is in need in this area of
4886 Innsbrook.
4887
4888 A little bit about the Impac Hotel Group. That group has been in the hotel business for more
4889 than three decades. Hotel ownership and operation are its whole business. In the time of its
4890 existence, the company has owned more than 75 hotels, and currently it operates 48 hotels in
4891 seventeen states. Impac currently has franchise relationships with six national hotel chains,
4892 including Holiday Inns, Marriott, and Doubletree. As you can see, this will be a Marriott Hotel.
4893 Impac will use local contractors to build this hotel. And the employees at the hotel will be
4894 drawn locally. They will be employed here in this area.
4895
4896 As part of the Innsbrook Corporate Center, as Ms. Gardner has noted, the hotel must comply
4897 with the protective covenants for Innsbrook. Additionally, the architectural plans will be subject
4898 to review under those architectural control standards for Innsbrook.
4899

4900 The proffered conditions have been summarized by Ms. Gardner. And I would like to point out
4901 that the POD application, that we'll be submitting, does show a reduced number of parking
4902 spaces. The Planning Commission, at the time of POD, has the ability to reduce the required
4903 parking for a mixed-use type project such as this. We have shown a 25-foot buffer area along
4904 Dominion Boulevard on the POD. So, that proffer will be applicable.

4905
4906 Mrs. Wade - You're talking about shared parking?

4907
4908 Mr. Moore - No. This is just for this development. In a way, its shared,
4909 because the restaurant, in effect, is sharing with the hotel. That's the justification for allowing
4910 the reduction in the parking requirement, and the conference rooms as well.

4911
4912 We would submit that the subject site is a logical location for a hotel of this type, and with its
4913 experience in operating such hotels, Impac is an ideal developer and operator for the facility.

4914
4915 The proposed compact full-service Marriott Hotel will be a nice addition to the Innsbrook
4916 Corporate Center, providing a combination of facilities into one building that is not currently
4917 available at Innsbrook.

4918
4919 We submit that the jurisdictional prerequisites for approving this request are satisfied, and we
4920 ask that you accept the amended and restated proffered conditions and recommend the case
4921 for approval to the Board of Supervisors. I'd be glad to answer any questions the Commission
4922 members may have.

4923
4924 Mr. Archer - Any questions of Mr. Moore by Commission members?

4925
4926 Mrs. Wade - The surroundings aren't exactly what they would look like here.
4927 They have eliminated the houses over here.

4928
4929 Mr. Moore - This hotel is very similar to one that was done in Denver. I
4930 suspect that's where some of the architectural...The architect in Atlanta hadn't seen the
4931 surrounding area here.

4932
4933 Mrs. Wade - Because you're going to have mostly parking around this one.
4934 Hopefully, you can do that and have more buffering space. Do you intend to retain that water
4935 feature down there at the corner?

4936
4937 Mr. Moore - Actually, it's going to be retained, but it's going to be modified
4938 somewhat. But there will be a water feature there in the front of it.

4939
4940 Ms. Dwyer - Will they have a fountain or...

4941 Mrs. Wade - Because that Innslake section has been very attractive.

4942
4943 Mr. Moore - I think it will have a fountain.

4944
4945 Mrs. Wade - It has been very attractive.

4946
4947 Ms. Dwyer - Is this a BMP water retention? What were you going to say? Oh,
4948 a rip rap for a bay. Rip rap to a bay.

4949

4950 Mr. Moore - Well, I guess when you get to the POD, you can deal with that.
4951
4952 Unknown person - Those are underneath the water.
4953
4954 Ms. Dwyer - Under water?
4955
4956 Unknown person - (Comments unintelligible).
4957
4958 Ms. Dwyer - Right. I've seen some above water.
4959
4960 Mrs. Wade - Because that entrance way to Innslake Drive is attractive now,
4961 but I can't decide whether you've altered that a lot, or not. Now, the appendages on top, is
4962 that screening or is that the roof?
4963
4964 Mr. Moore - That's screening, is it not?
4965
4966 Mrs. Wade - Okay. So, they won't be able to put the sign up there. You can't
4967 put the sign up over the roof. We'll hear that later.
4968
4969 Ms. Dwyer - Mrs. Wade, may I ask you, this remaining triangle that's left
4970 between Sadler and Dominion, what special planning issues does that present?
4971
4972 Mrs. Wade - Well, it belongs to the people on the other side of Sadler, I
4973 believe. What's it zoned?
4974
4975 Mr. Moore - It's zoned O-3. It requires a 10-foot buffer.
4976
4977 Mrs. Wade - Ideally, it would be included.
4978
4979 Ms. Dwyer - As part of this? Is it something that you're not interested in
4980 acquiring there?
4981
4982 Mr. Moore - We tried. We could not reach a deal; come to an agreement
4983 with the owner. They offered to pay the same price per foot as they're paying the; First Union
4984 is the seller of the balance of the property, if they want to sell it.
4985
4986 Mrs. Wade - They may have other aspirations.
4987
4988 Ms. Dwyer - How much property is that? Do we know?
4989 Mr. Moore - It is 1.3 acres. One point two or three.
4990
4991 Mr. Silber - Ms. Dwyer, I've met with that property owner to try to help the
4992 applicant with this putting together the property. It hasn't worked out. I've even mentioned to
4993 that property owner that, because this is going B-2, doesn't mean that they should be so
4994 inclined to request business zoning, because I view this as a use that really is an O-3-type use.
4995 So, we've talked a long time with this property owner. We're pretty much at a stalemate at this
4996 point.
4997
4998 Mrs. Wade - I understood that was the case.
4999

5000 Mr. Moore - Mrs. Wade, I have a -- did you see the drawing that showed the
5001 screening of the trash compaction area?
5002

5003 Mrs. Wade - No. But it appeared on one of these. That it's kind of built in,
5004 and that the compactor screens...
5005

5006 Mr. Moore - It's actually inside the building. It is a compactor inside the
5007 building.
5008

5009 Mrs. Wade - And so, to unload they go into some inside space?
5010

5011 Mr. Moore - They open the doors. The truck pulls up and they open the
5012 doors.
5013

5014 Mrs. Wade - Oh. But the loading dock is still internal? They go inside? I had
5015 concluded that from one of the drawings that I saw that there aren't going to be trucks sitting
5016 out there unloading in the driveway. Okay. All right. I think that's most everything.
5017

5018 Mr. Archer - All right. Any other questions of Mr. Moore?
5019

5020 Mrs. Wade - She said, we do not have to waive? Is that what you said? It
5021 would be improved, I think, with some more buffers, so I hope you can get that space. We'll
5022 talk about that parking when the parking issue comes up. So, I would move, therefore, it's
5023 certainly, basically, compatible with the office park there, certainly. And, evidently, there is a
5024 great demand for hotel space out there in that area, especially. I don't know how many
5025 Marriotts we've got in a couple of miles; all different kinds. I move that C-26C-98 be
5026 recommended for approval with the proffers as submitted.
5027

5028 Ms. Dwyer seconded the motion.
5029

5030 Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those
5031 in favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
5032 Donati absent).
5033

5034 REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning
5035 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors accept the
5036 proffered conditions and grant the request because it is reasonable; the business use is
5037 compatible with surrounding development; and the proffered conditions would provide for a
5038 higher quality of development than would otherwise be possible.
5039

5040 **P-15-98 James W. Theobald and Charles H. Rothenberg for**
5041 **SprintCom, Inc.:** Request for approval of a provisional use permit in accordance with
5042 Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct and
5043 operate a communication tower up to 199' high and related equipment and improvements, on
5044 part of Parcel 11-A-1, containing 2,500 sq. ft., located approximately 300' north of the terminus
5045 of Twin Hickory Lane (5700 Twin Hickory Lane). The site is zoned A-1 Agricultural District.
5046

5047 Mr. Archer - Okay. P-15-98, is there any one here in opposition to P-15-98?
5048 All right, thank you, sir. Mr. Bittner.

5049
5050 Mr. Bittner - Thank you, Mr. Archer. As you've read in my report, staff has
5051 concerns with this proposed tower location. The immediate area is the most rapidly growing
5052 residential area of the County. Depending on future development, this tower site could end up
5053 being accessed through a residential neighborhood and residential streets. The subject
5054 property is 51.5 acres in size. Although still problematic, this tower could potentially locate
5055 elsewhere on this property and further away from the new Wyndham Forest Subdivision to the
5056 west. Also, the area of Hanover County closest to this site is designated for Agricultural
5057 development. This portion of Hanover is not developing, nor is it in their planned growth area.
5058 The area could, perhaps, be more ideal for a communications tower than the proposed site.

5059
5060 Concerns about this proposed location and access to it have also been expressed by an
5061 adjacent property owner on Twin Hickory Lane, Mr. Norm Edwards. In response to this, the
5062 applicant has suggested an additional condition be placed on this permit. Their suggested
5063 language states, "If and when Concept Road 10-1', which is not shown on this slide, but would
5064 be, if you see where the new Wyndham Forest Subdivision is, the dashed lines and the
5065 layouts of the streets. Actually that's a very dated zoning map. I can't understand that.

5066
5067 Mr. Silber - It's in the staff report.

5068
5069 Mr. Bittner - You can see 10-1 there? "If and when Concept Road 10-1 is
5070 completed, providing an alternate means of vehicular access to the communication tower, the
5071 private driveway extending from Twin Hickory Road shall no longer be used for vehicular
5072 access to the communication tower." The staff does not recommend inclusion of this condition
5073 for the following reasons: One, it would simply shift access from one residential area to
5074 another. Overall, staff does not recommend communication towers in residential areas. This
5075 condition would, in effect, prohibit tower access through one residential area, but permit it
5076 through an adjacent residential area.

5077
5078 Reason two, the area is rapidly changing through development, and the alignment of Concept
5079 Road 10-1 has not been set.

5080
5081 Three, the applicant states that a maintenance truck would go to this site approximately one
5082 time a month. This would not be a high traffic generator.
5083 Omitting this condition would not prohibit this tower from someday being accessed by Concept
5084 Road 10-1, and it is likely that trucks would rather use a new paved road, instead of Twin
5085 Hickory Lane.

5086
5087 Again, the overall recommendation is to not have towers in residential areas. If this situation
5088 does exist, however, staff does not support favoring one residential area over another when it
5089 comes to access. If this application is approved, staff recommends that the conditions in the
5090 staff report be placed on the Provisional Use Permit. I'd be happy to answer any questions
5091 that you may have.

5092
5093 Mrs. Wade - If you've got two residential areas and you've got to chose one,
5094 then you're bound to favor one over the other?

5095
5096 Mr. Bittner - Well, what we're doing is putting in place, saying that you have to
5097 use this one section. You could use either section once 10-1 is completed. Most likely, they'd

5098 want to use 10-1. But, overall, we don't see a reason to permit it in one area and not in the
5099 other; the access.

5100

5101 Mrs. Wade - Who maintains Twin Hickory now?

5102

5103 Mr. Bittner - That's a private drive. I'm not exactly sure where it stops public,
5104 and where it's private, but it is a private drive.

5105

5106 Mrs. Wade - This is how far from the residential?

5107

5108 Mr. Bittner Approximately 450 feet east of Wyndham Forest. Is that correct?

5109

5110 Mrs. Wade - I believe on the "R," side, it's heavily wooded. Okay.

5111

5112 Mr. Archer - Any further questions of Mr. Bittner by Commission members?

5113

5114 Mrs. Wade - Not for me.

5115

5116 Mr. Archer - All right. We'll hear from the applicant.

5117

5118 Mrs. Wade - How many feet did you say from the "R?" I don't see anybody
5119 here from the R-3.

5120

5121 Mr. Chuck Rothenberg - Mr. Chairman, members of the Commission, I am here on behalf
5122 of Sprint. This is a request for a Provisional Use Permit, pursuant to Sections 24-95 and 24-
5123 122.1 of the County Code for the construction and operation and maintenance of a
5124 communication tower and antenna up to 199' in height located about 2,500 feet northeast of
5125 Nuckols Road and Twin Hickory stables.

5126

5127 We did conduct a balloon test on the site on the 19th to give the interested parties an
5128 opportunity to see where the tower would be located and its height. I believe, at that time,
5129 people were generally okay with the location, and height of the tower.

5130

5131 The proposed tower would be a 195-foot lattice tower with a 5-foot lightening rod located within
5132 a 35' by 40' compound, along with two small equipment cabinets. The compound would be
5133 enclosed within a 6-foot chain-link fence capped with barbed wire.

5134

5135 We believe that a Provisional Use Permit is appropriate for the following reasons: We believe
5136 that the unmanned tower is not inconsistent with the Land Use Plan, which designates the
5137 area for residential. Very little activity will occur on the site, after the initial construction is
5138 complete. The use will require the disturbance of a very small area of land and requires no
5139 County utilities. The site is near the floodplain along the Chickahominy River, which, in all
5140 likelihood will not be developed for residential use. The site is approximately 450 feet from the
5141 Wyndham Forest Subdivision under development and is screened by the buffer along the rear
5142 of that project. The use poses no known environmental health risks to the public. The
5143 required utilities are available at the site, as well as adequate access and areas for parking.
5144 The necessary safeguards, in the form of the six conditions recommended by the staff which
5145 pertains, as we discussed earlier, as to the minimum number of towers, are acceptable to
5146 Sprint, and offer protection for the surrounding property, persons, and neighborhood values.

5147

5148 At a neighbor's request, Sprint has also agreed to the following condition which we would ask
5149 that you add as Condition 7. We made one minor change at that neighbor's request so that
5150 we finished up yesterday evening. That condition now reads, "If and when that portion of
5151 Concept Road 10-1 adjacent to the parent tract is completed providing an alternate means of
5152 vehicular access to the communication tower, the private driveway extending from Twin
5153 Hickory Lane shall no longer be used for vehicular access to the communication tower." Sprint
5154 has investigated the availability of co-location opportunities in the coverage area to be served
5155 by the proposed towers. The closest tower is 1.6 miles from this site; would not permit Sprint
5156 to serve the desired coverage area. Therefore, an antenna is required at this location to
5157 provide uninterrupted service to the coverage area, including the growing Concourse Office
5158 Park.

5159
5160 We believe that all the grounds for granting a Provisional Use Permit have been satisfied, and
5161 we respectfully ask that you recommend to the Board that they approve this request. I'd be
5162 happy to answer any questions.

5163
5164 Mrs. Wade - Did we have a copy of the amended condition that you're
5165 recommending?

5166
5167 Mr. Rothenberg - The only change was the addition of that portion of...The
5168 neighbor's concern was that...

5169 Ms. Dwyer - Is that what you faxed to us?

5170
5171 Mr. Rothenberg - The neighbor's concern was, he didn't want to have to have miles
5172 of Concept 1 completed before that condition kicks in.

5173
5174 Mrs. Wade - Now, is the location for the base of this lower than the edge of
5175 the R-3C property, topographically speaking? Is the communication tower base not lower?
5176 The land slopes off.

5177
5178 Mr. Rothenberg - We're actually down off of a knoll on the Nash property. I'm not
5179 quite sure what the topography is in relation to Wyndham Forest, but I would imagine it is
5180 sloping down toward the river at that point, compared to the Wyndham Forest Subdivision.

5181
5182 Mrs. Wade - I know the Wyndham Forest people have been out there several
5183 times and met with you all. I don't see any of them and haven't heard from any of them. Have
5184 you allayed their concerns with their proposal, basically, with the current owners anyway?

5185
5186 Mr. Rothenberg - As far as I'm aware. Yes. We had the balloon test. They had an
5187 opportunity to see the height of the tower. I think they're okay with it.

5188
5189 Mrs. Wade - Although, one perspective lot buyer is communicating with the
5190 Supervisors about his concerns. Of course, they'll be working on that later.

5191
5192 Mr. Silber - Mr. Rothenberg, one of the staff's serious concerns was the rapid
5193 development of this area for residential purposes. We feel as though this area, in a very short
5194 period of time, is most likely to be fully developed into single family homes. This tower is going
5195 to be sort of out in the middle of all of that. Have you all looked at the possibility of Hanover
5196 County, relative to locating a tower there?

5197

5198 Mr. Rothenberg - Well, we really haven't. Keep in mind that these towers are sort
5199 of like the heads and sprinkler systems for your lawn. When you start moving them around,
5200 you don't provide the service or the coverage that you would like to. The Concourse in this
5201 whole area is growing quite quickly. The Concourse Office Park is a prime coverage desire for
5202 Sprint. One of the challenges, as always with these towers, is you need to be in the area that
5203 you're trying to service.
5204

5205 Mrs. Wade - Have you talked to anybody across the river?
5206

5207 Mr. Rothenberg - No ma'am. We really haven't. I think, once we cross over the
5208 river, we're starting to really jeopardize the coverage area. We're moving too far away, and
5209 we're going to have a hole that's going to necessitate a tower some place else between there
5210 and the other Sprint towers that are providing coverage further west.
5211

5212 Mrs. Wade - I don't know how people lived before they had cell phones.
5213 Evidently, it's a necessity of life. I assume that the people who are living in these homes also
5214 will use cell phones. Thank you.
5215

5216 Ms. Dwyer - I'm sorry. Did you just explain why you couldn't move it further
5217 east, or were you explaining why you couldn't move it across the river to Hanover?
5218

5219 Mr. Rothenberg - I was explaining why we couldn't move it across the river.
5220

5221 Mrs. Wade - Further east, there are neighbors out there now. These people
5222 are there now. Maybe they should have first voice in...
5223

5224 Ms. Dwyer - That was just in the staff report, recommending that the tower be
5225 moved further away from the Wyndham development.
5226

5227 Mrs. Wade - Yeah. But then that moves it closer to some of the other
5228 neighbors. Not as many neighbors, but...
5229

5230 Mr. Silber - But in this case, getting back to the Hanover situation, in this
5231 case, we're talking about a couple hundred yards, it looks like. I mean that's going to make the
5232 difference in leaving voids somewhere else?
5233

5234 Mr. Rothenberg - I don't think it's a couple hundred yards. I think that, right now,
5235 we're 450 feet off of Wyndham Forest. We're probably another 550 to 600 feet to the river.
5236 And then we'd have to be out of the floodplain, and over on the other side of the river.
5237

5238 Mr. Silber - So, maybe 300 yards away?
5239

5240 Mr. Rothenberg - I'm not quite sure. We really haven't looked over there.
5241

5242 Mr. Silber - I guess I have a problem with just, technically, not having looked
5243 at all of your options before bringing this to us, but...
5244

5245 Mr. Archer - Okay. Any further questions for Mr. Rothenberg? All right, I
5246 believe we had some opposition, Mr. Secretary.
5247

5248 Mrs. Wade - Actually, I think, I'll ask the neighbors if he wants to speak,
5249 please.
5250
5251 Mr. Archer - Come forward, sir.
5252
5253 Mrs. Wade - I believe the property just across from here is owned by the same
5254 family who owns this property.
5255
5256 Mr. Bob Parker - Mr. Chairman, members of the Commission, I live at 5411 Twin
5257 Hickory. I don't know whether I will be able to see this tower or not, because I wasn't invited to
5258 the balloon raising.
5259
5260 Mrs. Wade - The neighbors weren't invited?
5261
5262 Mr. Parker - Twin Hickory Lane, there's about seven or eight families on that
5263 road. Of course, all of them know my face by now, because we have been having to come
5264 over here for years, out of necessity, because we're completely surrounded. We've got the
5265 Office/Service on one side, and Wyndham Forest on the other two sides. We didn't put up a
5266 whole lot of kick about all of that. Now, you're coming in and going to put up a tower up there.
5267 On top of all of the development, we're going to see a tower sticking up in the air. They didn't
5268 even bother about inviting us to the balloon raising. All they're interested in is getting the tower
5269 in and making some money on that.
5270
5271 But anyway, what really bothers me is, I've read the County's staff report, and they have some
5272 real concerns. I go along with those concerns. It bothers me that the applicant hasn't really
5273 pursued his other options here. You know, like going across the river. We're not talking
5274 about, you know, the James River. The Chickahominy River up there is real small. You can
5275 jump across it. So, he's not talking about a lot of distance to relocate over into Hanover where
5276 it's already agricultural, and they intend to stay agricultural over there, instead of putting this
5277 tower up here where you've got a lot of community that's going to be there. A lot of people are
5278 going to be moving in real soon with Wyndham Forest.
5279
5280 And another possibility is the ideal place, really, for this tower, would probably still serve their
5281 needs because its not far away from where they want to put it, is the County landfill. That
5282 would be an ideal place. Have you thought about that? I'm sure they have thought about that.
5283 They probably backed off when they found out it would probably cost them a few more bucks.
5284 So, I think the applicant out to interrogate, trying to put this thing somewhere else, rather than
5285 just picking this one location here. "That'll work here." And just trying to shove that in, you
5286 know, right away. Thank you for your time. Any questions?
5287
5288 Mr. Archer - Thank you, Mr. Parker.
5289
5290 Mrs. Wade - How far, now, is Twin Hickory privately maintained, Mr. Parker?
5291
5292 Mr. Parker - Well, its my understanding that Snyder-Hunt, the developer of
5293 Wyndham, owns Twin Hickory from Nuckols to where it turns to go in front of the Edwards'
5294 house.
5295
5296 Mrs. Wade - To the tower, that's what I meant.
5297

5298 Mr. Parker - They actually own the road. But Mr. Nash is still maintaining the
5299 road at present. But from in front of the Edwards house on, it's private.

5300
5301 Mrs. Wade - Okay. Thank you. Sorry, we kept you so late. I have the
5302 impression that we'd all be more comfortable if we were convinced that you really considered
5303 all the possibilities here and come and tell us that, definitely, with documentation. I think it
5304 would have been a good idea had you included the other people around in your
5305 demonstration. But I would, I think, like to put this off a month so you can come back and
5306 answer some of these other questions that have been raised by staff and by Commission
5307 members.

5308
5309 Mr. Rothenberg - If you don't mind, Mrs. Wade, I'd like to try to answer some of
5310 those questions now. First, as far as the balloon test, I apologize if the Parker's were not
5311 invited to that. We certainly drove by their home when the balloon was out. You could not see
5312 the balloon from their home. We're happy, at your convenience, to put the balloon back up so
5313 you can confirm that for yourselves.

5314
5315 Sprint is co-locating on a Primeco structure to the north, and a GTE structure to the south. Our
5316 concern is, if we start moving this tower, that we're going to lose one, or potentially both, of
5317 those co-location opportunities necessitating us to find other sites to build additional towers.
5318 Again, the reason we do not want to move across the river and pursue that, is we start getting
5319 further away from Wyndham, and we don't cover - Once you cross the river, we don't cover all
5320 of Wyndham. We have a gap there. That's why. That's why we didn't look over there. It just
5321 didn't make sense from the RF design to pursue that.

5322
5323 We have, I think, looked at a couple of other opportunities at the County landfill and also on
5324 the Church property on Nuckols Road. Those didn't work out for us. We ended up on the
5325 Nash property.

5326
5327 Mrs. Wade - The Church has a nice cemetery there. They probably have
5328 some space. I take it, you didn't think the landfill was not practical or...

5329
5330 Mr. Rothenberg - Again, because of the co-locations, if we started moving further
5331 down, I suspect that that southern co-location, became...

5332 Mrs. Wade - Do you suspect, or do you know now?

5333
5334 Mr. Rothenberg - It's the southern one. We'd lost the southern co-location. If we
5335 move further south to the landfill, it would interfere with the co-location on the southern co-
5336 location with GTE. Because of that interference, we'd need to look for another site to replace
5337 there in an area that was further away from the landfill so it didn't interfere with it. It's sort of a
5338 ripple effect. Whenever you touch one of these towers and start moving them around, you
5339 pull all the other strands in the web.

5340
5341 Mr. Silber - If this were an existing subdivision, you would have to find some
5342 other place to go. In a number of years, this is likely to an existing subdivision.

5343
5344 Mrs. Wade - Well, I think part of the theory here is, presumably the tower will
5345 be there before the people come.

5346

5347 Mr. Zehler - One thing sure about it, Mr. Silber. The residents, before they
5348 purchase that home, will see that tower. They will make that decision whether they want to live
5349 there or not.
5350
5351 Mr. Silber - We've got a situation like that with Columbian Center with the big
5352 tower there, and we're getting complaints from residents who move in afterwards. To me, it
5353 just seems like a poor land use decision, especially if all of the options haven't been explored.
5354
5355 Mrs. Wade - Well, they're telling us that they have, in terms of fitting in with the
5356 rest of the pattern. Of course, it's hard for us to judge those things. Where's our expert?
5357
5358 Mr. Silber - (Comments unintelligible.)
5359
5360 Mr. Archer - Mrs. Wade, were you suggesting that we defer this?
5361
5362 Mrs. Wade - Well, I was, but he seemed to have responded, assuming they're
5363 giving an accurate description of the situation.
5364 Mr. Silber - Mrs. Wade, the County has been pursuing other outside
5365 assistance to help us with some of our difficult decisions when it comes to towers. This may
5366 be one of those locations that maybe we can receive some assistance, if this was deferred for
5367 a month. I don't know if Sprint is willing to give us some time to look at it.
5368
5369 Mrs. Wade - Well, okay. That seems reasonable.
5370
5371 Mr. Silber - How critical, Chuck, is this as far as time is concerned?
5372
5373 Mr. Rothenberg - Well, they're all critical. We, as you know, met with staff back in
5374 November, at that point explaining our layout for the County. I explained where we were
5375 going. We were very up front, explaining what our needs were, and also tried to make sure we
5376 were doing whatever we could to help make staff and the County's life easier in moving these
5377 through. In December or February, notwithstanding those initial meetings, we had, basically, a
5378 60-day moratorium. Now, we're back. We think that this site really is appropriate. This is a
5379 fast growing area. It is a site that's necessary to serve the area. I don't know how else to do
5380 that unless you can put a tower near there. And certainly as Mr. Zehler pointed out, people
5381 who move into that area will certainly know that the tower is there. And having spoken to Mr.
5382 Nash, I don't get the sense from him that he's ready to give up his property at any particular
5383 time to allow that to go residential or any other use. I think he likes having his (unintelligible)
5384 there. So, I would respectfully ask that you recommend the case for approval tonight.
5385
5386 Mr. Silber - Of course, Mr. Nash, may have, you know, if he is willing to
5387 locate a tower there, he may have other visions of land uses on that property where the
5388 County has plans for that to be single family residential. This, in fact, could be a mechanism
5389 for viewing a different type of land use pattern here. To me, it just seems like a poor location.
5390 But it seems as though, when we met some months ago, this was one that we had identified
5391 as a problem. It's still here. So, I'm just telling you it's still a problem.
5392
5393 Mr. Archer - Okay. Mrs. Wade, are we...
5394
5395 Mrs. Wade - All right. Okay. I don't think that you all are going to be able to
5396 see it. Do you want to add something, Ms. Parker, quickly.

5397
5398 Mrs. Ellen Parker, 5411 Twin Hickory – I have a suggestion for your tower, and it would be
5399 nice. Why can't you put it in the Concourse parking lot. They're the ones who want it. The
5400 Concourse parking lot. I mean, they're the ones who are going to be using it. No one on Twin
5401 Hickory even has a cell phone. As far as putting it in Mount Vernon, and the attorney will fight
5402 you all the way on that one, because he made that statement before he left here. So, I don't
5403 know. The Concourse people want it. Can't you put it on their land? Question.
5404
5405 Mrs. Wade - They want the service, but I doubt that they want the tower.
5406
5407 Mrs. Parker - We don't want it either.
5408
5409 Mrs. Wade - I understand. I really kind of doubt that you're going to be able to
5410 see it from your house. They'll be glad to run the balloon up again for you so you can see
5411 where the top of it is.
5412
5413 Mrs. Parker - Well, the thing that concerns me is that you're talking about
5414 people not wanting to build homes on Mr. Nash's property. I'm in the same boat. I'm going to
5415 be there, and in the wintertime people are going to see this tower. That's going to devalue my
5416 property. So, I mean I'm on this dirt road right now that is not accessible to traffic. You know
5417 it's like riding a roller coaster. I don't know where my land is on there, but its somewhere
5418 (referring to slide). I don't know which one it is. Thank you.
5419
5420 Mrs. Wade - All right. I still say they should have gotten together with the
5421 group out there a little further around than you did, perhaps. I know you had looked at some
5422 other sites in this area. I revert to my former position about the deferral. In fact, we probably
5423 have a lot less to do at the POD meeting than we do at the zoning meeting in May.
5424
5425 Mr. Silber - The upcoming POD meeting is going to be extremely heavy. We
5426 have in excess of 35 plans. It's going to be the longest ones we've had for sometime.
5427
5428 Mrs. Wade - I'm not sure I've gotten an agenda for that.
5429
5430 Mr. Zehler - It came today.
5431
5432 Mrs. Wade - That was in the envelop that we got today.
5433
5434 Mr. Zehler - It didn't look that heavy, though.
5435
5436 Mr. Silber - David O'Kelly was telling me its very heavy.
5437
5438 Mrs. Wade - Yes. If they get the questions answered and come back and
5439 reassure us, I wouldn't think it would take very long to do this. So, what's the date for that?
5440
5441 Mr. Archer - POD?
5442
5443 Mrs. Wade - Yes.
5444
5445 Mr. Archer - The 28th isn't it?
5446

5447 Mr. Silber - The POD meeting for April is the 28th. Yes sir.
5448
5449 Mrs. Wade - All right. We don't have calendars in here.
5450
5451 Mr. Rothenberg - Mrs. Wade, that deferral to the POD hearing is fine. That makes
5452 a lot of sense to us...
5453
5454 Mrs. Wade - Two weeks that we're talking about, because you could get the
5455 additional information, all the facts and everything, and even send us something in writing.
5456 Reassure the Parker's. I really don't think they're going to be able to see it from their house,
5457 say even if you have to run the balloon up again and answer the other questions that we've
5458 had tonight.
5459
5460 Mr. Zehler - That's April 24th, isn't it?
5461
5462 Mr. Silber - It's April 28th.
5463
5464 Mrs. Wade - Okay. I move then that consideration for P-15-98 be deferred
5465 until the 28th of April.
5466
5467 Mr. Zehler seconded the motion.
5468
5469 Mrs. Wade - At the applicant's request?
5470
5471 Mr. Rothenberg - Yes.
5472
5473 Mrs. Wade - At the applicant's request.
5474
5475 Mr. Archer - Okay. Did I get a second?
5476
5477 Mr. Zehler - Yes.
5478
5479 Mr. Archer - Motion to deferral to – What was the date again?
5480
5481 Mr. Zehler - April 28th.
5482
5483 Mr. Archer - April 28th at the applicant's request. All those in favor say aye—all
5484 those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and Donati absent). The
5485 case is deferred.
5486
5487 Mr. Silber - We have two items to discuss with you. One, of course, would
5488 be the minutes from March 12th, but before that, we wanted to let you know we had a large
5489 number of rezoning requests and PUPs filed for the May meeting. I believe that we're in the
5490 neighborhood of 17 cases. As the Commission is aware, you have a limit by your Rules and
5491 Regulations of no more than 12, unless you waive that, to accept more than 12. In this
5492 instance, the case load we currently have, with some staff shortages and looking at the cases
5493 that are on here, some of these are very large, very complicated cases. Its our
5494 recommendation that we not exceed, or the Commission not waive the limit in this case to
5495 accept any more than the 12. Mr. Merrithew, is there anything you want to add to that?
5496

5497 Mr. Merrithew - Simply we had one case previously deferred to May. To tonight,
5498 we have three cases deferred to May. So, we're looking at 21 cases total. So, as Randy said,
5499 we feel we should hold to the bylaws and hear 12 new zoning cases and the 3 PUPs.
5500
5501 Mr. Zehler - How many cases did we hear tonight?
5502
5503 Mr. Silber - Thirteen were heard.
5504
5505 Mr. Zehler - Thirteen were heard?
5506
5507 Mr. Merrithew - Thirteen were heard and...
5508
5509 Mr. Zehler - You had a bunch of withdrawals, too.
5510
5511 Ms. Dwyer - Do we have any public hearings next month?
5512
5513 Mr. Silber - I didn't bring my list.
5514
5515 Mr. Archer - I can't think of any.
5516
5517 Ms. Dwyer - That seems to take so much time.
5518
5519 Mr. Silber - I think we might have that Substantial in Accord that was on
5520 today, but bumped. That's likely to be on. Gosh. I didn't bring my list.
5521
5522 Ms. Dwyer - That's probably not going to be lengthy is it, or is it?
5523
5524 Mr. Silber - No. That shouldn't be lengthy. No.
5525
5526 Mr. Zehler - Well, I have a tendency to agree with staff in this case. Our
5527 workload is just getting so far out of whack with deferrals.
5528
5529 Ms. Dwyer - Here we are at 20 minutes to one and we heard 13 cases.
5530
5531 Mr. Zehler - I know. Do we want to do that in the form of a motion, Mr.
5532 Secretary?
5533
5534 Mr. Silber - Yes sir. We need a motion.
5535
5536 Mr. Archer - I move that we keep the caseload that is required by staff that 13,
5537 John?
5538
5539 Ms. Dwyer - Twelve.
5540
5541 Mr. Merrithew - Twelve. It would be nine zoning cases and three PUPs. That's
5542 what the bylaws allows us to take as new cases, plus the deferrals that come forward, plus the
5543 four.
5544
5545 Mr. Silber - The five that would fall off this list are the ones that are
5546 underlined. Those are the last five that came in across the counter.

5547
5548 Mrs. Wade - I was going to say, which ones are we cutting off? You can take
5549 off the top two. The ones underlined you want to cut off.
5550
5551 Mr. Merrithew - That's correct. They're the last ones in the door on application
5552 day.
5553
5554 Mr. Zehler - So, Mr. chairman, I move we go along with the staff's
5555 recommendation.
5556
5557 Ms. Dwyer seconded the motion.
5558
5559 Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those in
5560 favor say aye—all those opposed by saying nay. The vote is 4-0 (Messrs. Vanarsdall and
5561 Donati absent).
5562
5563 Mr. Silber - The last item would be the minutes for the March 12, 1998
5564 meeting.
5565
5566 Mrs. Wade - I haven't read them.
5567
5568 Ms. Dwyer - I haven't either.
5569
5570 Mr. Archer - Well, I did and I had some changes, but I can wait if you'd like to.
5571
5572 Mr. Zehler - I have to call in some changes. Let's defer these.
5573
5574 Mr. Silber - Do you want to defer them for two weeks or four weeks?
5575
5576 Mr. Zehler - I can accomplish what I need to accomplish in two weeks.
5577
5578 Mr. Archer - Okay. Defer the minutes to the POD meeting.
5579
5580 Mr. Silber - April 28th.
5581
5582 Ms. Dwyer - How many POD's? Thirty-five (35) you said?
5583
5584 Mr. Silber - David O'Kelly told me he thought it was in the neighborhood to
5585 mid to upper thirties.
5586
5587 Ms. Dwyer - Do we have any limits on those?
5588
5589 Mr. Zehler - That was for April 28th.
5590
5591 Mr. Silber - That's the one I was talking about. Now, I'm confused. Maybe it
5592 was May.
5593
5594 Mr. Zehler - May is loaded, not April.
5595
5596 Mr. Silber - Maybe it is May.

5597
5598 Ms. Dwyer - Do we have a limit on POD cases?
5599 Mr. Silber - No. Nothing in the Rules and Regs. Was there a motion on the
5600 minutes?
5601
5602 Ms. Dwyer - I so move.
5603
5604 Mr. Zehler seconded the motion.
5605
5606 Mr. Archer - So moved and so seconded.

5607
5608
5609
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5617

There being no further business, on motion by Mrs. Dwyer, seconded by Mr. Zehler, the Planning Commission adjourned its meeting at 12:44 a.m. on April 10, 1998.

C. W. Archer, C.P.C., Chairman

Randall R. Silber, Acting Secretary