

1 **Minutes of the regular monthly meeting of the Planning Commission of Henrico**  
2 **County held in the County Administration Building in the Government Center at**  
3 **Parham and Hungary Spring Roads, beginning at 7:00 p.m., Thursday, August 12,**  
4 **2021. Display Notice having been published in the Richmond *Times-Dispatch* on**  
5 **July 26, 2021 and August 2, 2021.**  
6  
7

8 Members Present: Mr. William M. Mackey, Jr., Chairman (Varina)  
9 Mrs. Melissa L. Thornton, Vice Chair (Three Chopt)  
10 Mr. Robert H. Witte, Jr. (Brookland)  
11 Mr. C. W. Archer, C.P.C. (Fairfield)  
12 Mr. Gregory R. Baka (Tuckahoe)  
13 Mr. R. Joseph Emerson, Jr., AICP, Director of Planning  
14 Secretary  
15 Mrs. Patricia S. O'Bannon (Tuckahoe)  
16 Board of Supervisors' Representative  
17

18 Also Present:

19 Ms. Jean Moore, Assistant Director of Planning  
20 Mr. Ben Sehl, Senior Principal Planner  
21 Ms. Lisa Blankinship, County Planner  
22 Mr. Seth Humphreys, County Planner  
23 Mr. Livingston Lewis, County Planner  
24 Ms. Kristin Smith, County Planner  
25 Mr. Justin Briggs, Henrico County Public Schools  
26 Mr. John Cejka, Traffic Engineer, Public Works \*  
27 Mr. William Moffett, Police \*  
28 Ms. Martha Diuguid, Office Assistant  
29

30 \* (Virtually)  
31

32 **Mrs. Patricia S. O'Bannon, the Board of Supervisors' representative, abstains on**  
33 **all cases unless otherwise noted.**  
34

35 Mr. Mackey - Good evening and welcome. I call this meeting to order. This  
36 is the August the 12th meeting of the Henrico County Planning Commission. If you  
37 haven't already done so, would you please silence your cellphones. Turn them off so  
38 there won't be a disruption. And would you please stand with the Commission and join  
39 us in our Pledge of Allegiance?  
40

41 [Recitation of the Pledge of Allegiance]  
42

43 Thank you. Do we have anyone in attendance from the news media? All right. We have  
44 all our commissioners here so we have a quorum – we can conduct business. I also  
45 would like to welcome our Supervisor, Ms. Pat O'Bannon. She's sitting with us this year  
46 on the Commission in attendance. She doesn't vote or take any action, but she is  
47 welcome to interject any time she sees fit.

48  
49 At this time I will turn the meeting over to our Secretary/Planning Director, Mr. Joe  
50 Emerson.

51  
52 Mr. Emerson - Thank you, Mr. Chairman. Good evening, Commissioners.

53  
54 The Commission - Good evening.

55  
56 Mr. Emerson - Would like to join with the Chairman in welcoming everybody  
57 to the Henrico Planning Commission public hearing for August 12, 2021. Please be  
58 advised, Henrico County has implemented a mask requirement for all employees and  
59 visitors in County facilities regardless of vaccination status. If you need a mask, we do  
60 have those available in the lobby. We ask that you continue to practice all safety protocols  
61 for COVID-19 and thank you in advance for your cooperation.

62  
63 Public comments this evening will be given from the lectern located in the back of the  
64 room. For everyone who is watching the livestream on the County website, you can  
65 participate remotely in the public hearings and the directions are as follows: Go to the  
66 Planning Department's meeting webpage at [henrico.us/planning/meetings](http://henrico.us/planning/meetings). Scroll down  
67 under Planning Commission and click on Webex Event. Once you have joined the Webex  
68 Event, please click the chat button in the bottom-right corner of the screen. Staff will send  
69 a message asking if anyone would like to sign up to speak on an upcoming case. To  
70 respond, select Kristin Smith from the dropdown menu and send a message.

71  
72 The Commission does have guidelines for its public hearings. They are as follows: The  
73 applicant is allowed 10 minutes to present the request and time may be reserved for  
74 responses to testimony. The opposition is allowed a cumulative 10 minutes to present its  
75 concerns. Commission questions do not count into the time limits and the Commission  
76 may waive time limits at its discretion. And comments must be directly related to the case  
77 under consideration. Again, thank you for your participation and interest this evening.

78  
79 And now we will move on to the first item on our agenda, which are the requests for  
80 withdrawals and deferrals, which will be presented by Mr. Ben Sehl.

81  
82 Mr. Sehl - Thank you, Mr. Emerson. Staff was aware of six deferral  
83 requests this evening. The first two are on page 2 of your agenda in the Brookland  
84 District. The first is REZ2021-00042 Gumenick Properties.

85  
86 **REZ2021-00042 Gumenick Properties:** Request to conditionally rezone from R-3  
87 One-Family Residence District to UMUC Urban Mixed Use District (Conditional) Parcels  
88 772-740-7798, 772-741-6201, -6408, -6715, -7023, -7440, -7848, -7905, -8137, -8211, -  
89 8357, -8419, -8836, -8968, -9348, -9573, -9839, 773-741-0179, -0354, -0565, -0945, -  
90 1360, -1654, and -2048 containing 8.047 acres located on the north and south lines of  
91 Argus Lane at its intersection with Spencer Road. The applicant proposes inclusion in the  
92 adjacent UMUC development (Libbie Mill). The uses will be controlled by zoning  
93 ordinance regulations and proffered conditions. The 2026 Comprehensive Plan

94 recommends Suburban Residential 2, density should not exceed 3.4 units per acre. The  
95 applicant also proposes to amend proffers accepted with Rezoning cases REZ2015-  
96 00018 and REZ2018-00044 on Parcels 771-740-8005, -9118, 772-740-0431, -1137, -  
97 1743, -2229, -2836, 773-739-3547, -3784, -9074, 773-740-4815, -5180, -9572, 774-739-  
98 2373, 774-740-0192, -0448, -0863, -3781, -4456, -4637, -4716, -4802, -5174 and Part of  
99 Parcel 774-740-0801 located on the east line of Libbie Avenue approximately 310' north  
100 of W. Broad Street (U. S. Route 250) at its intersection with N. Crestwood Avenue, then  
101 between the east line of Spencer Road and west line of Staples Mill Road (U.S. Route  
102 33) along the south line of Bethlehem Road. The applicant proposes to amend proffers  
103 related to the pattern book; overall density; building height; architecture of apartments,  
104 condominiums, and townhomes; restaurant ventilation; road improvements; on-street  
105 parking; and, Spencer Road restrictions. The existing zoning is UMUC Urban Mixed-Use  
106 District (Conditional). The 2026 Comprehensive Plan recommends Commercial  
107 Concentration, Light Industrial, Urban Mixed Use and Environmental Protection Area. A  
108 portion of the site along Libbie Avenue north of W. Broad Street (U.S. Route 250) and  
109 along Staples Mill Road (U.S. Route 33) is in the Enterprise Zone.

110  
111 Mr. Sehl - This is a request to rezone from R-3 One-Family Residence  
112 District to UMUC for an addition to the Libbie Mill mixed-use development. And the  
113 applicant is requesting a deferral to the September 9, 2021 meeting.

114  
115 Mr. Mackey - All right. Is there anyone in attendance or via Webex that's in  
116 opposition of the deferral of REZ2021-00042 Gumenick Properties?

117  
118 Mr. Humphreys - There is no one in opposition on Webex at this time.

119  
120 Mr. Mackey - All right. Thank you. No one in attendance.

121  
122 Mr. Witte - Mr. Chairman, I move that REZ2021-00042 Gumenick  
123 Properties be deferred to the September 9, 2021 meeting at the request of the applicant.

124  
125 Mr. Baka - Second.

126  
127 Mr. Mackey - All right. Thank you. We have a recommendation of deferral  
128 by Mr. Witte, a second by Mr. Baka, for REZ2021-00042 Gumenick Properties. All in  
129 favor say aye.

130  
131 The Commission - Aye.

132  
133 Mr. Mackey - Any opposed? All right. Motion is granted.

134  
135 Mr. Sehl - The next is the companion case, PUP2021-00015 also  
136 Gumenick Properties.

137  
138 **PUP2021-00015 Gumenick Properties:** Request for a Provisional Use Permit  
139 under Sections 24-32.1(a, i, n, s, w, z, aa), and 24-122.1 of Chapter 24 of the County

140 Code to incorporate additional property and amend conditions of PUP2018-00016 for the  
141 mixed-use development on Parcels 771-740-8005, -9118, 772-740-0431, -1137, -1743, -  
142 2229, -2836, -7798, 772-741-6201, -6408, -6715, -7023, -7440, -7848, -7905, -8137, -  
143 8211, -8357, -8419, -8836, -8968, -9348, -9573, -9839, 773-739-3547, -3784, -9074, 773-  
144 740-4815, -5180, -9572, 773-741-0179, -0354, -0565, -0945, -1360, -1654, -2048, 774-  
145 739-2373, 774-740-0192, -0448, -0863, -3781, -4456, -4637, -4716, -4802, -5174, and  
146 Part of Parcel 774-740-0801 located on the east line of Libbie Avenue approximately 310'  
147 north of W. Broad Street (U. S. Route 250) at its intersection with N. Crestwood Avenue  
148 and between the east line of Libbie Avenue and west line of Staples Mill Road (U. S.  
149 Route 33) south of Bethlehem Road. The applicant proposes changes in development  
150 standards related to multifamily residential percentage for the mixed-use development.  
151 The existing zoning is R-3 One-Family Residence District and UMUC Urban Mixed-Use  
152 District (Conditional). UMUC zoning is proposed for the R-3 portion of the development  
153 with REZ2021-00042. The 2026 Comprehensive Plan recommends Commercial  
154 Concentration, Light Industrial, Urban Mixed Use, Environmental Protection Area, and  
155 Suburban Residential 2, density should not exceed 3.4 units per acre. A portion of the  
156 site along Libbie Avenue north of W. Broad Street (U.S. Route 250) and along Staples  
157 Mill Road (U.S. Route 33) is in the Enterprise Zone.

158  
159 Mr. Sehl - And this is a request for a provisional use permit to incorporate  
160 additional property into the Libbie Mill Mixed Use Community. And, again, the applicant  
161 is requesting a deferral to the September 9, 2021 meeting.

162  
163 Mr. Mackey - Thank you. Is there anyone in attendance or via Webex that's  
164 in opposition to the deferral of the PUP2021-00015 Gumenick Properties to the  
165 September 9th meeting?

166  
167 Mr. Humphreys - There is no one on Webex in opposition.

168  
169 Mr. Mackey - All right. And no one in attendance.

170  
171 Mr. Witte - All right, Mr. Chairman, I move that PUP2021-00015 be  
172 deferred to the September 9, 2021 meeting at the request of the applicant.

173  
174 Mr. Archer - Second.

175  
176 Mr. Mackey - All right. We have a motion by Mr. Witte, a second by Mr.  
177 Archer, for PUP2021-00015 Gumenick Properties to be deferred to the September 9,  
178 2021 meeting. All in favor say aye.

179  
180 The Commission - Aye.

181  
182 Mr. Mackey - Any opposed? Motion is carried.

183  
184 Mr. Sehl - Moving on page 4 of your Agenda are four companion

185 requests that are requesting a deferral. The first is REZ2021-00028 Lingerfelt Office  
186 Properties, LLC.

187  
188 **REZ2021-00028 Lingerfelt Office Properties, LLC:** Request to conditionally rezone  
189 from O-3C Office District (Conditional) and M-1C Light Industrial District (Conditional) to  
190 UMUC Urban Mixed-Use District (Conditional) Parcels 752-767-4970 and 752-768-2795  
191 containing 12.217 acres located on the east line of Cox Road at its intersection with North  
192 Park Drive and the west line of Cox Road approximately 990' north of its intersection with  
193 North Park Drive. The applicant proposes an urban mixed-use development. The uses  
194 will be controlled by zoning ordinance regulations and proffered conditions. The 2026  
195 Comprehensive Plan recommends Urban Mixed-Use and Environmental Protection Area.  
196 The site is in the Innsbrook Redevelopment Overlay District.

197  
198 This is a request to conditionally rezone from O-3C and M-1C to UMUC. The applicant  
199 is requesting a deferral to the September 9, 2021 meeting.

200  
201 Mr. Mackey- All right. Thank you. Anyone in attendance or via Webex  
202 that's in opposition of the deferral to the September the 9th meeting for REZ2021-00028,  
203 Lingerfelt Office Properties, LLC?

204  
205 Mr. Humphreys - There is no one on Webex in opposition.

206  
207 Mr. Mackey - And no one in attendance.

208  
209 Mrs. Thornton - Okay, Mr. Chairman, I move that REZ2021-00028}Lingerfelt  
210 Office Properties, LLC be deferred to the September 9, 2021 meeting at the request of  
211 the applicant.

212  
213 Mr. Baka - Second.

214  
215 Mr. Mackey - All right. We have a motion by Ms. Thornton, a second by Mr.  
216 Baka, for the deferral to the September the 9th meeting. All in favor say aye.

217  
218 The Commission - Aye.

219  
220 Mr. Mackey - Any opposed? The motion is carried.

221  
222 Mr. Sehl - Moving on to the companion request, which is PUP2021-  
223 00011, also Lingerfelt Office Properties.

224  
225 **PUP2021-00011 Lingerfelt Office Properties, LLC:** Request for a Provisional Use  
226 Permit under Sections 24-32.1 (s, t, v, w, z, aa), 24-120 and 24-122.1 of Chapter 24 of  
227 the County Code to allow the following: buildings and structures exceeding 60' in height;  
228 residential density exceeding 30 units per acre; open space of less than 20 percent;  
229 commercial or office square footage of less than 25 percent of the total building square  
230 footage of the UMU district; number of for-lease multifamily dwelling units exceeding 30

231 percent of the total units of the UMU district; and a parking plan on Parcels 752-767-4970  
232 and 752-768-2795 located on the east line of Cox Road at its intersection with North Park  
233 Drive and the west line of Cox Road approximately 990' north of its intersection with North  
234 Park Drive. The existing zoning is O-3C Office District (Conditional) and M-1C Light  
235 Industrial District (Conditional). UMUC zoning is proposed with REZ2021-00028. The  
236 2026 Comprehensive Plan recommends Urban Mixed-Use and Environmental Protection  
237 Area. The site is in the Innsbrook Redevelopment Overlay District.

238  
239 Mr. Sehl - And this is a request for various provisional uses to allow for  
240 the mixed-use community on the referenced properties. And, again, the applicant is  
241 requesting a deferral to the September 9th meeting.

242  
243 Mr. Mackey - Which one was that? Was that the 11?

244  
245 Mrs. Thornton - Mm-hmm.

246  
247 Mr. Mackey - Okay. Thank you. Anyone in opposition -- anyone in  
248 attendance or via Webex in opposition to the deferral of PUP2021-00011 Lingerfelt Office  
249 Properties, LLC?

250  
251 Mr. Humphreys - There is no one in Webex on opposition.

252  
253 Mr. Mackey - All right. And no one in attendance.

254  
255 Mrs. Thornton - Mr. Chairman, I move that PUP2021-00011 Lingerfelt Office  
256 Properties, LLC be deferred to the September 9, 2021 meeting at the request of the  
257 applicant.

258  
259 Mr. Mackey - Second. All right. We have a motion by Mrs. Thornton, a  
260 second by Mr. Mackey, for the deferral of PUP2021-00011 Lingerfelt Office Properties,  
261 LLC to be deferred to the September 9th meeting. All in favor say aye.

262  
263 The Commission - Aye.

264  
265 Mr. Mackey - Any opposed? The motion is granted.

266  
267 Mr. Sehl - Again on page 4 of your agenda is REZ2021-00029, also  
268 Lingerfelt Office Properties.

269  
270 **REZ2021-00029 Lingerfelt Office Properties, LLC:** Request to conditionally rezone  
271 from O-3C Office District (Conditional) and B-2C Business District (Conditional) to UMUC  
272 Urban Mixed Use District (Conditional) Parcels 748-761-5174, 749-761-0971, and 750-  
273 765-5718 containing 16.486 acres located at the southwest and southeast intersection of  
274 Cox Road and Innslake Drive and on the west line of Cox Road at its intersection with  
275 Village Run Drive. The applicant proposes an urban mixed-use development. The uses  
276 will be controlled by zoning ordinance regulations and proffered conditions. The 2026

277 Comprehensive Plan recommends Urban Mixed-Use and Environmental Protection Area.  
278 The site is in the Innsbrook Redevelopment Overlay District.

279  
280 Mr. Sehl - And this is a request to rezone from O-3C and B-2C to UMUC  
281 to allow for a mixed-use community on three different parcels. And, again, the applicant  
282 is requesting a deferral to the September 9, 2021 meeting.

283  
284 Mr. Mackey - Thank you, sir, Mr. Sehl. Anyone in attendance in opposition  
285 or anyone via Webex in opposition?

286  
287 Mr. Humphreys - There is no one on Webex in opposition.

288  
289 Mr. Mackey - And no one in attendance.

290  
291 Mrs. Thornton - Okay. Mr. Chairman, I move that REZ2021-00029 Lingerfelt  
292 Office Properties, LLC be deferred to the September 9, 2021 meeting at the request of  
293 the applicant.

294  
295 Mr. Witte - Second.

296  
297 Mr. Mackey - All right. We have a motion by Ms. Thornton, a second by Mr.  
298 Witte, for the deferral to the September the 9th meeting of REZ2021-00029 Lingerfelt  
299 Office Properties, LLC. All in favor say aye.

300  
301 The Commission - Aye.

302  
303 Mr. Mackey - Any opposed? Motion is carried.

304  
305 Mr. Sehl - And, finally, staff is aware of one final request for deferral, and  
306 that is PUP2021-00012, the companion request to the recent rezoning. That is also  
307 Lingerfelt Office Properties.

308  
309 **PUP2021-00012 Lingerfelt Office Properties, LLC:** Request for a Provisional Use  
310 Permit under Sections 24-32.1 (s, t, v, w, z, aa), 24-120 and 24-122.1 of Chapter 24 of  
311 the County Code to allow the following: buildings and structures exceeding 60' in height;  
312 residential density exceeding 30 units per acre; open space of less than 20 percent;  
313 commercial or office square footage of less than 25 percent of the total building square  
314 footage of the UMU district; number of for-lease multifamily dwelling units exceeding 30  
315 percent of the total units of the UMU district; and a parking plan on Parcels 748-761-5174,  
316 749-761-0971, and 750-765-5718 located at the southwest and southeast intersection of  
317 Cox Road and Innslake Drive and on the west line of Cox Road at its intersection with  
318 Village Run Drive. The existing zoning is O-3C Office District (Conditional) and B-2C  
319 Business District (Conditional). UMUC zoning is proposed with REZ2021-00029. The  
320 2026 Comprehensive Plan recommends Urban Mixed-Use and Environmental Protection  
321 Area. The site is in the Innsbrook Redevelopment Overlay District.

322

323 Mr. Sehl - And the applicant is again requesting a deferral to the  
324 September 9, 2021 meeting.

325  
326 Mr. Mackey - Anyone in attendance or via Webex in opposition of  
327 PUP2021-00012 Lingerfelt Office Properties, LLC?

328  
329 Mr. Humphreys - There is no one on Webex in opposition.

330  
331 Mr. Mackey - And no one in attendance.

332  
333 Mrs. Thornton - Okay, Mr. Chairman, I move that PUP2021-00012 Lingerfelt  
334 Office Properties, LLC be deferred to the September 9, 2021 meeting at the request of  
335 the applicant.

336  
337 Mr. Baka - Second.

338  
339 Mr. Mackey - We have a motion by Ms. Thornton, a second by Mr. Baka for  
340 deferral of PUP2021-00012, Lingerfelt Office Properties, LLC be deferred by the applicant  
341 to the September 9, 2021 meeting. All in favor say aye.

342  
343 The Commission - Aye.

344  
345 Mr. Mackey - Any opposed? The motion is carried.

346  
347 Mr. Emerson - Mr. Chairman, that completes the withdrawals and deferrals  
348 for this evening. We now move on to the request for expedited items. Those will also be  
349 presented by Mr. Sehl.

350  
351 Mr. Sehl - Thank you again, Mr. Emerson. Staff is -- there are three  
352 items on your expedited agenda this evening. The first is on page 1 of your agenda in  
353 the Tuckahoe District. This is REZ2021-00040. This is Starbucks Corporation.

354  
355 **REZ2021-00040 Starbucks Corporation:** Request to conditionally rezone from B-1  
356 Business District to B-2C Business District (Conditional) Parcel 762-731-2489 containing  
357 .434 acres located on the south line of River Road at its intersection with Huguenot Road  
358 (State Route 147). The applicant proposes a restaurant with drive-through. The use will  
359 be controlled by zoning ordinance regulations and proffered conditions. The 2026  
360 Comprehensive Plan recommends Commercial Concentration.

361  
362 Mr. Sehl - And it's a request to conditionally rezone from B-1 Business  
363 District to B-2C Business District (Conditional) where a restaurant with a drive through is  
364 proposed.

365  
366 I would note updated proffers were handed out to you this evening. Staff is unaware of  
367 any opposition to this request and is recommending approval.

368



369 Mr. Mackey - All right. Thank you, sir. Is there anyone in -- excuse me. Is  
370 there anyone in attendance or via Webex in opposition of REZ2021-00040 Starbucks  
371 Corporation to be a -- to be approved on the expedited agenda?  
372

373 Mr. Humphreys - There is no one on Webex in opposition.  
374

375 Mr. Mackey - Okay. We do have someone in the audience, so we will move  
376 that to the regular agenda.  
377

378 Mr. Emerson - Yes, sir. We'll move that to the regular agenda and take it in  
379 the order in which is occurs.  
380

381 Mr. Mackey - Okay. All right. We're good. Okay.  
382

383 Mr. Sehl - The second item on the expedited agenda is also on page 1  
384 of your agenda in the Brookland District. This is PUP2021-00014 William (Henry)  
385 Brummitt.  
386

387 **PUP2021-00014 William (Henry) Brummitt:** Request for a Provisional Use Permit  
388 under Sections 24-55(i), 24-120 and 24-122.1 of Chapter 24 of the County Code to allow  
389 outdoor dining for an existing restaurant on part of Parcel 764-764-9325 located on the  
390 west line of Staples Mill Road (U.S. Route 33) approximately 550' north of its intersection  
391 with Old Courtney Road. The existing zoning is B-1 Business District. The 2026  
392 Comprehensive Plan recommends Commercial Concentration.  
393

394 Mr. Sehl - This is a request for a provisional use permit to allow outside  
395 dining for an existing restaurant at the Crossridge Shopping Center. Staff is unaware of  
396 any opposition. The applicant is in agreement with the conditions of your staff report and  
397 staff is recommending approval at this time.  
398

399 Mr. Mackey - All right. Thank you. Is there anyone in attendance or via  
400 Webex that's in opposition of the expedited approval of PUP2021-00014 William (Henry)  
401 Brummitt on the expedited agenda?  
402

403 Mr. Humphreys - There is no one on Webex in opposition.  
404

405 Mr. Mackey - There is no one in attendance.  
406

407 Mr. Witte - Mr. Chairman, I move that case PUP2021-00014 William  
408 (Henry) Brummitt, move to the Board of Supervisors with a recommendation of approval.  
409

410 Mr. Archer - Second.  
411

412 Mr. Mackey - All right. We have a motion by Mr. Witte for approval on the  
413 expedited agenda, a second by Mr. Archer, for PUP2021-00014 William (Henry)  
414 Brummitt. All in favor say aye.

415  
416 The Commission - Aye.  
417  
418 Mr. Mackey - Any opposed? The motion is granted.  
419  
420 **REASON:** Acting on a motion by Mr. Witte, seconded by Mr. Archer, the  
421 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors  
422 **grant** the request because it is reasonable in light of the surrounding uses and existing  
423 zoning on the property and the conditions should minimize the potential impacts on  
424 surrounding land uses.  
425  
426 Mr. Sehl - The final request for expedited approval is in the Fairfield  
427 District on page 3 of your agenda. This is REZ2021-00035. This is Hillwood Enterprises.  
428  
429 **REZ2021-00035 Hillwood Enterprises, L.P.:** Request to rezone from M-2C General  
430 Industrial District (Conditional) and C-1 Conservation District to C-1 Conservation District  
431 part of Parcels 795-749-4431 and 796-747-9944 containing 233 acres located  
432 approximately 100' north of the intersection of the Richmond Henrico Turnpike (State  
433 Route 627) and the north line of the C&O Railroad. The applicant proposes a conservation  
434 area. The use will be controlled by zoning ordinance regulations. The 2026  
435 Comprehensive Plan recommends Environmental Protection Area, Office/Service, and  
436 Light Industry. The site is in the Airport Safety Overlay District.  
437  
438 The applicant is proposing to rezone from M-2C and C-1 Conservation District to C-1  
439 Conservation District where a conservation area is proposed in a floodplain. Staff is  
440 unaware of any opposition to this request and is recommending approval.  
441  
442 Mr. Mackey - All right. Thank you, sir. Is there anyone in attendance or via  
443 Webex that's in opposition of the expedited approval of REZ2021-00035 Hillwood  
444 Enterprise L.P.?  
445  
446 Mr. Humphreys - There is no one on Webex in opposition.  
447  
448 Mr. Mackey - There's no one in attendance.  
449  
450 Mr. Archer - No opposition?  
451  
452 Mr. Mackey - No, sir.  
453  
454 Mr. Archer - Mr. Chairman, therefore I move that we recommend approval  
455 of REZ2021-00035 Hillwood Enterprises L.P. on the expedited agenda.  
456  
457 Mr. Mackey - Second. All right. We have a motion for approval on the  
458 expedited agenda by Mr. Archer, a second by Mr. Mackey for REZ2021-00035 Hillwood  
459 Enterprise L.P. All in favor of approval say aye.  
460

461 The Commission - Aye.

462

463 Mr. Mackey - Any opposed? Motion is granted.

464

465 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Mackey,  
466 the Planning Commission voted 5-0 (one abstention) to recommend the Board of  
467 Supervisors **grant** the request because it continues a form of zoning consistent with the  
468 area and would fulfill the proffers accepted with a previous case.

469

470 Mr. Emerson - Mr. Chairman, that concludes your expedited items for this  
471 evening. We now move into your regular agenda. We remind everybody of the guidelines  
472 I went over earlier regarding the Commission's public hearings. We will begin with the  
473 first case on the first page of your agenda, REZ2021-00040 Andrew M. Condlin for  
474 Starbucks Corporation.

475

476 **REZ2021-00040 Starbucks Corporation:** Request to conditionally rezone from B-1  
477 Business District to B-2C Business District (Conditional) Parcel 762-731-2489 containing  
478 .434 acres located on the south line of River Road at its intersection with Huguenot Road  
479 (State Route 147). The applicant proposes a restaurant with drive-through. The use will  
480 be controlled by zoning ordinance regulations and proffered conditions. The 2026  
481 Comprehensive Plan recommends Commercial Concentration.

482

483 The staff report will be presented by Ms. Lisa Blankinship.

484

485 Mr. Mackey - Thank you, sir. We've already made note of one person in  
486 opposition. Is there anyone else in attendance or via Webex that's in opposition of  
487 REZ2021-00040 Starbucks Corporation?

488

489 Mr. Humphreys - There is no one on Webex in opposition.

490

491 Mr. Mackey - All right. Thank you, sir.

492

493 Ms. Blankinship - Thank you, Mr. Chair, members of the Commission. This is a  
494 request to rezone .434 acres from B-1 Business District to B-2C Business District  
495 Conditional to allow for a specialty café with drive-through service, Starbucks. The site  
496 is an outparcel on the River Road Shopping Center located on the south line of River  
497 Road at the intersection of Huguenot Road.

498

499 The applicant proposes to renovate the former BB&T building and has indicated the  
500 existing footprint would not change.

501

502 In addition, no major changes are proposed to the exterior of the approximately 1,800-  
503 square-foot colonial-style brick building. Restaurants with the drive-through are first  
504 permitted in the B-2 District, which is the reason for this request.

505

506 The applicant has submitted revised proffers and concept plans, seen here, that have  
507 been handed out to you this evening. Staff had concerns with the placement of the  
508 dumpster at the River Road access, which is here. To address staff's concerns, the  
509 dumpster enclosure will be turned further inwards and evergreen-type trees a minimum  
510 of 8 feet in height will be planted around the sides and the back of the enclosure to provide  
511 additional screening.

512  
513 To address other concerns raised in the staff report, the applicant has proffered to screen  
514 any heating, ventilation, and air conditioning units with architectural features compatible  
515 with the building façade.

516  
517 In addition, to minimize noise impacts, any outdoor speakers would not be audible beyond  
518 the right-of-way lines of Huguenot and River Roads. A community meeting was held on  
519 August 4th. No citizens attended.

520  
521 The 2026 Comprehensive Plan recommends commercial concentration for the subject  
522 site. The proposed request would be consistent with this land use designation and  
523 surrounding commercial uses.

524  
525 In addition, the revised proffers and concept plan address staff's concerns, as noted in  
526 the staff report. For these reasons, staff supports this request. This concludes my  
527 presentation. I'll be happy to answer any questions.

528  
529 Mr. Mackey - Thank you, Mrs. Blankinship, does anyone on the  
530 Commission have any questions for Ms. Blankinship?

531  
532 Mr. Baka - I have one brief question. This use is proposed to reuse the  
533 property from a former bank building to a drive-through Starbucks?

534  
535 Ms. Blankinship - Yes.

536  
537 Mr. Baka - Can you explain the proffer process a little bit? If I were -- if I  
538 were a resident in the area, I might be concerned that perhaps this drive-through  
539 Starbucks might then be converted to a drive-through fast food restaurant one day in the  
540 future. So can you explain how the proffer would work if a fast food restaurant tries to  
541 inquire about converting that space?

542  
543 Mrs. Blankinship - Right. The proffer submitted by the applicant has prohibited  
544 uses, use restrictions, and if you can -- if you take a look at number three of your proffers,  
545 all uses are permitted in the B-1 Business District. Fast food drive-throughs are not  
546 allowed in the B-1 District. And then it goes on to specify about all restaurants permitted  
547 in the B-2 District, including drive-through services, would be provided; however, no  
548 restaurant shall be used for fast food and or carry out. But not to exclude fast casual  
549 restaurants, such as Panera and Starbucks. Restaurants with dedicated parking for the  
550 pick-up or carry food or the non-restaurants whose primary business is the sale of

551 specialty coffees or other nonalcoholic beverages or pastries. So the proffer does prohibit  
552 a fast food --

553  
554 Mr. Baka - Okay.

555  
556 Ms. Blankinship - -- strictly fast food with drive-through.

557  
558 Mr. Baka - Thank you for pointing that out.

559  
560 Ms. Blankinship - Yes, sir.

561  
562 Mr. Baka - I appreciate it. No other questions.

563  
564 Mr. Mackey - All right. Anybody else have any other questions? No. How  
565 would you like to proceed, Mr. Baka?

566  
567 Mr. Baka - I'd like to hear from the concerns or questions of the  
568 gentleman in the audience.

569  
570 Mr. Mackey - All right. Would you go to the lectern in the back, sir?

571  
572 Mr. Lacey - Sure.

573  
574 Mr. Mackey - And, for the record, would you state your name and address,  
575 please?

576  
577 Mr. Lacey - Edward Lacey, 6303 Westham Station Road.

578  
579 Mr. Mackey - Thank you, Mr. Lacey.

580  
581 Mr. Lacey - With regard to proffering for fast food, number one, Starbucks  
582 is fast food. That's what they prepare. They send it out the door. They zap it in the oven  
583 and you go on out the door or the drive through.

584  
585 The biggest concern is your traffic impact. I haven't heard anything about that. But in --  
586 I'm very familiar with it. There's a big difference between the low density of a bank and a  
587 drive through Starbucks in terms of traffic impacts. Ingress, egress. I don't think that's  
588 even been remotely considered. Because you're talking about probably or likely -- they  
589 haven't specified -- several hundred cars going in and coming out in that little triangle,  
590 which is going to create a huge traffic problem.

591  
592 The difference is, it is a drive through, which creates tremendous traffic, as opposed to a  
593 Starbucks that you go in, you park a car, and sit down and go. You've got that as well in  
594 here. But if you don't consider Starbucks fast food, I don't know what's going on here.  
595 Because it's huge the amount of food that they pop out of that.

596

597 But, at any rate, the biggest issue that I have is with the trash, the traffic. I have some  
598 experience across the street with the trash. So. You can shield it and do all you want,  
599 but it's going to be there. So, has anyone ever considered the traffic issue in this project?  
600

601 Mr. Baka - We'll have the applicant address some of your questions in a  
602 little bit. Please go ahead and proceed with your remarks or conclude with your remarks.  
603

604 Mr. Lacey - Well, I would say I've fairly well covered it. I just hope you're  
605 -- someone can respond to me and give me answers on this.  
606

607 Mr. Mackey - Oh. Yes, sir, they will.  
608

609 Mr. Lacey - Okay. Thanks.  
610

611 Mr. Emerson - Mr. Baka, we do have the County traffic engineer via Webex  
612 online along with Mr. Condlin is here to represent the applicant. And I would assure Mr.  
613 Lacey that we have taken a hard look at traffic.  
614

615 Mr. Lacey - Okay.  
616

617 Mr. Emerson - As Mr. Condlin, I guess, comes forward.  
618

619 Mr. Mackey - I have one -- quickly before that, Mr. Condlin, did anyone have  
620 any questions or comments for Mr. Lacey? Anyone on the Commission? Okay, thank  
621 you. All right.  
622

623 Mr. Baka - Understood.  
624

625 Mr. Condlin - Good evening, members of the Commission. My name is  
626 Andy Condlin here on behalf of Starbucks. And we have had a number of discussions  
627 with the County with respect to the traffic, and particularly with the drive through. And I  
628 do want to point out that while this bank -- a former bank building is an empty building  
629 and did have an existing drive through, we're actually repurposing the building almost  
630 exactly the same with a few kinds of quirks otherwise, to remove one of the doors and  
631 just put a window in, for example. And also slight adjustments with the drive through.  
632

633 One of the things that Starbucks does pride itself is being able to manage the drive  
634 through systems as it goes through. Including as necessary now, with tablets, able to  
635 have someone come out if there is a substantial amount of traffic at any given time. And  
636 their experience currently, what they have, is over 250 linear feet for the drive through  
637 itself, which'll be able to handle 13 cars. Some of those will actually be able to be double  
638 stacked, depending on when they come in. And then the concern that was raised by the  
639 County, which I think was a rightful concern, was a question of when you proceed beyond  
640 the drive through the distance necessary for -- to Huguenot, for example, would have over  
641 21 cars being able to fit in for another 150 linear feet beyond the drive through before it  
642 would actually get to Huguenot Road. And then it would be for 28 cars to River Road.

643 So -- with 300 linear feet from a standpoint from the -- to the drive through itself from River  
644 Road.

645  
646 So, I think Starbucks believes, we're able to handle the traffic. Particularly with the – with  
647 the drive through and having the distances that we do and being able to from their  
648 operational standpoint. Obviously, Starbucks does get busy at particular times, and they  
649 feel like they'd be able to handle that based on their operations. It isn't – not just a  
650 destination, but people driving by will stop in and will bring life to the shopping center.  
651 This is not the first time that has happened with respect to taking in B-2 Conditional in the  
652 shopping center. As a matter of fact, the restaurant itself, Azzurros, in 1995, I believe,  
653 was allowed to go to B-2C for the outdoor dining.

654  
655 And so in order to be able to accommodate – I know in my experience with the staff with  
656 respect to the fast food – that it is enforced and able to be enforced as specifically allowing  
657 for coffee shops, which is different than a fast-food restaurant. In this case Starbucks.  
658 And based on the interpretation that we provided for, while Starbucks is coffee and it does  
659 serve food, it is not deemed to be a fast-food restaurant, we feel like the operations fit  
660 within the code and how they interpret it.

661  
662 So with that I would ask that you recommend approval and I'd be happy to answer any  
663 questions that you have.

664  
665 Mr. Mackey - Thank you, Mr. Condlin. Does anyone on the Commission  
666 have any questions or comments for Mr. Condlin?

667  
668 Mr. Baka - I do.

669  
670 Mr. Mackey - Okay.

671  
672 Mr. Baka - I just want to go through – I heard Mr. Lacey's questions  
673 regarding the type of fast food, trash, traffic, and the trips generation. So before we talk  
674 about traffic, I just wanted to ask Mr. Condlin. You did clarify for us, and thank you, the  
675 statement regarding fast food. So, again, while this establishment serves coffee and also  
676 happens to have food, it's not primarily a fast-food restaurant.

677  
678 So that, just to respond to Mr. Lacey's comment, I'm understanding that the proffer does  
679 make a distinction between coffee restaurants that also happen to serve food and a true  
680 fast-food restaurant. So there's a clear distinction there that affords the County, and I'm  
681 going to say affords the County Planning Director and the County Attorney, the  
682 opportunity to very fairly and equitably distinguish between the two. So I'm satisfied that  
683 that comment is addressed.

684  
685 I do want to talk about trip generation. Because a lot of people want their coffee first thing  
686 in the morning. And I don't know exactly what time the retail shops open there. Maybe  
687 you know, Mr. Condlin, but is it fair to say, you know, a lot of the business generated from

688 traffic -- from a coffee shop like a Starbucks is there and, you know, 6:00 to 9:00 a.m. in  
689 the morning or 6:00 to 10:00 a.m. in the morning prior to those retail stores opening?

690  
691 Mr. Condlin - That's their primary -- that's their heavier traffic, there's no  
692 doubt about it. And, certainly, looking at the existing businesses within the shopping  
693 center, but that's -- they're usually opening up a lot later and a given the clothing stores  
694 and the type of restaurants that they have currently. There's also some proffered  
695 conditions that limit those hours, as well. Right at those locations.

696  
697 Mr. Baka - Okay. And I do know there's a fitness center in the -- in the  
698 shopping center that may open early, early morning/dawn --

699  
700 Mr. Condlin - Right.

701  
702 Mr. Baka - But for the most part I think it's an important observation to  
703 point out that a coffee business such as this would complement the hours in the shopping  
704 center. When most of that retail is not open -- a lot of the traffic that we spoke of would  
705 come during those hours.

706  
707 Now that's just the traffic within the center. Let's talk about trip generation. Because I  
708 think what the gentleman's comments were more about is, you know, what's the net affect  
709 outside of the property over on River Road or Huguenot, for example. So how would you  
710 characterize, Mr. Condlin, the difference between the stopover traffic, like people who just  
711 happen to be on the road already right now and go in and get coffee, versus a destination?  
712 How does this Starbucks see that?

713  
714 Mr. Condlin - Well, Starbucks captures -- I don't have the exact number but  
715 I know it's close to 75 percent is drive-by traffic. That is people that are already driving  
716 by going to a destination will stop in and they're already on the road versus those that will  
717 have, you know, specifically going to Starbucks.

718  
719 Starbucks is -- one of the benefits a Starbucks tries to present, and what they'll do here,  
720 as well -- is be able to have folks that come and can go there and sit down. We have an  
721 outdoor seating area, as well. And then of course the indoor area is about 1,800 square  
722 feet. We'll have an area inside to sit down. People do go there and use it to -- for their  
723 office purposes or for business purposes, a meeting. So that's somewhere around the  
724 75 percent range in general. I don't know what they expect specifically on this, but that's  
725 generally what their numbers are.

726  
727 Mr. Baka - Okay. And then the question about the trash. And this may  
728 be for Mr. Emerson. What can we do or what can citizens do if they see that dumpsters  
729 aren't regularly being taken care of and emptied?

730  
731 Mr. Emerson - Well their first action would be to contact my department. We  
732 would turn it over probably to Community Maintenance, have them take a look at it. If it's  
733 a broader issue that the roads need to be cleaned up, we'd work with Public Works and



734 VDOT, but we also would contact the operator and have a discussion with them about  
735 how they needed to contain some of their trash that's being generated from their business.  
736  
737 Mr. Baka - Okay.  
738  
739 Mr. Emerson - So we have -- we have ways of dealing with that.  
740  
741 Mr. Baka - All right. I don't have any further questions for Mr. Condlin,  
742 but I do have questions about traffic for the County's traffic engineer. Does anyone else  
743 have questions?  
744  
745 Mr. Mackey - Any other questions?  
746  
747 Mr. Lacey - (indiscernible)  
748  
749 Mr. Mackey - Can you go back to the lectern?  
750  
751 Mrs. Thornton - Sorry. Can't hear.  
752  
753 Mr. Lacey - The traffic backs up past both shopping centers in the morning  
754 and in the afternoon. So your ingress and egress is made even more difficult. And also  
755 your relative to fast food or whatever, the menu at Starbucks has more items on it than a  
756 McDonalds. That's not the point. That's not the issue. The biggest issue to me is the  
757 traffic ingress and egress at what he says are the prime times. But across the street it  
758 goes until 10:00 or 11:00. So it's an issue trying to get back in, get out -- I don't care what  
759 you do in the morning or in the afternoon, it is backed up there and it's a huge problem.  
760  
761 Mr. Baka - Understood. Okay. Let's ask the traffic engineer who's  
762 available by Webex if he might be able to address some of the concerns.  
763  
764 Mr. Emerson - Yes, sir. Mr. Humphreys, do you have Mr. Cejka online?  
765  
766 Mr. Humphreys - Mr. Cejka is now unmuted.  
767  
768 Mr. Cejka - Good evening, Mr. Chairman.  
769  
770 Mr. Mackey - Good evening.  
771  
772 Mr. Cejka - Members of the Commission, Mrs. O'Bannon. To address  
773 your concern about traffic, Mr. Condlin was correct. Most of the traffic that attends the  
774 Starbucks is a pass-by trip. Which means they're already on Huguenot or River Road  
775 and they're passing by and they decide to stop on their way to work or home or wherever  
776 they're going.  
777

778 In the a.m. peak this type of development has less than 200 vehicles in the peak hour.  
779 And so that's 100 going in -- or 200 total trips, so for 100 going in, 100 going out, in the  
780 peak hour in the morning.

781  
782 I think with the way it's set up that they exceed the 250-foot queue length that we require,  
783 so that's good. And there is space in the parking lot to queue up also, as Mr. Condlin  
784 stated.

785  
786 Mr. Baka - So question, Mr. Cejka, if I may. The gentleman, Mr. Lacey,  
787 mentioned that the traffic is queued up or backed up if you're heading east on River Road  
788 in the morning and the cars are stopped. Am I correct to say that if the cars are stopped  
789 and stationary waiting for a red light that that would actually be a safe turning movement  
790 for cars to exit River Road and enter the site or to leave -- or to leave the Starbucks and  
791 get back on River? Because cars are stationary at a red -- waiting for a red light, isn't that  
792 actually a safer turn than not?

793  
794 Mr. Cejka - You are correct. It is safer. Yes.

795  
796 Mr. Baka - Okay. In the additional stacking lanes, how does 13 cars in a  
797 stacking lane compared to other drive through uses that the County has typically  
798 approved?

799  
800 Mr. Cejka - Well our minimum length was 250 feet for all drive-through  
801 lanes. Whether it's a coffee shop or a fast food restaurant or a bank. So they've exceeded  
802 the 250 feet.

803  
804 Mr. Baka - Okay. All right. They've met that and exceeded that.

805  
806 Does anyone else have any other questions on the Commission?

807  
808 Mr. Mackey - Any other questions?

809  
810 Mr. Archer - I was -- I was going to ask the traffic engineer, how many --  
811 how many automobiles does a 250-foot stacking lane accommodate? Thirteen?  
812 Fourteen?

813  
814 Mr. Cejka - Eleven cars.

815  
816 Mr. Archer - Eleven. Okay. Thank you.

817  
818 Mr. Mackey - All right. Any other questions for the Traffic Engineer?

819  
820 Mrs. Thornton - Only half of the way that they have two lanes. That's a  
821 problem there's only that one lane and then you can go to two.

822  
823 Mr. Baka - That's the escape lane.

824  
825 Mrs. Thornton - Right? So, like, if there's too much traffic, then they can pull  
826 them around with the iPads.  
827  
828 Mr. Baka - Okay.  
829  
830 Mrs. Thornton - Does he want to make another comment?  
831  
832 Mr. Mackey - Well, the public hearing part is closed, but if you would like for  
833 Mr. Lacey -- I think he had another comment.  
834  
835 Mr. Baka - Okay.  
836  
837 Mr. Mackey - It's up to you.  
838  
839 Mr. Baka - The public hearing is closed, but it -- sir, do you have any other  
840 comments to make at this time?  
841  
842 Mr. Lacey - No.  
843  
844 Mr. Baka - Mr. Lacey?  
845  
846 Mr. Lacey - No. It seems the decision's already made. But I want you all  
847 to come out there in the morning and in the afternoon and try to get into that traffic. So  
848 thank you.  
849  
850 Mr. Baka - I can assure you decisions not already made. I'm just trying  
851 to understand how trash and trip -- traffic and trips are compiled here. But I would add, I  
852 do understand the backup and the frustration many people face. The traffic you're  
853 considering/talking about, is current right now, as of today. Mr. Cejka, are you still on the  
854 line, sir?  
855  
856 Mr. Cejka - Yes, sir. I am.  
857  
858 Mr. Baka - I guess I have one further question. When you add this new  
859 use to River Road Shopping Center, would the addition of cars -- or would the addition of  
860 traffic for this use cause any need for road improvements to River Road after this store  
861 would open?  
862  
863 Mr. Cejka - To River Road, no sir.  
864  
865 Mr. Baka - And to Huguenot Road?  
866  
867 Mr. Cejka - Well we're still talking to VDOT to determine if they need a  
868 turn lane or not.

869  
870 Mr. Baka - Okay.  
871  
872 Mr. Cejka - But it -- it's still up in the air.  
873  
874 Mr. Baka - Okay. All right. And, again, I'm just trying to assess and  
875 understand all the facts as we put all this together. But thank you, Mr. Cejka.  
876  
877 Based on the comments that we've discussed I don't think it's unreasonable to look at this  
878 in a favorable light and consider how it could work and could work well at this site. You  
879 do have a majority of the traffic that the applicant mentioned would be stopover traffic.  
880 Which basically takes cars out of the existing line up there at the red light and pulls in,  
881 pulls out, where a smaller number would likely to be destination traffic. You also have the  
882 benefit of some, not all, but some of the sales here being morning sales, perhaps whether  
883 that's 6:00 to 9:00 a.m. or 6:00 to 10:00 a.m. I'm not sure the certain hours. It's just --  
884 perhaps it's breakfast-oriented food. And, obviously, people use this store -- Starbucks  
885 many other hours of the day. Lunch, mid-afternoon, dinner, et cetera.  
886  
887 With the trash, if there are questions about the trash, please, as Mr. Emerson said, contact  
888 the Planning Department and we'll make sure that it's neat and tidy as necessary.  
889  
890 With that in mind, I think this case is acceptable and agreeable to move upon to the Board  
891 of Supervisors. So at this point, Mr. Chairman, I would move that we recommend  
892 approval of REZ2021-00040 Starbucks Corporation with the proffers dated August 10,  
893 2021.  
894  
895 Mr. Mackey - Second. All right. We have a motion for approval to the --  
896 recommendation of approval to the Board of Supervisors by Mr. Baka. A second by Mr.  
897 Mackey for REZ2021-00040 Starbucks Corporation. All in favor say aye.  
898  
899 The Commission - Aye.  
900  
901 Mr. Mackey - Any opposed? All right. A motion is granted.  
902  
903 **REASON:** Acting on a motion by Mr. Baka, seconded by Mr. Mackey, the  
904 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors  
905 **grant** the request because the business use is compatible with surrounding development  
906 and the proffered conditions should minimize the potential impacts on surrounding land  
907 uses.  
908  
909 Mr. Baka - And this case moves on, sir, to the Board of Supervisors next  
910 month.  
911  
912 Mr. Emerson - Mr. Chairman, we now move on to the top of page 3 of your  
913 agenda for Provisional Use Permit 2021-00016 C.E. Forehand for HTS Towers, LLC.  
914

915 **PUP2021-00016 HTS Towers, LLC:** Request for a Provisional Use Permit under  
916 Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the County Code to allow a  
917 communication tower up to 165' in height and related equipment on part of Parcel 831-  
918 688-1711 located on the east line of Turner Road approximately 450' southeast of its  
919 intersection with Three Foxes Drive. The existing zoning is A-1 Agricultural District. The  
920 2026 Comprehensive Plan recommends Suburban Residential 1, density should not  
921 exceed 2.4 units per acre. Part of the site is in the Airport Safety Overlay District.

922  
923 The staff report will be presented by Ms. Kristin Smith.

924  
925 Mr. Mackey - Thank you, Mr. Emerson. Is there anyone in attendance or  
926 via Webex that's in opposition or is in approval of PUP2021-00016 HTS Towers, LLC?

927  
928 Mr. Humphreys - There is no one on Webex in opposition.

929  
930 Mr. Mackey - And no one in attendance.

931  
932 Ms. Smith - Thank you, Mr. Chairman, members of the Commission. This  
933 is a provisional use permit request to allow HTS Towers, LLC to construct a 165-foot-high  
934 telecommunication tower on part of a 58-acre parcel along Turner Road.

935  
936 The A-1 zoned property is currently used for the Diamond Spring Water treatment plant  
937 and Dominion easements running along the north property line. The eastern portion of  
938 the property is within the Airport Safety Overlay District and the 2026 Comprehensive  
939 Plan recommends Suburban Residential 2.

940  
941 The surrounding areas are also zoned A-1 with uses including residential, vacant acreage  
942 parcels, and a 2-acre Dominion substation. The surrounding utility structures range in  
943 height from approximately 40 feet to 120 feet.

944  
945 As represented by this exhibit, the proposed 165-foot tower design would be a lattice style  
946 with panel antennas and room to accommodate co-located equipment for several service  
947 providers, including T-Mobile.

948  
949 The tower is proposed to be located south of the Dominion Easement and behind the  
950 substation within a fenced 55-by-55 ground equipment compound, to be accessed by a  
951 proposed 12-foot-wide gravel drive extending from Turner Road. This exhibit also shows  
952 where the applicant proposes a 50-foot-wide tree preservation buffer around the  
953 compound.

954  
955 To illustrate the signal coverage, several maps have been provided by the applicant to  
956 show the gap the structure is intended to fill. This shows the gap in coverage without any  
957 antennas in the location. And this one shows the anticipated coverage with the new tower  
958 providing antennas at 160 feet.

959

960 The applicant was unable to do a balloon float test due to the proximity to the Dominion  
961 structures and the potential for wind. They did provide photo simulations from the two  
962 spots where the tower would be visible. So directly across the street from the site, and  
963 then as you reach the clearing for the substation traveling south on Turner Road.  
964

965 The proposed tower is not expected to be visible from the within the Varina Chase  
966 Subdivision due to the mature trees surrounding the site. The applicant held a community  
967 meeting on August 4th at the Varina Library. Prior to the community meeting there was  
968 one email of opposition; however, no citizens were in attendance.  
969

970 Preferably network enhancements would primarily be accomplished by equipment  
971 colocations on existing towers, but new towers can be reasonably accommodated when  
972 careful consideration is given to the structure's placement and screening.  
973

974 With the lack of colocation opportunities of sufficient height in the desired coverage area,  
975 staff believes a communication tower is appropriate on this parcel because of the ample  
976 tree coverage and the structure's distance from surrounding homes as well as the  
977 surrounding utility structures.  
978

979 Staff supports this request subject to the conditions listed in the staff report. This  
980 concludes my presentation. I'll be happy to answer any questions.  
981

982 Mr. Mackey - All right. Thank you, Ms. Smith. Does anyone on the  
983 Commission have any questions for Ms. Smith? I don't have a question. One little  
984 comment, I did think of something just now. Would you just briefly explain why they  
985 couldn't go with a monopole and why they had to go with a lattice because of the depth  
986 of the flooring?  
987

988 Ms. Smith - Sure. The property is used for the Diamond Springs Water  
989 plant, right now. So the depth of a monopole is too deep and was raising concerns as far  
990 as how it would interfere with the ground water.  
991

992 Mr. Mackey - Okay.  
993

994 Ms. Smith - So they decided to go with a lattice design, which is more  
995 shallow.  
996

997 Mr. Mackey - Okay. All right. Were there any other questions or  
998 comments?  
999

1000 Mr. Witte - This is actually a Diamond Springs address is my  
1001 understanding. But it looks like there's no access except through a Virginia Power  
1002 easement from Turner Road. Is that correct?  
1003

1004 Mr. Mackey - Yes. Well, they're going to add an access, a gravel road,  
1005 through -- I thought that's through the easement. Correct?

1006  
1007 Ms. Smith - Yes.  
1008  
1009 Mr. Witte - Okay. All right. I'm good.  
1010  
1011 Mr. Mackey - All right. All right. Thank you, Ms. Smith. Unless anyone on  
1012 the Commission needed to hear from the applicant, I think it's pretty straightforward. We  
1013 did have a community meeting. It was very informative. Unfortunately, nobody attended  
1014 or called in. We did have the one email of complaints, but they didn't specify anything  
1015 specifically and we didn't have any other complaints.  
1016  
1017 I don't think that this structure will be a detriment to the neighborhoods surrounding it. It's  
1018 always good when you can get a little bit better cellphone coverage. I think that's good.  
1019 So I think it -- I think the placement of it is very well, you know, it's already at the back of  
1020 a subdivision. It almost looks like it fits there, to be honest with you, in my opinion.  
1021  
1022 So having said that, I move for a recommendation of approval of Provisional Use Permit  
1023 PUP2021-00016 HTS Tower, LLC with the recommended conditions listed in the staff  
1024 report.  
1025  
1026 Mrs. Thornton - Second.  
1027  
1028 Mr. Mackey - All right. We have a motion by Mr. Mackey, a second by Ms.  
1029 Thornton for approval, all in favor say aye.  
1030  
1031 The Commission - Aye.  
1032  
1033 Mr. Mackey - Any opposed? Motion is granted. Thank you.  
1034  
1035 **REASON:** Acting on a motion by Mr. Mackey, seconded by Mrs.  
1036 Thornton, the Planning Commission voted 5-0 (one abstention) to recommend the Board  
1037 of Supervisors grant the request because it is reasonable in light of the surrounding uses  
1038 and existing zoning on the property and it would provide added services to the community.  
1039  
1040 Mr. Emerson - Mr. Chairman, we now move on to your next cases which also  
1041 appear on page 3 at the bottom. These are companion cases, so we'll call them together.  
1042 Once you hold your public hearing, they will require two separate motions. First case is  
1043 REZ2021-00026 T. Preston Lloyd, Jr. for Highwoods Realty Limited Partnership.  
1044  
1045 **REZ2021-00026 Highwoods Realty Limited Partnership:** Request to conditionally  
1046 rezone from A-1 Agricultural District and M-1C Light Industrial District (Conditional) to  
1047 UMUC Urban Mixed Use District (Conditional) Parcels 750-768-0643, 750-768-4593,  
1048 750-768-4929, and 750-768-8514 and part of Parcels 751-768-2072, 751-769-0332, and  
1049 751-769-4739 containing 33.801 acres located on the north line of Nuckols Road between  
1050 Lake Brook Drive and Interstate 295. The applicant proposes an urban mixed-use  
1051 development. The uses will be controlled by zoning ordinance regulations and proffered

1052 conditions. The 2026 Comprehensive Plan recommends Urban Mixed-Use. The site is in  
1053 the Innsbrook Redevelopment Overlay District.

1054  
1055 The companion case is PUP2021-00010 also Mr. Lloyd for Highwoods Realty.  
1056

1057 **PUP2021-00010 Highwoods Realty Limited Partnership:** Request for a Provisional  
1058 Use Permit under Sections 24-32.1 (a, b, i, l, p, s, v, w, z), 24-120 and 24-122.1 of Chapter  
1059 24 of the County Code to allow the following: outdoor vending areas; commercial parking  
1060 lot; greater floor area for any use with floor area limitations; heliport; outdoor, commercial  
1061 recreational facilities; buildings and structures exceeding 60' in height; open space of less  
1062 than 20 percent within a development; commercial or office square footage of less than  
1063 25 percent of the total building square footage of the UMU district; and number of for-  
1064 lease multifamily dwelling units exceeding 30 percent of the total units of the UMU district  
1065 on Parcels 750-768-0643, 750-768-4593, 750-768-4929, and 750-768-8514 and part of  
1066 Parcels 751-768-2072, 751-769-0332, and 751-769-4739 located on the north line of  
1067 Nuckols Road between Lake Brook Drive and Interstate 295. The existing zoning is A-1  
1068 Agricultural District and M-1C Light Industrial District (Conditional). UMUC zoning is  
1069 proposed with REZ2021-00026. The 2026 Comprehensive Plan recommends Urban  
1070 Mixed-Use. The site is in the Innsbrook Redevelopment Overlay District.  
1071

1072 The staff reports will be presented by Mr. Livingston Lewis.  
1073

1074 Mr. Mackey - All right. Thank you, Mr. Emerson. Is there anyone in person  
1075 or via Webex that's in opposition of REZ2021-00026 Highwoods Realty Limited  
1076 Partnership or the companion case, the PUP2021-00010 Highwoods Realty Limited  
1077 Partnership.  
1078

1079 Mr. Humphreys - There is no one in opposition on Webex.  
1080

1081 Mr. Mackey - Okay. And I don't see anyone in opposition in the audience.  
1082 All right. Thank you. Go ahead, Mr. Lewis.  
1083

1084 Mr. Lewis - Thank you, Mr. Chairman. As stated, this is a request to rezone 33.8  
1085 acres in the northern end of the Innsbrook Office Park from A-1 and M-1C to UMUC for  
1086 an Urban Mixed-Use Development. Surrounding properties consist of numerous  
1087 corporate offices, a gas station/convenience store, and the Silver Hills mixed use  
1088 apartments and retail under development across Nuckols Road.  
1089

1090 The 2026 plan recommends this site for Urban Mixed Use, the same designation applied  
1091 to all of Innsbrook as part of the County's adoption of the Innsbrook Area Study in 2010.  
1092 The property is also part of the Innsbrook Redevelopment Overlay District approved in  
1093 2016 as a zoning code amendment to further encourage mixed-use infill projects.  
1094

1095 A community meeting was held by the applicant on June 16, 2021, to discuss the request  
1096 with area stakeholders. As illustrated on this un-proffered concept plan presented at that  
1097 meeting, the proposed development may be a potential mixture of multi-family,



1098 commercial, hotel and office uses; however, the specific layout and use mixture of the  
1099 project are still to be determined. Therefore, the following three general landbay exhibits  
1100 would be used to guide the site's final layout. You may notice each layout presents  
1101 different land use configurations and street patterns.

1102  
1103 The Innsbrook UMU Urban Design Guidelines document, or UDG, is proffered and would  
1104 serve as the masterplan for the project's final form. This 81-page document provides the  
1105 general requirements related to architectural design standards, building setback and  
1106 frontage parameters, interconnected road networks, pedestrian accommodations,  
1107 streetscapes, lighting, signage, and landscaping and open space.

1108  
1109 As proffered, the property would be developed with a maximum of 700 multi-family units.  
1110 At least 60 percent one-bedroom and no three-bedroom. This equates to a gross  
1111 residential density of 20.7 units per acre. Up to 50 of the 700 units may be 2-over-2 style  
1112 attached construction and up to 50 may be an alternative condo design for sale. However,  
1113 all 700 could also be traditional apartments.

1114  
1115 To ensure a mixture of new uses to accompany the existing office building on the site, the  
1116 applicant has committed to obtaining building permits for a minimum of 15,000 square  
1117 feet of nonresidential prior to or concurrent with the first multi-family residential CO.

1118  
1119 Plans of development for more than 600 multi-family units would require CO's for an -- for  
1120 a total of 30,000 square feet of nonresidential. Other proffered commitments address:  
1121 prohibition of a list of incompatible uses; the use of high-quality exterior building materials;  
1122 confirmation that building appearances, streetscapes, and screening of less attractive  
1123 mechanical and other features would all be in accordance with the standards expressed  
1124 in the UDG document; specific building features to be prohibited within 1000 feet of  
1125 Nuckols Road, including structured parking facades visible from Nuckols, and loading or  
1126 service areas facing Nuckols; limiting hours of business operation to 6:00 a.m. to  
1127 midnight; submittal of supplementary plans related to lighting, landscaping, streetscapes,  
1128 and pedestrian improvements; and a list of access provisions and transportation and  
1129 pedestrian improvements on Nuckols Road, Lake Brook Drive, Sadler Road, and  
1130 surrounding sites- this also includes a commitment to submit a Roadway Improvement  
1131 Plan to ensure this infrastructure is properly phased with development and any necessary  
1132 TIA adjustments and solutions are provided with each POD.

1133  
1134 Following completion of the most recent staff report, the applicant had several meetings  
1135 and discussions with County staff to work through a variety of unresolved issues. This  
1136 prompted a number of proffer and exhibit revisions resulting in the new documents before  
1137 you this evening which address all of staff's previously outstanding items.

1138  
1139 Along with the proffers, the development would also be regulated by the companion  
1140 Provisional Use Permit application, PUP2021-00010, which requires approval of the  
1141 rezoning case prior to being considered.

1142

1143 The PUP application requests the modification of various UMU standards and thresholds  
1144 and those who were listed in the introduction.

1145  
1146 Revised conditions have been handed out this evening covering all of these points in the  
1147 PUP, as well as several other items typical of UMU requests. These deal with residential  
1148 unit size, utilities, capacity analysis for future phases -- utilities capacity analysis for future  
1149 phases, communications equipment, and crime prevention.

1150  
1151 You'll also notice new Condition #16 related to ensuring recycling facilities are provided  
1152 and well designed to accommodate this service for all multi-family residents.

1153  
1154 Separate from the recent changes to the proffers and PUP conditions, the applicant has  
1155 also provided documented commitments and additional details related to: existing and  
1156 planned investments in the trail system via the Innsbrook Owners Association; general  
1157 support of recycling services within the development; and future construction of a northern  
1158 extension of Lake Brook Drive.

1159  
1160 This proposal includes many positive features to complement and support Innsbrook's  
1161 evolution and ongoing success. It also provides significant quality and compatibility  
1162 assurances and would be consistent with the 2026 Comprehensive Plan and the  
1163 Innsbrook Area Study.

1164  
1165 For these reasons, staff supports this request. This concludes my presentation. I'm  
1166 happy to answer any questions. Also, representatives from Traffic Engineering and  
1167 Schools are available. And, as a reminder, time limits would need to be waived for the  
1168 proffers.

1169  
1170 Mr. Mackey - All right. Thank you, Mr. Lewis. Does anyone on the  
1171 Commission have any questions of staff? All right. How would you like to proceed, Ms.  
1172 Thornton?

1173  
1174 Mrs. Thornton - Hear from the applicant so you all can see about the project.

1175  
1176 Mr. Mackey - All right. Okay.

1177  
1178 Mr. Lloyd - Mr. Chairman, members of the Commission, Mr. Secretary,  
1179 and Mrs. O'Bannon, my name is Preston Lloyd. I'm an attorney with Williams Mullen and  
1180 I'm here on ~~the~~ behalf of the applicant.

1181  
1182 And I recognize there's no opposition, so I'll be brief, but I appreciate you indulging just a  
1183 few brief comments, because we humbly believe that this is one of the most significant  
1184 cases to come forward in the Innsbrook development in the past decade. And it's taken  
1185 a lot of work to get here. And we appreciate the work of the staff as well as Ms. Thornton  
1186 and the community stakeholders who worked with us to bring it to this point.

1187

1188 But the reason we believe it's so significant is because it represents a change in thinking  
1189 about the future of Innsbrook. We recognize that Innsbrook is changing and this follows  
1190 the County's leadership in coming forward with the 2010 Small Area Plan for Innsbrook  
1191 that recognized that in order to position office product to be competitive in the current  
1192 economic environment, there has to be a diversity of uses that support that. There must  
1193 be dynamic retail uses, services, experiential uses. There have to be trails and green  
1194 spaces that support that. And there has to be residents who demand the services that  
1195 provide sufficient demand to then drive those retail services being available in close  
1196 proximity to the project.

1197  
1198 This mixed-use master-plan project delivers on all of those elements. It will deliver  
1199 additional quality controls building on the floor that's set by the Urban Design Guidelines  
1200 that will ensure consistency in the development and layout and architectural appearance  
1201 of the buildings with the rest of Innsbrook. But that is a floor, and the proffers also provide  
1202 for additional guidelines that will ensure that the quality of development here provides a  
1203 gateway and architectural significance that will make this project stand out and be unique  
1204 for Innsbrook.

1205  
1206 And so we hope that it'll be seen as one that is a draw for not only existing office residents,  
1207 but also existing community members and will continue to position Innsbrook for the  
1208 economic success that it's historically been for Henrico and will continue in that role  
1209 moving forward. So we appreciate the Commission's thoughtful consideration and would  
1210 respectfully request that you recommend approval to the Board of Supervisors. I'm  
1211 available for any questions that the Commission may have. Thank you.

1212  
1213 Mr. Mackey - All right. Thank you, Mr. Lloyd. Are there any questions for  
1214 Mr. Lloyd, or comments?

1215  
1216 Mrs. Thornton - Well I just have -- Livingston, do you have that slide of the  
1217 roads? The improvements with the arrows?

1218  
1219 Mr. Lewis - Yes ma'am. Absolutely.

1220  
1221 Mrs. Thornton - Just so the Commission -- I've seen it. I just want to make  
1222 sure that everybody understands what's going to happen. As a major concern, you know,  
1223 for most people was traffic. And then pedestrian, how we're going to connect the north  
1224 to the south too.

1225  
1226 But I always think of Mr. Witte when we think of the Fire Department, which came to the  
1227 -- one of the meetings. If -- can you show them where the connectivity -- the road will be?  
1228 There was another picture that you had.

1229  
1230 Mr. Lewis - Yes. Not that one. That one.

1231  
1232 So the subject site is, in this location, not very visible on this graphic. But as you cross  
1233 Lake Brook Drive, that would be an alternative. Well, I say that, but if you go back to this

1234 exhibit, I'm getting a little bit out of my league, but essentially turning movements are  
1235 restricted to right turns out of the site and right turns out of the Highwoods One site  
1236 because of some queueing issues that were anticipated. So there are other ways to leave  
1237 the site and exit and then potentially use this property as somewhat of a second access.  
1238 But --

1239  
1240 Mr. Archer - It's right here.

1241  
1242 Mr. Lewis - -- if we're talking more about access, future access, this northern  
1243 access is also part of the equation. But those were some of the most detailed discussions  
1244 with the applicant and Department of Public Works to make sure all of this fits together  
1245 and works properly. And I guess I would defer to them for some of the more specific  
1246 aspects.

1247  
1248 Mrs. Thornton - Okay. Preston?

1249  
1250 Mr. Lloyd - Excuse me for interrupting.

1251  
1252 Mrs. Thornton - Yeah.

1253  
1254 Mr. Lloyd - I was going to offer that if Mr. Lewis would be so kind as to put  
1255 back up the Highwoods One access exhibit, the question that you asked was how this  
1256 would accommodate Fire. And there will -- there is a proffered requirement that in addition  
1257 to the improvements that are shown here, there will be an easement that's dedicated to  
1258 the County to allow fire equipment to take that right-hand turn, head toward the upper part  
1259 of the screen, and then access Lake Brook Drive as an additional point of ingress and  
1260 egress for fire equipment.

1261  
1262 Mrs. Thornton - Okay, great. Because we always wanted to -- that was their  
1263 concern, Mr. Witte, was getting two points of access? And so they made that connectivity.  
1264 I just wanted, you know, you always are concerned, and I am too, about the safety.

1265  
1266 Mr. Witte - Well absolutely. I've got some concerns -- always have  
1267 ingress and egress concerns.

1268  
1269 Mrs. Thornton - Right.

1270  
1271 Mr. Witte - Now -- and this connection road, future roadway connection,  
1272 I think--it would be a lot more beneficial north of the lake there, because I can see 700  
1273 units plus hotels and everything trying to squeeze down that one-lane road if there's a  
1274 problem at that intersection being just a disaster.

1275  
1276 Mrs. Thornton - I think it's not on their property. Is that what it is?

1277  
1278 Mr. Witte - It's Highwoods property, isn't it?

1279

1280 Mrs. Thornton - Not the one behind it.

1281  
1282 Mr. Lloyd - You are correct, Ms. Thornton. So if Mr. Lewis would be so  
1283 kind as to scroll back to the northern right-of-way dedication exhibit. Thank you. This  
1284 shows the extent of right-of-way that is on property owned by Highwoods. And so we  
1285 have included the proffer that in the future that can be -- a dedication could be triggered  
1286 upon request by the County. However, we do not have the ability to complete the access  
1287 all the way around the lake to where it would resume publicly available right-of-way. And  
1288 so, for that reason, we've given as much as we, Highwoods, has the right to be able to  
1289 convey to the County. However, there may be others who have to complete the gap in  
1290 the future.

1291  
1292 Mr. Witte - What benefit would Highwoods accomplish by -- I mean, it  
1293 backs up to the interstate. There's nothing to be put on that access road, the future  
1294 access road, so in essence you're -- from a public safety Fire Department standpoint,  
1295 you're causing a tremendous issue here in the event of a minor disaster could turn into a  
1296 major disaster, in my opinion.

1297  
1298 Mr. Lloyd - Well and to your point, Mr. Witte, we certainly concur that  
1299 having a single point of access is not adequate. Which was why we provided the access  
1300 over the parcel known as Highwoods One. Because that does allow us to start from a  
1301 place of public access and finish from the place of public access in providing that  
1302 additional access way.

1303  
1304 When we try to go around the lake, we can't get all the way around the lake to another  
1305 point. So what we did was we said we would dedicate land as far as we can get. We  
1306 recognize that it doesn't get us all the way around the lake, but if in the future the County  
1307 requests it, we will convey it to the County at no cost.

1308  
1309 Mr. Witte - I guess my concern is that the road connection's just narrow.

1310  
1311 Mr. Lloyd - Yes, sir. And to your point, it is something that needs to be  
1312 approved by the Department of Public Works and must meet their standards in  
1313 constructing that right-of-way.

1314  
1315 Mr. Witte - Yeah. Because there's land there to do it with that's  
1316 unimproved. In my opinion you need two lanes going each way in the event of a major  
1317 problem in that area surrounded by the interstate and the roads. You could at least usher  
1318 a certain amount of them out of there, you know. With 700 units here and a hotel there  
1319 and -- you're not going to get everybody out of there on that little road. So that's just my  
1320 opinion from a public safety/Fire Department issue.

1321  
1322 Mr. Lloyd - And we appreciate hearing --

1323  
1324 Mr. Witte - You won't be able to get the Fire Department in or the people  
1325 out.

1326  
1327 Mr. Lloyd - Yes, sir. And certainly defer to your long expertise in that field  
1328 and your specialty there. I think that what we've done is try to align what we can do with  
1329 a project that's going to have an extended period of buildout. Not all of these uses, not  
1330 all of these apartments, will be appearing on day one and yet that second point of access  
1331 will need to be provided. In the meantime, that gives us a little bit of runway to work on  
1332 trying to create that connection that you've described around the back of the lake. We  
1333 don't have a silver bullet to deliver that today in order to make that commitment to the  
1334 Board. But as we've discussed with the Planning Director and the Three Chopt  
1335 Supervisor, this is -- we understand -- a priority for this area and so Highwoods is  
1336 committed to trying to work and move that forward.  
1337  
1338 Mr. Witte - Has there been any discussion with Highwoods about the  
1339 future of that extension?  
1340  
1341 Mr. Lloyd - Yes, sir.  
1342  
1343 Mr. Witte - And what's their reply? We'll run right out and do it?  
1344  
1345 Mr. Lloyd - "We'll go as far as we can go today with what we own," is their  
1346 reply. And so that's the willingness to dedicate the right-of-way. But --  
1347  
1348 Mrs. Thornton - And who owns the other portion in the back?  
1349  
1350 Mr. Lloyd - Is it -- I believe it's --  
1351  
1352 Mrs. Thornton - Linger --  
1353  
1354 Mr. Lloyd - -- owned by Lingerfelt.  
1355  
1356 Mrs. Thornton - Lingerfelt?  
1357  
1358 Mr. Lloyd - Yes ma'am.  
1359  
1360 Mr. Witte - Just don't want an issue that's going to put us on national  
1361 news for something that's not good. So while I understand the situation, it's just, I've got  
1362 concerns with it. That's all.  
1363  
1364 Mr. Baka - Can I follow up on that?  
1365  
1366 Mrs. Thornton - Yeah.  
1367  
1368 Mr. Baka - If I could follow up on Mr. Witte's comments, I have a general  
1369 question. Let's pose your request in just conversational terms here, if I can. Suppose  
1370 you request 100 percent of the development you're requesting, let's just call it 100. What

1371 percent out of 100 can you build and develop and open and get a CO for, prior to  
1372 completing this loop around the back that Mr. Witte said was important for public safety?  
1373

1374 Mr. Lloyd - So we can't complete the loop, which means that we can't  
1375 condition uses that are authorized by this rezoning case on completion of the loop.  
1376

1377 Mr. Baka - So what percent of your 100% of your development can you  
1378 build prior to that loop being completed by another party.  
1379

1380 Mr. Lloyd - So we have the ability to construct up to 700 units of multi-  
1381 family and that breaks down to 600 units of what I'll call apartments, 50 of those units are  
1382 restricted to condominiums and 50 are 2-over-2 style townhomes. Not townhomes, but I  
1383 think the Planning Commission is familiar with the concept. And as a result, that is the  
1384 only limit that is defined within our case. And we can only build up to a certain portion of  
1385 those residential units after certain corresponding amounts of commercial square footage  
1386 have been built. However, there's no upper limit on the amount of commercial. So,  
1387 hypothetically, there could be as much commercial density as would be feasible for this  
1388 site. However, if we exceed the numbers that are in our traffic report, we'll have to  
1389 resubmit those. And that may impact our ability to get traffic approval for future plans of  
1390 development.  
1391

1392 It's a long way of saying, to answer your question directly Mr. Baka, that we have the  
1393 ability to develop everything that's contemplated in the report here and at any time during  
1394 that period that we are in the process or even after the process of development the County  
1395 can trigger a request for the right-of-way and we would be obligated to immediately  
1396 dedicate it. But, in the meantime, it doesn't act as a constraint on the developability of  
1397 the site.  
1398

1399 Mr. Emerson - Mr. Baka, I think just a simple answer is 100 percent.  
1400

1401 Mr. Baka - 100 percent.  
1402

1403 Mr. Emerson - Just so it's clear. Because I believe your question is how  
1404 much could be built without completing the loop completely across the bridge into Cox  
1405 Road. Do I understand that correctly?  
1406

1407 Mr. Baka - That's what I was driving at.  
1408

1409 Mr. Emerson - Yes. 100 percent of what they're proposing can be built with  
1410 the improvements to Nuckols Road, the connector across the parking lot down to Cox.  
1411 So 100 percent of what they're proposing could be built. There's no constraints to that.  
1412

1413 Mr. Baka - So the question before the Planning Commission, to follow-up  
1414 with Mr. Witte's comments about public safety, is whether that's reasonable to allow, given  
1415 the circumstances that there's no guarantee that all would be built before those units are  
1416 open.

1417  
1418 Mr. Emerson - Correct. There's no -- that that connection will be built.  
1419 However, Fire has indicated they're comfortable with what's proposed.  
1420  
1421 Mrs. Thornton - They came to our meeting and they are the ones that  
1422 suggested where the access point was.  
1423  
1424 Mr. Emerson - Correct. The secondary access point, Livingston, if you'll put  
1425 that back up.  
1426  
1427 That Mr. Lloyd was explaining to you, the dotted line, that right there, that Livingston is  
1428 taking the cursor across. That is what Fire requested.  
1429  
1430 Now, ideally, Mr. Witte is correct. Fire indicated ideally they'd like to have that connection  
1431 made, as all of us would. The County would not -- would not enter into owning the  
1432 segment of roadway across the dam if it were to be built. That would have to be private,  
1433 so that -- I think that then becomes a little bit of an Innsbrook Owners Association issue.  
1434 Or someone else.  
1435  
1436 The land going across the dam, if I'm correct, and Preston correct me if I'm wrong, part  
1437 of it is owned by Highwoods and then there is a portion that's owned by Lingerfelt.  
1438  
1439 Mr. Lloyd - You're correct.  
1440  
1441 Mr. Emerson - So it is under two ownerships. My understanding is the dam  
1442 is in good condition, but I don't have any type of technical report indicating improvements  
1443 that may need to be made in order for it to actually support a roadway.  
1444  
1445 Mr. Baka - Okay. I appreciate your comments, Mr. Emerson. Because,  
1446 as Mr. Witte alluded to, we're trying to put ourselves in the shoes of trying to guess or  
1447 extrapolate of what the Fire Department might be thinking. And I don't have as good of  
1448 idea of that. Maybe Mr. Witte has a better idea of that than I would.  
1449  
1450 We're trying to guess what their concerns would be. And I appreciate you mentioning  
1451 their concerns were somewhat alleviated by that short cut.  
1452  
1453 Mrs. Thornton - So the building that's on the back corner to the left -- right up  
1454 -- right there. Is that Highwoods?  
1455  
1456 Mr. Lloyd - It is. Yes ma'am.  
1457  
1458 Mrs. Thornton - Okay. So Highwoods could go all the way to about halfway  
1459 through the dam.  
1460  
1461 Mr. Lloyd - Correct. They can go to the extent that's shown on the exhibit  
1462 that we submitted with the case.



1463  
1464 Mrs. Thornton - Right. And then Lingerfelt's on the other side.  
1465  
1466 Mr. Emerson - Yes, ma'am.  
1467  
1468 Mrs. Thornton - And --  
1469  
1470 Mr. Emerson - Well Lingerfelt owns a piece. Now does Highwoods own a  
1471 portion on the other side as well?  
1472  
1473 Mr. Lloyd - I don't believe so, Mr. Emerson  
1474  
1475 Mr. Emerson - Okay. I'm not sure, but I know they do have at least a portion.  
1476  
1477 Mr. Lloyd - Excuse me. I'm corrected by Ms. DuFrane representing  
1478 Highwoods this evening, and there is a portion that's on the other side, as well.  
1479  
1480 Mr. Emerson - So if Highwoods owns a portion on the other side, Lingerfelt  
1481 has a small portion in the center, then Highwoods owns the other piece, correct?  
1482  
1483 Mr. Lloyd - That's correct.  
1484  
1485 Mr. Emerson - Thank you. That's what I was trying to understand.  
1486  
1487 Mrs. Thornton - Right. So as I'm sitting here, and I know we've discussed this  
1488 before, and we've got Lingerfelt that's been deferred, you guys up here now, between the  
1489 two of you, I feel like this road should be done. As of, you know, what I'm hearing from  
1490 Mr. Witte. I mean, I understand that we've had Fire take a look at it.  
1491  
1492 Mr. Witte - Fire did take a look at it. Police took -- I think everybody took  
1493 a look at it.  
1494  
1495 Mrs. Thornton - Oh, yes. We've had many discussions.  
1496  
1497 Mr. Witte - And did what they could to make it work and then it -- My  
1498 opinion is that it will work under controlled situations without chaos, but I don't believe it'll  
1499 work with chaos. That's just my opinion. Another thing, there's supposed to be 700 units  
1500 plus hotels. Is that my understanding?  
1501  
1502 Mr. Lloyd - You're correct, sir.  
1503  
1504 Mr. Witte - So you're talking 850 units with the hotel filled? Is that 150  
1505 units there?  
1506  
1507 Mr. Lloyd - At full buildout that would be --  
1508

1509 Mr. Witte - And then you've got the businesses so you're talking 12...  
1510 1500 minimum vehicles. That's a tough move. That's just a small area and I understand  
1511 the situation and they're doing the best they can. It's just not ideal by any means.

1512  
1513 Mrs. Thornton - Right.

1514  
1515 Mr. Lloyd - And one thing that I would encourage the Planning  
1516 Commission to keep in mind is the context of the current zoning. The majority of this is  
1517 currently zoned authorized high-density office use, which has, as you know, a high traffic  
1518 generation. It does not authorize the multi-family uses that Mr. Witte just described and  
1519 so that is a new aspect and there's an A-1 portion in the center of the -- of the parcel map  
1520 that Mr. Lewis has put up that does not authorize those uses. But this is not a full A-1 to  
1521 high-density transition. It's rather re-allocating the kinds of uses that are there.

1522  
1523 But that's, I mean, we certainly acknowledge that secondary access is a major  
1524 consideration, and we appreciate Fire's professional recommendation that they're  
1525 satisfied with this option. And we defer to their expertise accordingly. But, as we've said,  
1526 we also see the value in providing the additional right-of-way to the County at such time  
1527 as the County is able to complete that.

1528  
1529 Mr. Witte - We did what we could do.

1530  
1531 Mrs. Thornton - Yeah. Could there -- well, Livingston, maybe we can discuss,  
1532 but some type of wording that -- for buildout that road must be completed. Like a certain  
1533 percentage. I mean, Traffic's on?

1534  
1535 Mr. Emerson - Yes, ma'am. Mr. Cejka is still on. As I understand, he was  
1536 going to be with us via Webex for the evening. So.

1537  
1538 Mrs. Thornton - Because I know that they've looked at this and, you know,  
1539 extensively and have done the counts. Correct?

1540  
1541 Mr. Lewis - Yes. The traffic impact analysis and their evaluation of it didn't  
1542 go into depth with the emergency access angle.

1543  
1544 Mrs. Thornton - It did not. Yeah.

1545  
1546 Mr. Lewis - I don't believe, no. So separate discussion. But a lot of the  
1547 recent improvements that have been added to the proffers satisfied Traffic's queueing  
1548 and other safety, turning movements and those types of concerns. Not as much as this  
1549 discussion.

1550  
1551 Mrs. Thornton - Okay. Mr. Witte, do you want to -- okay. All right. Thank you,  
1552 Livingston.

1553  
1554 Do you have any of the pedestrian? Just to show before?

1555  
1556 Mr. Lewis - So the pedestrian connectivity would be primarily crossing  
1557 Nuckols Road in this location. Unfortunately this graphic doesn't capture sidewalk that's  
1558 in the proffers along Cox Road and pedestrian facilities over there. And then there's some  
1559 crossing of Lake Brook Drive, as well.  
1560  
1561 Mrs. Thornton - Okay, maybe in the future I'd ask, maybe they could just make  
1562 sure that people can see the connectivity – you know, for Mr. Branin to see, too.  
1563  
1564 Mr. Lewis - Is this what you would like to see?  
1565  
1566 Mrs. Thornton - Yes. So just to show them what type of -- That's going to go  
1567 on Nuckols?  
1568  
1569 Mr. Lewis - Well this isn't a proffered exhibit, but if you -- This is a  
1570 pedestrian island that you would put in the center portion of a very busy road, such as  
1571 Nuckols. I personally am not exactly sure how much room there is for this type of feature,  
1572 given the --  
1573  
1574 Mrs. Thornton - Extra turn lane.  
1575  
1576 Mr. Lewis - Given the turn lanes and the through-cut. The technical term  
1577 for this is called a through-cut intersection. It does not allow straight movement. So you  
1578 turn left, you turn right, and that was in an effort to help with queueing concerns. And that  
1579 was a way to get more traffic through the intersection. So. But, with that, the pedestrian  
1580 features were originally thought to be here, but they were moved here, because there are  
1581 less lanes to cross in this location. So as far as that graphic of the pedestrian island, I'm  
1582 not exactly sure how that specifically will play out.  
1583  
1584 Mrs. Thornton - Okay.  
1585  
1586 Mr. Emerson - I believe that's a good general depiction.  
1587  
1588 Mrs. Thornton - Yeah. Okay. I just wanted them to see I had seen before --  
1589 okay. Thank you, Livingston. I think overall I think it'll add value to the area with the bike  
1590 path coming in on Nuckols Road for the residents that are all around there. I think they'll  
1591 be able to access -- I'd love to see what type of retail you're going to be able to bring to  
1592 the area. I think it will help the entire Innsbrook area, walkability, bikeability, to get people  
1593 to your site. Of course, the traffic is always a big concern for everybody, and safety. So  
1594 those are going to be some, you know, I'm glad that you addressed some of the traffic,  
1595 the safety with the Fire, they feel okay with it. I still feel like maybe we can have some  
1596 discussions with Mr. Branin about the connectivity with Lingerfelt in the back.  
1597  
1598 I feel like this is such a big project, they're ~~off~~-- they're asking for something too. I feel  
1599 like to make this project very successful I think that the connectivity would be the best

1600 option. But what we have right in front of us, we've been working on this, they've been  
1601 working on this extensively for months and have, you know, come up with new proffers.  
1602

1603 So with that, Mr. Chairman, I move that we grant a waiver of time limits and accept the  
1604 proffers dated August 11, 2021 for REZ2021-00026 Highwoods Realty Limited  
1605 Partnership.  
1606

1607 Mr. Witte - Second.

1608  
1609 Mr. Mackey - All right. We have a motion by Ms. Thornton, a second by Mr.  
1610 Witte, for the time waiver of REZ2021-00026 Highwoods Realty Limited Partnership. All  
1611 in favor say aye.  
1612

1613 The Commission - Aye.

1614  
1615 Mr. Mackey - Any opposed? Okay.  
1616

1617 Mrs. Thornton - And, Mr. Chairman, I move that we recommend approval of  
1618 REZ2021-00026 Highwoods Realty Limited Partnership with the proffers dated August  
1619 11, 2021.  
1620

1621 Mr. Baka - Second.

1622  
1623 Mr. Mackey - All right. Have a motion by Ms. Thornton and a second by Mr.  
1624 Baka for approval -- recommendation of approval to the Board of Supervisors for  
1625 REZ2021-00026 Highwoods Realty Limited Partnership. All in favor say aye.  
1626

1627 The Commission - Aye.

1628  
1629 Mr. Mackey - Any opposed? Motion is granted.  
1630

1631 **REASON:** Acting on a motion by Mrs. Thornton, seconded by Mr. Baka,  
1632 the Planning Commission voted 5-0 (one abstention) to recommend the Board of  
1633 Supervisors, grant the request because it conforms to the Urban Mixed-Use  
1634 recommendation of the Land Use Plan and the proffered conditions will provide  
1635 appropriate quality assurances not otherwise available.  
1636

1637 Mrs. Thornton - And, Mr. Chairman, I recommend approval of the provisional  
1638 use permit, PUP, PUP2021-00010 Highwoods Realty Limited Partnership with the  
1639 recommendation conditions dated August 12, 2021.  
1640

1641 Mr. Mackey - Second. All right. We have a motion by Ms. Thornton, a  
1642 second by Mr. Mackey for approval -- recommendation of approval of PUP2021-00010 T.  
1643 Preston Lloyd, Jr. for Highwoods Realty Limited Partnership. All in favor of approval say  
1644 aye.  
1645

1646 The Commission - Aye.  
1647  
1648 Mr. Mackey - Any opposed? The motion is carried.  
1649  
1650 **REASON:** Acting on a motion by Mrs. Thornton, seconded by Mr.  
1651 Mackey, the Planning Commission voted 5-0 (one abstention) to recommend the Board  
1652 of Supervisors **grant** the request because it is reasonable with the proposed urban mixed  
1653 use development on the property and as conditioned it would not be expected to  
1654 adversely affect public safety, health or general welfare.  
1655  
1656 Mr. Emerson - Mr. Chairman, we now move on to page 5 of your agenda for  
1657 REZ2021-00037 Ram Misra.  
1658  
1659 **REZ2021-00037 Ram Misra:** Request to amend proffers accepted with C-8C-01 on  
1660 Parcel 737-754-6589 located on Brandyview Lane approximately 265' west from its  
1661 intersection with Clary Preston Drive. The applicant proposes to amend Proffer #9  
1662 regarding the rear yard setback and landscape buffer. The existing zoning is R-3C One-  
1663 Family Residence District (Conditional). The 2026 Comprehensive Plan recommends  
1664 Suburban Residential 2, density should not exceed 3.4 units per acre.  
1665  
1666 The staff report will be presented by Ms. Kristin Smith.  
1667  
1668 Mr. Mackey - Thank you, Mr. Emerson. Is there anyone in attendance that's  
1669 in opposition or anyone via Webex that's in opposition of REZ2021-00037 Ram Misra?  
1670  
1671 Mr. Humphreys - There is no one in opposition on Webex.  
1672  
1673 Mr. Mackey - All right. Thank you. And no one in attendance.  
1674  
1675 Ms. Smith - All right. Thank you, Mr. Chairman, members of the  
1676 Commission. This is a request to amend proffer #9 with case C-8C-01 regarding setback  
1677 and landscape buffer requirements in order for an addition to be built on the rear of home.  
1678  
1679 The subject property is located on the north line of Church Road in the Brandyview  
1680 Subdivision and is zoned R-3. The surrounding area is residential in nature with similar  
1681 zoning. The applicant has submitted a floor plan of the proposed addition, which would  
1682 be located to the rear of the garage and extends 16 feet towards Church Road. No survey  
1683 was submitted, but according to GIS, the house currently sits approximately 66 feet from  
1684 the rear property line.  
1685  
1686 Proffer #9 states lots along Church Road must have a 25-foot landscape buffer in addition  
1687 to the county-required setbacks. The required rear-yard setback in R-3 is 40 feet. With  
1688 the landscape buffer, homes would need to be at least 65 feet from the rear property line.  
1689 The applicant is requesting the proffer to be amended to only require 45 feet of distance  
1690 between the rear property line and the home, which would include the buffer.  
1691

1692 Prior to 2002, proffers requiring landscape buffers in addition to the required setbacks  
1693 were not unusual for properties located along major roads identified on a major  
1694 thoroughfare plan. These enhanced setbacks are now part of the zoning ordinance and  
1695 apply to all residential development.

1696  
1697 Church Road is identified as a major collector on the MTP. If the proffers for Brandyview  
1698 did not include proffer #9, or had it been rezoned approximately a year later, the property  
1699 would be required to have the 65-foot enhanced setback per the zoning ordinance.

1700  
1701 The intent behind the existing proffer and the enhanced setbacks is for homes to be  
1702 placed at a further distance from heavy trafficked roads to minimize impacts on  
1703 homeowners. Similar proffers have been required throughout the county, as well as along  
1704 Church Road. The 2026 Comprehensive Plan recommends Suburban Residential 2 for  
1705 the property. The proffer amendment request is not consistent with the plan's objectives  
1706 to encourage landscape buffers in addition to required setbacks for properties along  
1707 collector or arterial streets. Additionally, this could create a precedent for other properties  
1708 in similar situations.

1709  
1710 For these reasons, staff does not support this request. This concludes my presentation.  
1711 I'll be happy to try to answer any questions.

1712  
1713 Mr. Mackey - Thank you, Ms. Smith. Does anyone on the Commission have  
1714 any questions for Ms. Smith?

1715  
1716 Mrs. Thornton - No.

1717  
1718 Mr. Baka - I have one brief question. If this rezoning amendment were  
1719 approved, which is the proffer amendment, would the applicant also need to go to the  
1720 BZA to request a variance to the rear-yard setback in addition of this?

1721  
1722 Ms. Smith - No. Because this was approved as a proffer, the proffer  
1723 amendment would be the correct process to take as this is not subject to the enhanced  
1724 setback set forth in the zoning ordinance. If that was the case, then the BZA would be  
1725 the proper protocol.

1726  
1727 Mr. Baka - Good catch.

1728  
1729 Mr. Mackey - Any other questions?

1730  
1731 Mrs. Thornton - Just for the applicant.

1732  
1733 Mr. Mackey - All right. Can we hear from the applicant? For the record,  
1734 please state your name and address.

1735  
1736 Mrs. Thornton - Go to the back?

1737

1738 Mr. Mackey - Yes. Just go to the back lectern.  
1739  
1740 Mr. Emerson - To the rear of the room, please.  
1741  
1742 Mr. Mackey - I'm thinking about people in opposition.  
1743  
1744 Mr. Misra - Thank you. I'm honored to be here and I'm surprised and  
1745 honored to be in the company of such large projects.  
1746  
1747 I will try to put my request in plain English. I have a house. I have land 80 feet between  
1748 Church Road and my property line.  
1749  
1750 Mr. Mackey - Excuse me, one second, would you please just state your  
1751 name for the record?  
1752  
1753 Mr. Misra - Yes, yeah. My name is Ram Misra and this is my son,  
1754 Sanmay.  
1755  
1756 Mr. Mackey - Okay.  
1757  
1758 Mr. Misra - Hopefully he will help me working for my phone.  
1759  
1760 So coming to my request, I will try to put in plain English – because any time I hear about  
1761 the words setback, proffer, I get lost. And my requirement is very simple. I have a house,  
1762 Church Road is about 80 feet from my -- from my house of the ending line. I'm planning  
1763 to make a new room in the first-floor along with a full bathroom. Because of my medical  
1764 situations and, of course, because of the age that I am finding difficult to use my -- the  
1765 bedroom upstairs.  
1766  
1767 So if I add, like, the, like this room, which would be around 16 feet, I would be left with at  
1768 least around 65 feet from my -- I mean, back of my house. And that's all my request was  
1769 about.  
1770  
1771 Apparently we have in -- there was a setback commitment done in 2002 that there will be  
1772 65 feet setback from my house towards the Church Road that -- leaving a part, like,  
1773 whatever not part of my house. And so through now I'm constrained because of that. I  
1774 don't know why I came to such a thing that it is -- it is going through this complex element.  
1775  
1776 Some major changes were happening in the past in the last 20 years. I mean, we need  
1777 to remember in -- that in -- within this context. One thing is this room is required for  
1778 medical reasons.  
1779  
1780 That Church Road, which was, like, a fast road at that time, for last several years it has  
1781 become a 35-mile speed limit. So the reason that, I mean, that -- the gap of that -- the  
1782 reason why probably the gap was there probably it may not be valid anymore. That's my  
1783 understanding.

1784  
1785 And, also, what I've seen in, like, the County manuals and all, like, there could be given  
1786 some access on -- without going into the neighborhood and others in the Church Road. I  
1787 think one thing why I heard from her of like to think, okay, this exception is given others  
1788 may also ask for it. I just want to put here because there are just four houses which are  
1789 in the same -- this constraint. There are not many in that row which are not like -- beyond  
1790 the -- within that 65-foot line.

1791  
1792 And I was told that we can be -- I can be granted an exception if it substantially complies  
1793 with the provisions of the chapter, doesn't defeat the chapters proposition, but protects  
1794 the public interest. If the room's within 15 feet of my house or I think that that is taken  
1795 here. The exception will not be detrimental to the public safety, health, and welfare or  
1796 injurious to surrounding property. I don't think adding, like, another 150 square foot is  
1797 going to do that. The conditions on which the exception request is based are unique to  
1798 the property and not generally applicable to the other property. All that I'm looking for is  
1799 like a -- I mean, making a room. And I am okay to make some compromises here and  
1800 there if, I mean, that satisfies others.

1801  
1802 And, yeah. This is the part of the Henrico Municipal Code. This one.

1803  
1804 So I'm not sure why there is a strong opposition to this. I have been in touch with Ms.  
1805 Smith and -- before that, Brett Hinson, for quite some time. I did plan this one sometime  
1806 probably in the last November, December time frame and now here we are in August still  
1807 struggling to, I mean, I mean, get this moving because it's all through the E-mail  
1808 exchanges.

1809  
1810 So I will take a pause here. I mean, if you have any questions. I hope I was clear in my  
1811 report. If you have any questions.

1812  
1813 Mrs. Thornton - Yes. I am going to have a hard time making a decision to  
1814 move forward with this. I'm -- you're going to need to get a survey. If you're saying it's  
1815 80. We looked at the map that the County has and I've been -- I went by there three times  
1816 just so I could, like, circle, see, drive, go on Church. And I can actually see your house  
1817 right from Church. It's very -- it's close. So I don't know if it's 80. It doesn't look like it is.  
1818 I would recommend that you get a survey so we know exactly, but the County is telling  
1819 us that it's 66 based off of the map that we have. And when I drove by it definitely is  
1820 closer than I anticipated it to be. I could see over the fence. You have a front-entry  
1821 garage, so I understand you can't go anywhere sideways. You just have to go to the  
1822 back.

1823  
1824 Do you all have any questions?

1825  
1826 Mr. Baka - I do, I guess. Would this set a precedent if this were approved  
1827 that other houses would do the same thing on Church Road? I mean, there's many more  
1828 houses not --



1829  
1830 Mrs. Thornton - Right.  
1831  
1832 Mr. Misra - There are just four houses left with this constraint.  
1833  
1834 Mrs. Thornton - Right.  
1835  
1836 Mr. Misra - If you look at Church Road, it goes from John Rolfe to all the  
1837 way to Lauderdale, maybe 60 or 70 percent of the houses are closer than this 30 feet --  
1838 5 feet -- what I am looking for. Including my immediate neighbor.  
1839  
1840 Mrs. Thornton - Right. And so you're saying for -- so we have to look at the  
1841 larger picture. The reason there's proffers and the reason that we have certain things for  
1842 certain neighborhoods you're, you know, is to keep it all, you know, a certain way, a  
1843 certain -- If I say okay to you, well, that doesn't mean that, you know, an R-3C across the  
1844 way will do it. It's not just your little four houses, it's everybody that falls under the R-3C  
1845 has this same, you know, if they're on a major road they have the same setbacks. You  
1846 see what I mean?  
1847  
1848 Mr. Misra - I don't --  
1849  
1850 Mr. Baka - Can I add about -- oh, sorry.  
1851  
1852 Mr. Mackey - No. Go ahead.  
1853  
1854 Mr. Baka - Can I add a comment about side-yard setbacks to Mrs.  
1855 Thornton's comments? Many of these homes on Church Road at first glance would  
1856 appear to be -- their side yard setback is between the side of the house and the road.  
1857 And some of those might be closer to Church Road. But these homes in Church Run  
1858 have a rear-yard setback and those rear-yards are further. And, generally speaking, the  
1859 rear yards are intended to be further because you want to keep some orderly development  
1860 and their continuity throughout the neighborhood so that people buying in can expect that  
1861 they have a front yard and a rear yard. Which mainly has the bulk of the area up there.  
1862 So even if -- even if there are other's homes that have shorter setbacks to Church, a lot  
1863 of those are side yards, not rear.  
1864  
1865 Mrs. Thornton - Right. Because the neighborhoods go this way. His turns in  
1866 right there.  
1867  
1868 Mr. Mackey - Mr. Witte.  
1869  
1870 Mr. Witte - I'm not sure that this will meet -- I think we've got special  
1871 setbacks for major roads and I can't recall right off the top of my head, but it seems to me  
1872 that this may not meet that, anyway. I can't remember when all that was done. Somebody  
1873 know that?  
1874

1875 Mrs. Thornton - Do you have it?  
1876  
1877 Ms. Smith - Have the details on other subdivisions?  
1878  
1879 Mrs. Thornton - No.  
1880  
1881 Mrs. Smith - Oh. I'm sorry. The enhanced setbacks?  
1882  
1883 Mr. Witte - Yes. There's some special setbacks for major roads.  
1884  
1885 Ms. Smith - Yes. After 2002 any subdivisions along major thoroughfare  
1886 roads. For this instance it would have to be increased by 25 feet. So that would be the  
1887 65. So the 40 feet of rear-yard setbacks plus 25 feet as Church Road's a major collector.  
1888  
1889 Mr. Witte - So this won't meet those setbacks.  
1890  
1891 Ms. Smith - It does. What I believe Mr. Misra was measuring is his house  
1892 to the pavement rather than to his rear property line. In GIS when I measured it, it looks  
1893 like 66 feet.  
1894  
1895 Mr. Witte - Okay.  
1896  
1897 Ms. Smith - But without having a survey, it is hard to tell this.  
1898  
1899 Mr. Witte - Right. That's the --  
1900  
1901 Mrs. Thornton - Right.  
1902  
1903 Mr. Witte - That's -- Good. Thank you.  
1904  
1905 Mr. Misra - Now what is the process of the survey? Because I had  
1906 measured it myself from the edge of the road. That's what I'm trying to mention here.  
1907  
1908 Mrs. Thornton - Yes.  
1909  
1910 Mr. Misra - I mean, I am -- if I go with my property line, I do agree with  
1911 that 65 feet. I do agree with that 65 or a little more than that probably. So maybe 70 feet  
1912 or so. Because there is another 8 to 10 quite probably that doesn't belong to me.  
1913  
1914 Mrs. Thornton - Okay. I would highly recommend -- there are survey  
1915 companies out there that will actually professionally come and then they put a seal on it  
1916 and it actually will go recorded with your property. I would highly recommend you doing  
1917 that so everybody knows exactly where your property line is. And you might not even  
1918 have your fence on your property line. That happens quite often, so I would highly  
1919 recommend that.  
1920

1921 Mr. Misra - What exactly we're looking for? The measurement the  
1922 distance of Church Road from my house? Or what is it you're looking for?  
1923  
1924 Mrs. Thornton - They actually find the metal pinpoint that's in the ground.  
1925  
1926 Mr. Misra - Yeah.  
1927  
1928 Mrs. Thornton - And they will actually measure exactly and they draw it out  
1929 and it's on a certified, you know, paper. And then we can see exactly measurements. It  
1930 has the fence on there. It will show exact feet.  
1931  
1932 Mr. Witte - He may have some with his closing documents.  
1933  
1934 Mrs. Thornton - Well a lot of people opt out of not getting them. When did you  
1935 buy your house?  
1936  
1937 Mr. Misra - 2003.  
1938  
1939 Mr. Witte - Oh, wow.  
1940  
1941 Mrs. Thornton - Did you remember getting a survey?  
1942  
1943 Mr. Misra - No.  
1944  
1945 Mrs. Thornton - Okay. It's a couple-hundred dollars. I would highly  
1946 recommend it.  
1947  
1948 Mr. Witte - Absolutely.  
1949  
1950 Mrs. Thornton - You would have to have it anyway, to build, probably, because  
1951 they need to know, you know --  
1952  
1953 Mr. Emerson - Right. You would.  
1954  
1955 Mrs. Thornton - They have to have it anyway. So I would highly recommend  
1956 you doing that.  
1957  
1958 Mr. Misra - No. I can do that permanently. If it's a couple of hundred  
1959 dollars something or anything to go through the process, I can do that. My only concern  
1960 is, I know that I have measured it myself with 80 feet from the Church Road. Even if the  
1961 whole thing doesn't belong to me, I know that 70 feet I certainly have as a part of my  
1962 property. But because we are not making any compromises in the proffer, even though  
1963 the neighbor and other places, they are closer to the measured road. Then I -- the full  
1964 survey and that's like a futile exercise for me.  
1965  
1966 Mrs. Thornton - Yeah.

1967  
1968 Mr. Misra - I can just, I mean, just go along on this line for almost –  
1969  
1970 Mr. Baka - That's a good point.  
1971  
1972 Mrs. Thornton - That is a good point.  
1973  
1974 Mr. Baka - Are the other homes in Church Run -- I see six homes backing  
1975 up in Church Run on the road that he lives off.  
1976  
1977 Mrs. Thornton - Well Brandy --  
1978  
1979 Mr. Baka - Brandyview. Are any of those five other homes closer to  
1980 Church Run than -- Church Road than your back yard -- than your -- than your home?  
1981  
1982 Mr. Misra - They're all pretty much uniform. The houses in the Church  
1983 Run certainly are, and so also my two -- my immediate neighbors. Which was a new  
1984 neighborhood there. When you look at the red box, I think this particular zone is just the  
1985 three houses to the right of the red box. But the other two or four houses you see on the  
1986 left of the red box is -- was recently built at, you know, four years ago. And two of them  
1987 are -- have, like, it's a very flagrant, you know, way of saying, like, they have also  
1988 exceeded that setback. And the main reason we have been hearing is that we don't, you  
1989 know, while they were getting got -- why they got the exception, that was probably not  
1990 the, you know, quote, unquote mistake. And -- but it's quite obvious if, like you said, if  
1991 you have driven around the neighborhood, those two houses the left of the red box  
1992 definitely have a violation.  
1993  
1994 Mrs. Thornton - But I wouldn't say they're 45 feet.  
1995  
1996 Mr. Misra - They absolutely 45 feet (indiscernible). I can vouch for it.  
1997  
1998 Mrs. Thornton - And that was a mistake. That was a mistake the house -- if  
1999 you're facing yours to the right, if you -- if I'm right -- to the right, apparently whoever was  
2000 working did not. You can speak to it, because you know more than -- about it.  
2001  
2002 Ms. Smith - Sure. When that permit was reviewed, it was reviewed in error  
2003 -- well, it was approved in error -- as they did not apply the proffer or the enhanced  
2004 setback. So --  
2005  
2006 Mrs. Thornton - And what -- do you know what theirs is when we pulled it up  
2007 on the map?  
2008  
2009 Ms. Smith - It is 42 feet from their home to their rear property line.  
2010  
2011 Mrs. Thornton - To the rear property line. Including the 25-foot setback.  
2012

2013 Ms. Smith - Yes. It's not excluding that. Yes. It is to the rear property  
2014 line.  
2015  
2016 Mrs. Thornton - What? No. Because it's a new -- I mean -- yeah. And it --  
2017 and the way it is, it kind of goes around. I don't know. It's around the cul-de-sac.  
2018  
2019 Mr. Misra - Our intent is not to just focus in the past. We really want to,  
2020 like, rely on the Henrico Municipal Court and look at the exceptions. That's the way to  
2021 look, you know, work together to see how we can find a solution for this.  
2022  
2023 Mrs. Thornton - Yeah.  
2024  
2025 Mr. Misra - And I, you know, we feel that it is legitimate for this in that  
2026 municipal court and that we're eligible for and we would like to, you know, discuss that  
2027 further. We don't think it would be a disturbance to anyone, you know, in that  
2028 neighborhood.  
2029  
2030 And I think she would have pointed out, I think the only objection there is, is that it would  
2031 set the wrong precedent. But that's why we are trying to go this far in the process just to  
2032 um, you know, make this humble request and then we tackle it case by case.  
2033  
2034 Mr. Mackey - Yeah.  
2035  
2036 Mrs. Thornton - Yeah. Well, I appreciate everybody's comments. I,  
2037 unfortunately, am not going to be able to approve it. So, Mr. Chairman, I –  
2038  
2039 You're going to need to have more -- you're going to need to have a survey for the Board  
2040 of Supervisors to be able to understand exactly. And I don't want to set a precedence for  
2041 other neighborhoods. You know, you know, and I don't have anything to go by.  
2042  
2043 So, Mr. Chairman, I move that REZ2021-00037 Ram Misra be recommended for denial.  
2044  
2045 Mr. Witte - Second.  
2046  
2047 Mr. Mackey - All right. Excuse me. We have a motion by Mrs. Thornton, a  
2048 second by Mr. Witte for denial of REZ2021-00037. All in favor of the denial say aye.  
2049  
2050 The Commission - Aye.  
2051  
2052 Mr. Mackey - Any oppose the denial. And the motion is carried.  
2053  
2054 **REASON:** Acting on a motion by Mrs. Thornton, seconded by Mr. Witte,  
2055 the Planning Commission voted 5-0 (one abstention) to recommend the Board of  
2056 Supervisors **deny** the request because it does not meet the original intent of the proffers  
2057 and would likely set an adverse precedent for the area.  
2058

2059 Mr. Emerson - Mr. Chairman, that will appear on September 14th Agenda,  
2060 the Board of Supervisors, along with the other items you take action on this evening – or  
2061 took action on.

2062  
2063 The next item, Mr. Chairman, on the agenda this evening also appears on page 5. It is a  
2064 discussion item. And it is the consideration of approval of your 2022 Planning  
2065 Commission calendar. And you did receive that, I believe, via email, and then you should  
2066 have had a hard copy at your seat this evening.

2067  
2068 But what you have is the schedule for the 2022 meetings and filing deadlines and you got  
2069 your rezoning meetings and then you've got the Plan of Development Site Plan and  
2070 Subdivision Review Schedule. And of course I'm sure all of you recall with the adoption  
2071 of the new ordinance, your second meeting will be phasing out and you will see plans of  
2072 development at the Commission when necessary on the evening meetings, but we still  
2073 need to run that process on a schedule. So you see the action dates and filing deadlines.  
2074 And we will do this, essentially, as the way we were doing it during the pandemic.

2075  
2076 Mr. Mackey - All right.

2077  
2078 Mr. Emerson - So with that said, Mr. Chairman, if there is any questions, I  
2079 certainly will try to answer them. And if not, a motion to approve would be in order.

2080  
2081 Mr. Witte - So moved.

2082  
2083 Mr. Baka - Second.

2084  
2085 Mr. Mackey - All right. We have a motion for acceptance of the scheduling  
2086 calendar for the Henrico County Planning Commission for the rezoning cases, as well as  
2087 the POD cases. All in favor -- oh. I'm sorry. We -- motioned by Mr. Witte and a second  
2088 by Mr. Baka?

2089  
2090 Mr. Baka - Yes.

2091  
2092 Mr. Mackey - Okay. All in favor say aye.

2093  
2094 The Commission - Aye.

2095  
2096 Mr. Mackey - Any opposed? All right. Motion is granted.

2097  
2098 Mr. Emerson - Thank you, Mr. Chairman. The next item on your agenda is  
2099 consideration of approval of your Minutes from your July 15th meeting. There is no errata  
2100 sheet. And if you have any changes or corrections, certainly let us know and we will make  
2101 those.

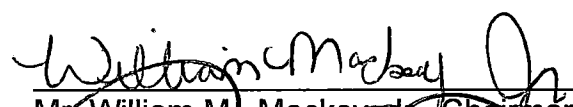
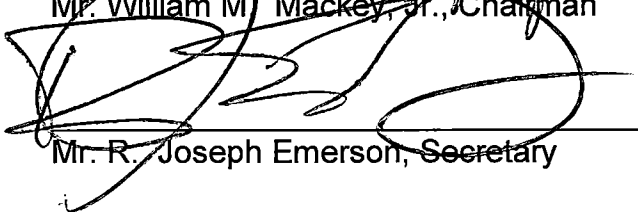
2102  
2103 Mr. Archer - Mr. Secretary, I have a couple of changes.

2104  
2105 Mr. Mackey - Okay.  
2106  
2107 Mr. Archer - And with all apologies to Ms. Diuguid, because she did call  
2108 and ask me if I had any corrections and I said no. But upon closer inspection I find that I  
2109 do. On page 35, line 1568, I started a sentence I have a particular affinity for Glenwood  
2110 because it's the best place I ever played golf in my life. That's not true. It should have  
2111 been the first place.  
2112  
2113 Mr. Mackey - Oh my goodness. All right.  
2114  
2115 Mr. Archer - And on page 36, and this is line 1601, at some point in there I  
2116 intended to say that I think by now the owners want to be able to do something with what  
2117 they had, so they can retire.  
2118  
2119 Mr. Mackey - Think by now -- okay, the owners.  
2120  
2121 Mr. Archer - The owners, yeah.  
2122  
2123 Mr. Mackey - Okay. All right. We'll make note of those corrections. Are  
2124 there any other corrections?  
2125  
2126 Mr. Witte - Yes. I have one.  
2127  
2128 Mr. Mackey - All right. Mr. Witte.  
2129  
2130 Mr. Witte - I didn't wait till page 36. I hit page 2.  
2131  
2132 Mr. Mackey - Oh you started right off the bat.  
2133  
2134 Mr. Witte - Right off the bat. Line 59. I may have said Commissioner  
2135 O'Bannon, and if I did, I apologize, but it should be Supervisor O'Bannon.  
2136  
2137 Mr. Mackey - Okay. All right. Any other corrections?  
2138  
2139 Mr. Witte - You asked for them.  
2140  
2141 Mr. Mackey - Oh, absolutely. Absolutely. All right. Well, with those  
2142 corrections made, we will need a motion to accept the Minutes with the corrections.  
2143  
2144 Mr. Archer - I move the Minutes be accepted as corrected.  
2145  
2146 Mr. Mackey - Second. All right. It's been moved by Mr. Archer and  
2147 seconded by Mr. Mackey to accept the Minutes with the updated corrections. All in favor  
2148 say aye.  
2149

2150 The Commission - Aye.  
2151  
2152 Mr. Mackey - Any opposed? The motion is granted. Any other business,  
2153 Mr. Emerson?  
2154  
2155 Mr. Emerson - Yes. Mr. Chairman, I would like to note to all of you, and I  
2156 know Mr. Archer is acutely aware of this, we do have a community meeting in this room  
2157 next Wednesday evening for the GreenCity Project. It's a large project. It will be on your  
2158 September 9th agenda. At least, that's the track it is on right now.  
2159  
2160 Mr. Mackey - All right.  
2161  
2162 Mr. Emerson - Of course something could always happen that it could defer,  
2163 but right now by all appearances it will be on your September 9th agenda. So any of you  
2164 that are interested in hearing about that project a little more and hearing any comment  
2165 from the community that they might have. It is a large project. It's an exciting project for  
2166 the County. But any of you that are -- that are interested, that meeting will be in this room  
2167 on next Wednesday evening at 7:00 p.m.  
2168  
2169 Mr. Mackey - Okay. Wednesday at 7:00.  
2170  
2171 Mr. Baka - Will that be available on Webex?  
2172  
2173 Mr. Mackey - Webex.  
2174  
2175 Mr. Emerson - It will be, yes sir, Mr. Baka. We are going to be -- broadcasting  
2176 isn't the right word. But we're going to be out there on the internet with it. Media services  
2177 will be operating that similar to how we run our Webex meetings, but they're going to step  
2178 in and help us with that. And they told me they want to do it similar to how they run  
2179 townhalls, which is just a little bit different, but very similar.  
2180  
2181 Mrs. Thornton - Oh, wow.  
2182  
2183 Mr. Emerson - We'll still be able to take comments from the public via Webex  
2184 and, of course, in person in the room. But we do have all our setup in this room, as you  
2185 know, so we're fully equipped and we've got our fine help from Media Services. So I'm  
2186 sure the transmission will be excellent.  
2187  
2188 Mr. Mackey - All right.  
2189  
2190 Mr. Emerson - No pressure there, Fred.  
2191  
2192 Mr. Mackey - Fred can handle it.  
2193  
2194 Mr. Baka - Thanks. I'll be Zooming in.  
2195



96 Mr. Mackey - All right. All right.  
 97  
 2198 Mr. Emerson - And with that, Mr. Chairman, I have nothing further for you this  
 2199 evening.  
 2200  
 2201 Mr. Mackey - All right. Thank you, sir. A motion for adjournment?  
 2202  
 2203 Mr. Archer - Mr. Chairman, before we adjourn.  
 2204  
 2205 Mr. Mackey - Oh, yes sir.  
 2206  
 2207 Mr. Archer - If I may just advise everyone, those of you who may have  
 2208 attended our Martin Luther King Jr. holidays over the years, Ms. Lucy Wells, who was the  
 2209 Chairman, passed away day before yesterday. She was the chairperson for years and I  
 2210 think she finally retired, like, three years ago. But just wanted to announce that because  
 2211 some of you may know her.  
 2212  
 2213 Mr. Mackey - Our prayers and condolences to her family, Mr. Archer.  
 2214  
 2215 Mr. Witte - May she rest in peace.  
 2216  
 2217 Mrs. Thornton - Yeah.  
 2218  
 2219 Mr. Mackey - Any other business? All right.  
 2220  
 2221 Mr. Archer - There being none, I move for adjournment.  
 2222  
 2223 Mr. Witte - Second.  
 2224  
 2225 Mr. Mackey - All right. Well, motioned by Mr. Archer, a second by Mr. Witte  
 2226 for adjournment. All in favor say aye.  
 2227  
 2228 The Commission - Aye.  
 2229  
 2230 Mr. Mackey - So moved. Meeting adjourned.  
 2231  
 2232  
 2233  
 2234  
 2235  
 2236  
 2237  
 2238  
 2239  
 2240

  
 \_\_\_\_\_  
 Mr. William M. Mackey, Jr., Chairman  
  
 \_\_\_\_\_  
 Mr. R. Joseph Emerson, Secretary