

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,
2 Virginia, held in the Board Room of the County Administration Building, Parham and
3 Hungary Spring Roads at 7:00 p.m., on August 12, 1999, Display Notice having been
4 published in the Richmond Times-Dispatch on Thursday, July 22, 1999, and Thursday, July
5 29, 1999.

6
7 Members Present: Elizabeth G. Dwyer, C.P.C., Chairwoman, Tuckahoe
8 Ernest B. Vanarsdall, C.P.C., Vice-Chairman Brookland
9 C. W. Archer, C.P.C., Fairfield
10 Mary L. Wade, Three Chopt
11 Debra Quesinberry, Varina
12 James B. Donati, Jr., Board of Supervisors, Varina
13 John R. Marlles, AICP, Secretary, Director of Planning
14

15 Others Present: Randall R. Silber, Assistant Director of Planning
16 Mikel C. Whitney, County Planner
17 Judy Thomas, Recording Secretary
18

19 Ms. Dwyer - The Planning Commission meeting will come to order. Mr.
20 Secretary, let's begin with the agenda.
21

22 Mr. Marlles - Good evening, ladies and gentlemen. Madam Chairman, we do
23 have a quorum tonight. I'm going to ask Ms. Jo Ann Hunter to review the list of deferrals and
24 withdrawals for the 7:00 p.m. agenda.
25

26 **Deferred from the June 10, 1999 Meeting:**

27 **C-36C-99 Brian R. Marron for Bill Tsimbos:** Request to conditionally
28 rezone from R-3 One Family Residence District to B-1C Business District (Conditional), Parcel
29 59-A-74, containing 0.446 acres, located on the east side of Skipwith Road approximately 480'
30 south of its intersection with W. Broad Street (U. S. Route 250). A beauty salon and related uses
31 are proposed. The use will be controlled by zoning ordinance regulations and proffered
32 conditions. The Land Use Plan recommends Office.
33

34 Ms. JoAnn Hunter The first request for deferral is in the Three Chopt District on Page
35 2 of your agenda. Deferral is requested until October 14, 1999.
36

37 Ms. Dwyer - Is there any one in the audience opposed to the deferral of Case C-
38 36-99 to our October 14th Planning Commission meeting? No opposition. Ready for a motion.
39

40 Mrs. Wade - I move Case C-36C-99 be deferred until the October 14th
41 Commission Meeting at the applicant's request.
42

43 Mr. Vanarsdall seconded the motion.
44

45 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All
46 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).
47 The motion carries.

48
49 **Deferred from the June 10, 1999 Meeting:**
50 **C-21C-99 Walter J. Monahan for Dakota Associates:** Request to
51 conditionally rezone from A-1 Agricultural District and RTH Residential Townhouse District to
52 R-3C One Family Residence District (Conditional), Parcels 192-A-19 & 20, containing 20.017
53 acres, located on the west line of Midview Road approximately 400' south of its intersection with
54 Darbytown Road. A single-family residential subdivision is proposed. The R-3 District requires
55 a minimum lot size of 11,000 square feet. The Land Use Plan recommends Suburban Residential
56 1, 1.0 to 2.4 units net density per acre. This site is also in the Airport Safety Overlay District.

57
58 Ms. Hunter The second request is in the Varina District on the bottom of Page 2
59 of the agenda – C-21C-99. The deferral request is until the September 9, 1999 meeting.

60
61 Ms. Dwyer - September 9th?

62
63 Ms. Hunter September 9th.

64
65 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of
66 Case C-21C-99 Dakota Associates in the Varina District? There's no opposition. Ready for a
67 motion?

68
69 Mrs. Quesinberry - Yes. I'd like to recommend deferral of Case C-21C-99, at the
70 applicant's request, to the September 9th meeting.

71
72 Mr. Vanarsdall seconded the motion.

73
74 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.
75 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
76 abstained). The motion carries and the case is deferred.

77
78 **C-47C-99 Ralph L. Axselle or Andrew M. Condlin for Penrose**
79 **Corporation:** Request to amend proffered conditions applicable to the Parham Place Office Park
80 and accepted with rezoning case C-113C-85, on Parcel 52-A-5, containing 20.11 acres, located
81 on the south line of Old Hungary Road at the intersection of Hungary Road and Benham Court
82 and also fronting on the north line of E. Parham Road. The proposed amendments are related to
83 access to Hungary Road and buffer area on the property. The Land Use Plan recommends
84 Office.

85
86 Ms. Hunter On Page 3 of the agenda in the Brookland District, Case C-47C-99.
87 The deferral request is to September 9, 1999.

88

89 Ms. Dwyer - Okay. Thank you. Is there any one in the audience in opposition
90 to the deferral of Case C-47C-99 Penrose Corp. There's no opposition to the deferral. Ready for
91 a motion.
92

93 Mr. Vanarsdall - I move C-47C-99 Ralph L. Axselle and Andy Condlin for Penrose
94 Corp. be deferred to September 9, 1999 at the applicant's request.
95

96 Mr. Archer seconded the motion.
97

98 Ms. Dwyer - Motion made by Mr. Mr. Vanarsdall, seconded by Mr. Archer.
99 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
100 abstained). The motion carries.
101

102 **C-53C-99** **Ralph L. Axselle, Jr. for FFT Hungary, L. P.:** Request to
103 amend proffered conditions accepted with rezoning case C-38C-98, on Parcel 50-5-F-52,
104 containing approximately 4.1 acres, located at the southeast intersection of Staples Mill and
105 Hungary Roads. The proposed amendment is related to placement and lighting of detached signs
106 on the property. The property is zoned B-2C Business District (Conditional).
107

108 Ms. Hunter The final deferral is also in the Brookland District – Case C-53C-
109 99. The deferral request is a two-week deferral to the August 25, 1999 POD meeting.
110

111 Ms. Dwyer - Mr. Secretary, how is our POD agenda for this month?
112

113 Mr. Marlles - Right now, Madam Chairman, it is reasonable.
114

115 Mr. Vanarsdall - Madam Chairman, I do not wish to honor the deferment on this
116 case. I've already talked to Mr. Axselle on this, and I'd like to hear the case tonight.
117

118 Ms. Dwyer - So we do not have a motion to defer.
119

120 Mr. Vanarsdall - Not from me.
121

122 Ms. Dwyer - All right.
123

124 Ms. Hunter That's it for the deferrals.
125

126 Ms. Dwyer - Thank you, Ms. Hunter. The next item.

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SUBDIVISION (Deferred from the July 28, 1999, Meeting)

**Echo Lake Ridge
(July 1999 Plan)**

**Jordan Consulting Engineers, P.C. for Attack Properties and
Gunst Associates:** The 23.37-acre site is located at the
intersection of Springfield Road and Francistown Road on Parcel
20-A-27C, 27A and 27F. The zoning is R-3C, One-Family
Residence District (Conditional) and C-1C, Conservation District
(Conditional). County water and septic tank/drainfield. **(Three
Chopt) 26 Lots**

Mr. Marlles - Mr. Mikel Whitney will be giving the staff presentation.

Ms. Dwyer - Is there any one in the audience in opposition to the Subdivision
Echo Lake Ridge (July 1999 Plan)? No opposition. Good evening, Mr. Whitney.

Mr. Mikel Whitney, County Planner - Good evening, Madam Chairman. We deferred this case
for two weeks to work out some issues on this subdivision. I believe we've come to a
compromise on all of those issues.

First, being the staff recommendation regarding the 44-foot right of way.

Ms. Dwyer - Excuse me, Mr. Whitney. We don't have the correct slide on the
monitor.

Mr. Whitney - Yes. I notice we don't have a map on the list here to show you.
Did you receive the information in your packet for this subdivision?

Mrs. Wade - I think so. I got two copies of it. Yes. Yes. They have a copy of
the proposed subdivision and the conditions attached.

Ms. Dwyer - I meant on the monitor. We have copies for the members of the
audience to have the correct case on the monitor. Thank you. Excuse me.

Mr. Whitney - That's quite all right. Back to the 40-foot right of way. The
subdivision originally showed 40 feet. And, it was indicated by staff that there had been some
problems with this narrow of a right of way, because Traffic Engineering then requires a parking
restriction on one side of the street.

A deviation for less than a 50-foot right of way, however, as far as the Subdivision Ordinance,
requires approval of the Director of Public Works for anything less than 50 feet. And a 40-foot
right of way still shows up on their standard right-of-way width chart. So, the Director of Public
Works has given them permission to use a 40-foot right of way.

163 With that, Condition No. 16 on your agenda would still apply as far as the parking restriction on
164 one side of the street or the other. The owner or the developer of the property then would have
165 to indicate to us on the construction plans where the parking restrictions will lie.

166
167 Regarding the recommendation for a sidewalk along Springfield Road, we've talked about this.
168 And, I think we all agree, there is definitely a need for a sidewalk in this area. However, the
169 location of Springfield Road, and the right-of-way dedication to take out some of the curves on
170 the dangerous situation here has made it a little bit cloudy.

171
172 As a compromise, the applicant for this subdivision has agreed to build a sidewalk from the
173 entrance to the subdivision on Springfield Road to the park boundary. So, the residents within
174 this subdivision will have a way to walk from their property up to Springfield Road and then
175 along Springfield Road to Echo Lake Park.

176
177 With that condition regarding sidewalks, No. 18 would have to be amended. It probably should
178 read with your okay, "A county standard sidewalk shall be constructed along the south side of
179 Springfield Road (U.S. Route 157) from the subdivision entrance westerly to the Echo Lake Park
180 property."

181
182 The applicant has also talked to the owner of the parcel in between Lots 26 and 23, and there
183 may be a chance to have no disagreement with the sidewalk going in front of his property. It
184 would be in the right of way, however, but we would like to make sure its okay with that person.

185
186 Ms. Dwyer - But we don't know at this point whether there is?

187
188 Mr. Whitney - No. It's a little premature at this point where the sidewalk is going
189 to be located because VDOT has not indicated, at this time, how much road widening will be
190 needed along the subdivision. And, until they come in with their construction plans and we can
191 do a little more detailed analysis, at that time, it would be better for us to judge where the
192 sidewalk would be best located.

193
194 The last situation regards the proffered 50-foot buffer, as currently highlighted on the map on
195 your screen. It was proffered with the zoning case to be adjacent to the park property. The
196 applicant has offered to dedicate this 50-foot buffer to the County to be added to Echo Lake
197 Park. This is his offer in request for a transitional buffer deviation, which would be required
198 along the C-1 property—the dashed line following along the back of Lots 20, 21, and 22. The
199 Code requires a 35-foot transitional buffer along that area.

200
201 The staff would request that the deviation be granted along Lots 20 and 21. However, staff
202 believes that along Lot 22, the transitional buffer still should be provided to allow a little more
203 buffer between the cul-de-sac and the park boundary. This might illustrate it better (referring to
204 rendering).

205

206 So, then staff is recommending the transitional buffer deviation in its entirety for Lots 20 and 21,
207 however, to keep the 35-foot transitional buffer along Lot 22, which I might point out is the
208 narrowest portion of the C-1 area along this subdivision property.
209

210 With that, staff is recommending a Condition No. 19 be approved with this case, where the
211 Proffer No. 9 in Zoning Case C-53C-98 would have to be amended by the applicant to allow for
212 the transfer of land. In addition, staff would like to add to this condition the wording, "...The
213 owner shall convey this property to Henrico County on the subdivision plat." With that, staff
214 can recommend approval of this conditional subdivision. And, I'll take any questions you may
215 have.
216

217 Ms. Dwyer - Thank you, Mr. Whitney. Are there any questions for Mr.
218 Whitney by Commission members? Are there any questions?
219

220 Mrs. Wade - Not of Mr. Whitney. I might ask the applicant.
221

222 Ms. Dwyer - Do you want to hear from the applicant, Mrs. Wade?
223

224 Mrs. Wade - Yes. He may wish to respond.
225

226 Mr. Whitney - Any other Commission members have questions for me?
227

228 Ms. Dwyer - I have a question. Are you recommending there be no transitional
229 buffer requirement for Lots 20 and 21?
230

231 Mr. Whitney - That is correct.
232

233 Ms. Dwyer - That's what the deviation means, no...
234

235 Mr. Whitney - No transitional buffer there. Because of the width of the C-1
236 District, adjacent to the lake, and the lake property.
237

238 Ms. Dwyer - And for Lot 22, would the transitional buffer that you recommend,
239 would that be partially within the 50-foot buffer that will be transferred to the County, or will
240 that be outside of that 50 feet?
241

242 Mr. Whitney - The transitional buffer would follow the C-1 line. At the north
243 end, the 50-foot buffer is approximately the same. As it moves southerly, it moves beyond that
244 50-foot buffer area. So, it would be in addition to the 50-foot buffer; the area that's to be
245 conveyed to the County.
246

247 Ms. Dwyer - Would that permit Lot 22 to be developed with enough buildable
248 area?
249

250 Mr. Whitney - Staff believes it will. It would not add any more constraints on
251 building on this lot, because with the dedication of the 50 foot, then comes into play a 15-foot
252 side yard along there. So, until you get approximately half way down along the line of the 50-
253 foot buffer, you don't really have any further constraints.

254
255 Mrs. Wade - What about the conflict on here between the buffer next to Lot 22
256 and the cul-de-sac in that location?

257
258 Mr. Whitney - I should have pointed that out, or made that more clear. Staff is
259 recommending that the buffer be deviated to follow along the right of way of the cul-de-sac. It
260 would be a variable width buffer following the right of way along down to the boundary between
261 Lots 22 and 21.

262
263 Mrs. Wade - Yes. I'm still saying what you responded to Mrs. Dwyer about?
264 That would not affect the buildable area of the lot?

265
266 Mr. Whitney - From what we know right now, it does not affect building on this
267 lot. In fact, when I scaled this off, I noted that the widest part of the buildable area on Lot 23
268 would be approximately the same that we would end up with on Lot 22, taking into account the
269 35-foot transitional buffer. So, he doesn't have a different situation than what he's proposing to
270 use to build on Lot 23.

271
272 Mrs. Wade - And the reason the lots are different sizes and different shapes is
273 because of the lack of public utilities, and it's a necessity then for some kind of drainfield?

274
275 Mr. Whitney - Yes. Because of the...

276
277 Mrs. Wade - Drainfields, as they say.

278
279 Mr. Whitney - ...subdivision is now proposed to be on septic drainfield. The lot
280 layout has been generated because of the soils allowing for the drainfield area.

281
282 Ms. Dwyer - Mr. Whitney, did we receive comments from Public Utilities about
283 the proposed drainfield, whether that was recommended by them or not?

284
285 Mr. Whitney - The Department of Public Utilities doesn't comment on
286 drainfields. That would be the Department of Health. And they made their standard comment
287 that the applicant should notify them prior to them requesting final approval for staking the
288 center line of the road, and then looking closer at where the drainfields could be located to see if
289 each lot is then buildable.

290
291 Mrs. Wade - That wasn't her question, was it?

292

293 Ms. Dwyer - So, we don't have an opinion, then, from the Department of Public
294 Utilities as to whether this should be a subdivision connected to public sewer or not?
295 Mr. Whitney - No. We do not. An opinion, per se, other than they always
296 recommend hooking up to public water and public sewer.
297
298 Ms. Dwyer - How far away is the connection from this property?
299
300 Mr. Whitney - I don't know what their policy is on that. I've heard 400 feet.
301
302 Ms. Dwyer - Do we know how far it is from this site?
303
304 Mr. Whitney - From the rezoned case staff report, it said, 1,400 feet, I believe.
305
306 Ms. Dwyer - I just have one more question about the roads. Do we receive
307 comments from Public Works about the size of this 40-foot road?
308
309 Mr. Whitney - Yes, we did. However, it only dealt with parking restrictions that
310 would be required.
311
312 Ms. Dwyer - So, is that tantamount to approval?
313
314 Mr. Whitney - Yes, it is. A 40-foot right of way, even though its being examined
315 to be removed from the design standards of Public Works, it is still on the Design Standard
316 Chart as an allowable right-of-way width for road construction.
317
318 Ms. Dwyer - But they're reconsidering that at this time.
319
320 Mr. Whitney - Yes.
321
322 Ms. Dwyer - This relates to a question I had, I guess, last month about school
323 buses being able to access the subdivision. Because I know this part of Springfield has a
324 dramatic curve here. And, since the school bus could not turn around, and it may even have
325 difficulty negotiating the turns here and backing up, how would a school bus pick up children to
326 the subdivision? I'm assuming they would not want to stop on Springfield Road?
327
328 Mr. Whitney - Even though the road width is only 40-feet, I believe the cul-de-sac
329 radius is still 50 feet like it would be under ordinary circumstances.
330
331 Ms. Dwyer - Okay.
332
333 Mr. Whitney - So, a bus would be able to turn around in a cul-de-sac.
334
335 Ms. Dwyer - It would? Okay.
336

337 Mr. Whitney - I believe it would. I don't know if the School has a policy that
338 prevents them from doing that. But, its my understanding that they are able to do that. I know
339 we talked about this, Ms. Dwyer, but I didn't have a chance to call Schools. Did you have a
340 chance to talk to anybody at Schools? Is anyone here from the Board of Education?
341

342 Mrs. Wade - In connection with that Tanfield...
343

344 Ms. Dwyer - Right.
345

346 Mrs. Wade - ...we discussed that a lot. I forget now what the School people
347 said in that regard.
348

349 Mr. Marlles - Madam Chairman, typically, a bus will not go into a cul-de-sac
350 road. So, it may be necessary for the bus to pick up children on Springfield Road. I just want to
351 make the Commission aware of that.
352

353 Ms. Dwyer - And the sidewalk then from the entrance toward the school is being
354 eliminated? The school is toward the, I guess, to the right as you are coming out of the
355 subdivision.
356

357 Mr. Whitney - Would you repeat the question?
358

359 Ms. Dwyer - We're requiring a sidewalk from the entrance to the park.
360

361 Mr. Whitney - That's correct.
362

363 Ms. Dwyer - Which would, I guess, be the...
364

365 Mr. Whitney - To the west.
366

367 Ms. Dwyer - ...the western part. And then we're eliminating the sidewalk
368 toward the east around the curve on Springfield Road. Is that right?
369

370 Mr. Whitney - That's correct.
371

372 Ms. Dwyer - Is that near where the school is? Is that toward the school?
373

374 Mr. Whitney - The school is, I believe, the same distance I gave you for the
375 sewer; 1,400 feet down Francistown Road.
376

377 Ms. Dwyer - Any other questions by Commission members? Would the
378 applicant come forward, please. Thank you, Mr. Whitney.
379

380 Mr. Whitney - Thank you, Madam Chairman.

381
382 Mr. Bob Atack - Madam Chairman, members of the Planning Commission, ladies
383 and gentlemen, my name is Bob Atack. And I'm the applicant. To give you a quick history, we
384 rezoned this property about a year ago, and proffered a maximum of 48 single-family homes.
385 Water and sewer; utilities, was a major concern at that time.

386
387 Unfortunately, with sewer, water is pretty accessible. Sewer is approximately 400 feet, as Mr.
388 Whitney said. Unfortunately, its flowing in the wrong direction. This property will not gravity
389 any sewer to the school site which is where the sewer is available. And, therefore, we reduced
390 the density to 26 homes. That's where we are today.

391
392 I'd like to probably address maybe a couple of important features. One is, that we are offering
393 to give to the County a 50-foot buffer along Echo Lake Park. We have met with a member of
394 the Parks Department, as well as their Advisory Board. And they seem to be very receptive to
395 that suggestion.

396
397 The biggest question that we have, I think, really, lies where Mr. Whitney was articulating the
398 35-foot buffer request on Lot 22. And, he's exactly right when he says it does not affect the
399 buildable area. And we did a scale off on that as well. It will not affect the size of the house.

400
401 What it does not permit is two things: a driveway across this 35 feet. And, actually, even more
402 importantly, because we believe the driveway may very well not end up in that buffer. But,
403 more importantly, unfortunately, it also prohibits any access for a septic system. And effective
404 October 1st, the septic system laws and requirements are getting somewhat more stringent. And,
405 there is a major concern that we have on Lot 22, that this area be preserved.

406
407 I would also suggest this, that when the 50-foot buffer that we actually donated to the County,
408 because of an existing proffer, that will have to be rezoned. That will probably be sort of a
409 formality. But, by the time we rezone that, I believe that we will probably be able to know
410 where we stand as far as the need for this 35-foot buffer to be relieved with regard to the septic
411 system. So, by that time, we might be able to accept this additional buffer. Our only fear is that
412 this lot may very well not be buildable without that 35-foot buffer.

413
414 With regard to, Ms Dwyer, you asked about school buses, and I appreciate your concern as well
415 for school buses stopping on Springfield Road. It is a highly traveled, somewhat rural-appearing
416 road. And it does have a lot of traffic.

417
418 The residential communities that currently exist on Springfield Road, school buses do stop on
419 Springfield Road now to pick up those students. It doesn't make it any better, I don't think, but
420 it is what the practice is today.

421
422 With regard to the sidewalk, we are willing to install the sidewalk, if you will, on Lots 26, 23,
423 and 22. Those are the properties that we own. What Mr. Whitney mentioned today is we have
424 decided that we would do, and if you look at the Lots 22, 23, and 26, it is very nice that you

469 Mr. Atack - Right.
470
471 Mrs. Wade - There is a possibility they might decide to move the fence over to
472 their property line at that point, but that would be up to them, I think, and the fence along
473 Springfield Road?
474 Mr. Atack - Yes ma'am?
475
476 Mrs. Wade - Do you have any more details about that and the location? I know
477 we talked about that.
478
479 Mr. Atack - Yes ma'am. We are actually negotiating with a contractor now for
480 the installation of the fence on the southerly portion of the property for a four-rail fence because
481 its into a field and we're trying to get a little bit more physical mass into it as opposed to a three-
482 rail fence. Our intention, Mrs. Wade, will be to have the fence, assuming its okay with the
483 Highway Department, run along Springfield Road and intertwine between trees so that it gives
484 somewhat of an effect that the fence has been there for some period of time.
485
486 Mrs. Wade - It's more of a decorative fence than a screen, basically?
487
488 Mr. Atack - Yes ma'am. It is strictly aesthetic.
489
490 Mrs. Wade - That's what I understood before, but I wanted to clarify that. They
491 say we still have to wait to see what the Highway Department requires along Springfield. I think
492 that's probably all at the time.
493
494 I don't know how we can work out this dividing up of that part of the transitional buffer.
495
496 Mr. Atack - Well, our request is to have the fence...
497
498 Mrs. Wade - You're saying you would do it unless it prohibited your, basically,
499 building on that Lot 22.
500
501 Mr. Atack - Yes ma'am. What we're requesting, Mrs. Wade, is that the
502 transitional buffer be omitted this evening on all three of those lots for reciprocation for the 50-
503 foot property we would deed over. But, I would warrant to you, as we come back to the County
504 for the zoning of the 50-foot property to be deeded by the County, by that time, we will have
505 determined the necessity of that small piece of property, which we are really speaking about Lot
506 22. At that time, I feel very comfortable that, once that's determined, that I would be satisfied
507 with the judgement of the Planning Commission as to whether that would be satisfactory or not.
508
509 Mrs. Wade - Of course, you really can't plant over the drainfield. But if you
510 put part of the drive or a little bit of the cul-de-sac there, might there be some planting and
511 screening or even, you know, the park might get together what could help with that narrow place
512 that would come to the pathway in the park, basically; close to the pathway in the park.

513
514 Mr. Atack - I'd be happy to participate in that, Mrs. Wade.
515
516 Mr. Whitney - Mrs. Wade, if I could respond to that. During the negotiations for
517 this, we pointed out to them that we didn't feel that Lot 23 was a good design. And we also
518 asked that the cul-de-sac be redesigned to come out of the 35-foot transitional buffer.
519 They did not offer to do that. In addition, I'll point out again, Lot 23 does not have any further
520 restraint than Lot 22 would for driveway location or septic drainfield location. So, I don't buy
521 Mr. Atack's argument that's going to be a restraint.
522
523 Also, I told him, when he comes back for the amended proffer, we would be more than happy to
524 put this subdivision on the agenda, to save time, for reconsideration, and we can look at it at that
525 time.
526
527 Mr. Atack - I restrain my comment, unless somebody asks me to comment.
528
529 Mrs. Wade - I'm trying to decide how we can formalize what you're offering to
530 do here, basically.
531
532 Mr. Atack - Well, I guess...
533
534 Mrs. Wade - You would make some effort to do that.
535
536 Mr. Atack - Absolutely. We have no ulterior motive. There's no distinct value
537 to us to retain that area, Mrs. Wade. It's only our fear, really- -there's two possibilities. One is
538 a driveway. Unlikely, on a practical matter, unfortunately, it is a possibility that it will be
539 needed for a drainfield. And, if we used it for a drainfield, we would not be able to put it in that
540 buffer area.
541
542 Mrs. Wade - I understand that. I think when you and I talked about the
543 possibility of cutting it off at the 50-foot property line, and the front part, basically, remaining
544 because it's a duplication anyway, but not have that 35 feet in the stretch between the point up
545 there and the property line for that lot.
546
547 I really don't feel the Commission is in a position to determine the location of the drainfield and
548 of the driveway.
549
550 Mr. Atack - I agree, Mrs. Wade. Well, until we have a tentative subdivision
551 plan, we can't even do our engineering plans. So, that's where a lot of this will come out of is
552 actually the construction engineering.
553
554 Mrs. Wade - Is there some way we could formalize that, Mr. Atack. I know
555 you don't necessarily agree with it, but it's not what you're recommending.
556

557 Mr. Whitney - Until they come in with a final application for this, and with that,
558 we'd have the construction plans, the buildable areas, and the drainfields located on those
559 construction plans. If the problem arose that this lot became unbuildable, I offered, at the same
560 time we did the amended proffer, we could bring the subdivision back for reconsideration and
561 you could then have that information to decide if you would want to deviate from a transitional
562 buffer further on Lot 22, if it became a problem for Mr. Attack to build on that lot. So, the
563 option is there, like I presented. Just like in Twin Hickory, what we did this with the sidewalk
564 situation. We brought it back for reconsideration to change the condition dealing with sidewalks.
565 It's the same process we could do with this.

566
567 At that time, we would have all the information before you, which we do not now. So, staff is
568 saying, "Let's wait and make that decision when we know for sure that it is a problem for
569 building on this lot."

570
571 Mrs. Wade - This would not hold him up as far as getting started on this?

572
573 Mr. Whitney - Like he just said, once he gets his conditional approval, then he
574 can go forward with his construction plans. Any further questions?

575
576 Mr. Attack - May I comment on that, please?

577
578 Mrs. Wade - We generally are reasonable, Mr. Attack.

579
580 Mr. Attack - I think so. My response might be is, Mr. Whitney is offering to
581 re-evaluate, at some time. There's no warranty that at some time that if we find that we need
582 that area, it will be granted. So...

583
584 Mrs. Wade - I thought that's what we were saying. So, you thought he's not
585 saying. Okay. That was the impression I had. When you re-evaluate, if you need that area,
586 absolutely, then we'll deviate for the 35. But, if you don't, we won't.

587
588 Mr. Attack - I'm sorry. What did you say?

589
590 Mrs. Wade - If you need that area for your lot...

591
592 Mr. Attack - Yes.

593
594 Mrs. Wade - For the drive and the field, then we will deviate—we'll eliminate
595 that section of the 35-foot transitional buffer.

596
597 Mr. Attack - All right, let me ask you this. How would that work mechanically
598 as far as the process goes? Is that something's that's done administratively, or would that go
599 back through – would that require a tentative subdivision plan re-submittal?

600

601 Mrs. Wade - It's probably something that could happen administratively or by
602 direction of the Director of Planning or something.
603

604 Mr. Whitney - I can answer that. Just like I referred to for the Twin Hickory
605 situation. On those two or three subdivisions that we brought back before you, we did it as a
606 courtesy to the applicant, because a condition would not allow them to do their development in a
607 certain way. So, we just added them to the next POD/Subdivision agenda, presented it before
608 you at a public hearing setting, and conditions were reworded or changed to allow for a change
609 in circumstance. It's a formality.
610

611 Mr. Attack - Let me. I apologize. Let me say something.
612

613 Mrs. Wade - He wouldn't have to apply for that? He would just do it?
614

615 Mr. Whitney - No. He would not. We'd be more than happy to put it on the
616 soonest agenda he could get on.
617

618 Mr. Attack - Let me say this. I'm not asking for anything. I'm offering to give
619 to the County 50 feet. This isn't Twin Hickory. I'm not sure what his example is.
620

621 Mrs. Wade - No. I understand.
622

623 Mr. Attack - I just would ask this. We're talking about one lot. If we can't
624 build on that lot, then I don't think I should come back for one lot for permission. I warranty to
625 you people, you will have another opportunity to look at this when we asked for rezoning. And,
626 as everyone knows, when we give this to the County after rezoning, that is tantamount to a
627 rezoning case. I mean, you can't say, "Hey Bob, we changed our mind" It's a rezoning case.
628

629 So, you really have control over this all the way through zoning. And I think that we're dealing
630 with somewhat semantics. But, we warranty to you that we have no ulterior motive with that 35
631 feet. But the restrictions on septic systems are so severe, our fear is that its going to be needed.
632

633 Mrs. Wade - You've written us letters telling us what you're going to do.
634 Suppose we write you a letter telling you what we'll do?
635

636 Mr. Attack - Mrs. Wade, if the County will warranty and say...
637

638 Mrs. Wade - If we can do that.
639

640 Mr. Whitney - Mrs. Wade, Mr. Attack is comparing this to a rezoning case. I
641 would beg to differ. The amended proffer that we're speaking of would have to go to the Board
642 of Supervisors, finally. This reconsideration subdivision would only have to come before you.
643 So, the process would end there. We could then go forward with the final approval of his
644 subdivision.

645
646 Mr. Atack - The Amended Proffer is a rezoning case. It's tantamount to a
647 rezoning case. My point is this.
648
649 Mrs. Wade - The proffer is, yes.
650
651 Mr. Atack - I'm saying, I have to come back before the Board for that proffer.
652 I apologize for taking so much time. I'm going to defer to whatever decision you want to make.
653 I may request an opportunity to appeal.
654
655 Mrs. Wade - Appeal what?
656
657 Mr. Atack - I may request an opportunity to appeal this if I'm being forced to
658 live up with this 35-foot buffer on Lot 22 at this time.
659
660 Mrs. Wade - That's not what I hear us saying, Mr. Atack. I don't know about
661 everybody else.
662
663 Mr. Marlles - If it helps in this situation, the Code provides for the Director of
664 Planning to be able to waive the transitional buffer requirement. By policy, we, of course,
665 referred those to the Planning Commission for action.
666
667 Given that this one lot seems to be the issue, if the Commission is comfortable with this, it's
668 certainly something that the staff can look at. With your, I think, approval, we could handle this
669 one lot administratively, if the Commission is comfortable with that.
670
671 Ms. Dwyer - So, in other words, at this point, it requires a 35-foot transitional
672 buffer. But, understand, administratively, that could be waived if it is not necessary?
673
674 Mr. Marlles - Correct.
675
676 Ms. Dwyer - For the drainfield or the driveway? Is that correct? Is that what I
677 understand you saying?
678
679 Mr. Marlles - Yes.
680
681 Ms. Dwyer - Is that what you're saying, Mr. Whitney?
682
683 Mr. Marlles - I'm not sure that's what Mr. Whitney is saying.
684
685 Mrs. Wade - That's what I was saying.
686
687 Ms. Dwyer - No. He suggested that it come back to the Commission, but...
688

689 Mr. Marlles - There is the authority in the Code for the Director of Planning to
690 handle transitional buffer deviations, administratively.
691
692 Mrs. Wade - Well, that's why I mentioned it to you.
693
694 Mr. Marlles - Right. If the Commission is comfortable with staff handling that
695 one lot, administratively, if it becomes necessary, we certainly will be glad to do that.
696 Mr. Atack - That would be very acceptable for me. That would be the most
697 expeditious.
698
699 Mrs. Wade - That's, basically, what I said, but he maybe said it a little better.
700 Okay.
701
702 Mr. Vanarsdall - By you approving it, he can continue on from tonight, then?
703
704 Mr. Marlles - Correct.
705
706 Mr. Vanarsdall - Well, I'm certainly comfortable with it.
707
708 Ms. Dwyer - Mr. Atack, I wanted to ask a question about Lot 23; the lot next
709 door to this lot in contention.
710
711 Mr. Atack - Yes ma'am.
712
713 Ms. Dwyer - In the interest of good planning, it might seem to me, although it
714 might never happen, you might want to plan for the additional property owned by Mr. Barrett to
715 be a part of the subdivision, or is that not something that you can envision?
716
717 Mr. Atack - No ma'am. His house is located in such a manner in which it
718 wouldn't be a natural course to have it a part of the community.
719
720 Ms. Dwyer - It would never be a desire to tear the house down and add this lot
721 to your subdivision?
722
723 Mr. Atack - No ma'am. The house is not that old of a house and its value
724 would be more than the individual lot. It's a good question if it had been one of the old houses
725 out there. That would have been a natural.
726
727 Ms. Dwyer - Any other questions by Commission members?
728
729 Mrs. Wade - Other than how to include this. Just describe it and let it go at
730 that, along with the approval?
731
732 Ms. Dwyer - Are you ready for a motion?

733
734 Mrs. Wade - Do we need to formalize that in any way, or should we just include
735 it in the motion?
736
737 Mr. Marlles - I think you can include it in the motion.
738
739 Mrs. Wade - All right.
740
741 Mr. Vanarsdall - Is that it?
742
743 Mrs. Wade - I think so.
744
745 Ms. Dwyer - Any other questions by Commission members?
746
747 Mrs. Wade - You're in agreement with all the other conditions on the agenda
748 tonight; 14, 15, 16, 17, 18 (amended) about the sidewalk?
749
750 Mr. Attack - Yes ma'am.
751
752 Mrs. Wade - And then you will get the proffer amended?
753
754 Mr. Attack - In fact, I think Mr. Silber would probably be...
755
756 Mrs. Wade - And convey this property on the subdivision plat?
757
758 Mr. Attack - Correct. I apologize. That is a very important point of
759 clarification. We would convey that 50-foot strip at recordation of the subdivision plat.
760
761 Mrs. Wade - All right.
762
763 Ms. Dwyer - Ready for a motion?
764
765 Mrs. Wade - All right. I move Echo Lake Ridge (July, 1999 Plan) Subdivision
766 be approved for conditional approval. Scratch out "...providing a minimum 40-foot right of
767 way..." here. Annotations on the plan that's appropriately revised; the ones that no longer apply
768 and changed would be amended, the standard conditions for subdivisions served by public water
769 and private septic drainfields, Conditions 14, 15, 16, 17, 18 Amended to include the sidewalk
770 along the south of Springfield Road from the entrance of the subdivision west to the park
771 property. No. 19 providing for No. 9 with Case C-53C-98 to be amended to allow for the
772 transfer of the 50-foot strip to the County for addition to the Echo Lake Park property. "Owner
773 shall convey this property on subdivision plat at recordation with the understanding that the 35-
774 foot transitional buffer will be removed from all but, from the adjacent, basically, to the western
775 line of Lot 22, with the contingency that if it's found when the site work is done that area is
776 needed for drainfield or road or cul-de-sac..."

777
778 Mr. Attack - Driveway.
779
780 Mrs. Wade - "...driveway". Okay. That that can be waived by the Director of
781 Planning.
782
783 Mr. Vanarsdall - Is that it? I second it, Madam Chairman.
784
785 Mrs. Wade - I assume the Park people and the rest of us will be happy to have
786 the 50-foot addition on the side of the park where its narrow now. It's been a goal of the Open
787 Space Plan for some years to add onto that property. So, even the 50 feet will be helpful.
788
789 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All
790 those in favor say aye—all those opposed by saying nay. The motion carries.
791
792 The Planning Commission granted conditional approval to Echo Lake Ridge (July 1999 Plan)
793 subject to the standard conditions attached to these minutes, and the following additional
794 conditions:
795
796 14. Each lot shall contain at least 18,000 square feet, exclusive of floodplain areas.
797 15. The limits and elevation of the 100-year frequency flood shall be conspicuously noted on
798 the plat and construction plans and labeled "Limits of 100 Year Floodplain." Dedicate
799 floodplain as a "Variable Width Drainage & Utility Easement."
800 16. The location of the "no parking signs" required along the 40 foot right-of-way shall be
801 shown on the construction plans. The developer shall include "no parking signs" in his
802 request for street signs and such installation must occur prior to requesting the first
803 occupancy permit. The Zoning Conformance Officer shall inspect for continuing
804 compliance prior to issuance of each subsequent occupancy permit until County
805 acceptance of the street.
806 17. The detailed plant list and specifications for the landscaping to be provided within the 25-
807 foot-wide planting strip easement along Springfield Road (State Route 157) shall be
808 submitted to the Planning Office for review and approval prior to recordation of the plat.
809 18. A County standard sidewalk shall be constructed along the south side of Springfield Road
810 (U.S. Route 157) from the subdivision entrance, west to the Echo Lake property.
811 19. Prior to the recordation of the plat, the owner shall obtain approval from the Board of
812 Supervisors for an amended Proffer #9 (Case C-53C-98) to allow for the transfer of a 50-
813 foot strip of land to the County for addition to Echo Lake Park property. The land to be
814 designated on the subdivision plat as dedicated to the County of Henrico for recreation
815 shall be dedicated with a deed of gift in a form acceptable to the County Attorney prior to
816 recordation of the subdivision plat.
817
818 **Deferred from the July 15, 1999 Meeting:**

819 **C-49C-99** **Andrew M. Condlin for R. Earl & Gail Johnson:** Request to
820 conditionally rezone from A-1 Agricultural District to O-1C Office District (Conditional), part of
821 Parcel 57-A-66, described as follows:

822
823 Beginning at a point south of the intersection of Church Road and Three Chopt Road, said point
824 of beginning being S. 40° 45' 52" W., 195.19' from the W. line of Three Chopt Road; thence
825 from said point of beginning, S. 39° 56' 38" E., 325.16' to a point; thence S. 40° 30' 30" W.,
826 94.43' to a point; thence S. 40° 08' 10" W., 187.44' to a point; thence N. 49° 02' 20" W.,
827 317.18' to a point; thence N. 39° 30' 52" E., 284.00' to the point of beginning, containing 2.252
828 acres.

829 Mr. Marlles - Mr. Eric Lawrence will be giving the staff presentation.

830
831 Ms. Dwyer - Thank you, Mr. Marlles. Good evening, Mr. Lawrence. Is there
832 any one in the audience in opposition to Case C-49C-99 R. Earl and Gail Johnson rezoning?
833 There is opposition. Thank you. Mr. Secretary, before we get started, if you would review the
834 Commission's rules for cases in which there is opposition.

835
836 Mr. Marlles - Ladies and gentlemen, it is the Commission's policy when there is
837 opposition to give 10 minutes to the applicant to present his case. The Commission also gives 10
838 minutes to the opponents to present their concerns. The 10 minutes does not include any time
839 responding to questions from Commission members? Generally, it's a good idea for the applicant
840 to reserve some time for rebuttal. It's also a good idea for the opponents, if there some
841 spokespersons who can summarize the issues and concerns, that makes the best use of the
842 available time.

843
844 Ms. Dwyer - Thank you. Okay.

845
846 Mr. Eric Lawrence, County Planner – Thank you. As you mentioned, this property is located on
847 Three Chopt Road. Just looking at the map up here (referring to slide), you can see its just
848 southeast of the intersection of Three Chopt and Church Roads. The property actually is the
849 green outline, is A-1 zoned, and it actually continues up to Three Chopt Road which is B-1 at the
850 top. So, we're only looking at the A-1 section tonight.

851
852 Historically, this property, back in 1988, had a rezoning case similar to this evening's. Again, it
853 was an A-1 situation, and the request was to go to O-1C. At that time, the Land Use Plan called
854 for Low Density Residential. And because of that and community opposition, the application was
855 denied.

856
857 Since that has occurred, the County has undertaken a Land Use study. With the 2010 Plan, this
858 area is now recommended by the Land Use Plan for Office use. So, tonight's application is in
859 conformance with that aspect of the comprehensive plan.

860
861 The applicant has been working with staff, on and off, over the past couple months to try to come
862 up with a scenario where his proffers would address a lot of the citizens' concerns. Accordingly,

863 there's been a lot of meetings with the citizens groups, and response on the applicant's part to try
864 to address those concerns.

865
866 Most recently, staff received an update just this past week to the proffers. And what I'd like to do
867 is go over that list; talk about the significant changes, and, essentially, give you an idea how that
868 changes the application.

869
870 The property is 2.25 acres that we're looking at here of A-1. The applicant initially proffered a
871 number of conditions, which staff felt was fine conditions the way they were written. But after
872 meeting with the citizens; staff met with the citizens and participated in a meeting, we felt we
873 heard some additional comments. I relayed those concerns to the applicant, and he's tried to
874 address those.

875
876 Going over the staff report that was distributed earlier, there's a couple of corrections. In the
877 staff report, it was our understanding that the site would accommodate approximately 250
878 children. Through discussions, its our understanding its actually going to be a higher number.
879 Currently, the State license for the day care facility that Rainbow Station is operating is actually
880 336 students. So, you see a little bit higher number there. I just want to bring that to your
881 attention.

882
883 The applicant has also proffered a natural landscaped buffer of 25 feet. This would go along all
884 the residential-zoned properties, which is Coles Way to the south, and Deep Run Manor, I guess
885 you'd call it the southeast side.

886
887 With the most recent revision to the proffer, there is a statement that a six foot wooden opaque
888 fence would be placed within the buffer, but no closer than 25 feet to the property line. So,
889 they're proposing a 25-foot buffer with a fence on the outside, if you will. So, it creates the
890 maximum buffer allowance. That actually addresses a lot of concern the staff had heard.

891
892 The applicant also proffers that selective underbrush may be removed from the buffer area to
893 clean it up is their thought. Staff feels that may be taking away from the buffer. When we went
894 out and viewed it, and you can sort of see on the map here, (referring to slide). There's a lot of
895 vegetation. There's trees. There's evergreens, deciduous. There's a lot of underbrush. And
896 right now, in the middle of the summer, that underbrush actually creates a beautiful buffer. It's
897 hard to see through there. Staff feels that underbrush, if you will, should be preserved.

898
899 They're also proffered a height of 30 feet, which is, I guess, the same as what the Zoning
900 Ordinance has. What I'd also point out is the Zoning Ordinance states that any buildings
901 constructed within 100 feet of a residential zone can only be 25 feet. So, what they've proffered
902 at 30 feet would not apply for the entire property, based on the current zoning standards.

903
904 In most recent revisions to the proffers, they've provided a conceptual site layout. Providing that
905 addressed a lot of concerns that staff heard through the community as to what's going to happen
906 with this property. Everyone understands they'd like to put a day care center there, but there's a

907 lot of concerns voiced from the adjoining subdivisions as to how its going to look; how its going
908 to affect us. So, they've proffered a site plan.

909
910 This just got circulated. So, I'd just like everyone in the audience and yourselves to have a
911 chance to look at it. In the middle, you can see the dashed line right through the middle- -sort of
912 horizontal. That's the zoning district boundary right through the middle there. Where the
913 parking lot is, that's the B-1 portion. So, the lower half is your A-1; that's considered for zoning
914 to O-1.

915
916 Mrs. Wade - And, so, none of the proffers are binding on the B-1 site?
917

918 Mr. Lawrence - That's correct. Where the parking lot is now, this zoning case
919 doesn't affect it. But because the parcel is all owned, they would develop the parcel as a whole if
920 they could get the O-1 on the bottom portion. So, what they've proffered here, through this
921 conceptual layout, is just to give you an idea of where the buildings are going to be. They'd be as
922 far north from the property line, but that still would enable enough parking on the property.
923

924 The land to the south, this area (referring to slide), would be open. Essentially, that would be the
925 recreation for the day care facility. I guess they've indicated on the site plan a soccer field,
926 baseball field; not regulation size, but enough for the kids to play.
927

928 So, that is the layout that has been submitted with the proffer. We asked that we get some
929 guidance as to what the property is going to be laid out so we can share that with the community.
930 And this is what was provided. The language addressing the site layout, staff is a little concerned
931 with, because there are provisions in there that you can modify the site plan, if necessary. And,
932 staff feels that might allow a little too much leverage. So, what the community is seeing as a
933 layout may not come to life; may not come to fruition. So, there's some concern with that.
934

935 Mrs. Wade - Would you read that proffer please?
936

937 Mr. Lawrence - Okay. The Conceptual Sketch Proffer, its No. 12. "The property
938 shall be developed generally compatible with the attached layout plan," which is attached, "which
939 layout plan is conceptual in nature and may vary in detail. The exact locations, footprints,
940 configurations, sizes and details of the buildings, drives, roads, and other improvements are
941 illustrative and may be revised and updated from time to time for engineering or regulatory
942 reasons as may be required by any government entity having jurisdiction or other reasons
943 approved at the time of Plan of Development review." Staff felt that second sentence was sort of
944 allowed for leverage, and may be enough leverage to modify the layout significantly, that what
945 the Planning Commission and the Board reviews may not be the ultimate development. So, that
946 was a concern.
947

948 I'd like to end my presentation by pointing out that the staff does have concerns with this. We do
949 recognize that the land use is in conformance with the Land Use Plan. We'd also like to point out
950 that the Goals and Objectives section of the Comprehensive Plan indicate that development should

951 minimize disruption to the established residential community. We feel the applicant has made
952 significant strides to address the impacts that have been voiced by surrounding areas. We're, I
953 guess, concerned that the addressing of removing the buffer, removing the brush in the buffer
954 area, and this conceptual layout text may not be the most appropriate to address all the impacts.
955

956 So, with that said, our feeling, after the most recent revisions, is we could be supportive of this
957 application if they could just clean up the issue concerning the site plan to make sure it's a little
958 more solid so that people are comfortable with what they're seeing, and that the underbrush is not
959 removed. We feel that takes away too much from the buffer area.
960

961 With that said, I'd be happy to answer any questions. I know the applicant's here this evening.
962

963 Ms. Dwyer - Any questions by Commission members of Mr. Lawrence?
964

965 Mrs. Wade - You reminded us that the Land Use Plan recommendation is for
966 Office. Does that necessarily mean an office building, Office zoning; what?
967

968 Mr. Lawrence - It is staff's interpretation that would be an Office use. Office
969 zoning would be appropriate. Keep in mind that what they've proffered here in the O-1 is office
970 uses; medical uses, studios for artists. Child care centers are included in that. But, yes, we feel
971 the application is in conformance with the Land Use Plan's orientation for Office use.
972

973 Ms. Dwyer - On that subject, the first proffer seems to simply reiterate what's
974 already in the Code. Does that proffer, in fact, add anything to this case?
975

976 Mr. Lawrence - No. Actually, it does not. It reiterates exactly what the Code
977 allows in this district.
978

979 Ms. Dwyer - Any other questions by Commission members?
980

981 Mrs. Wade - There was some discrepancy, apparently, between the number of
982 trips generated on Three Chopt in this case and in the last case; the Carematrix down the street.
983 Were we able to reconcile those with Public Works?
984

985 Mr. Lawrence - I inquired, but I did not get a response from them.
986

987 Mrs. Wade - Oh. I thought you told me that they said, "13 something is right?"
988

989 Mr. Lawrence - They never confirmed that with me.
990

991 Mrs. Wade - Maybe Mr. Eure told me about it. I have spoken with him, and he
992 said that was more accurate at Three Chopt in this location.
993

994 Mr. Lawrence - Okay.

995
996 Ms. Dwyer - Mr. Lawrence, on Proffer 4, we're talking about building height.
997 And they've proffered two stories or 30 feet. And, as you pointed out, the Code states that any
998 office, I think, it's within 100 feet of residentially zoned property, can only be 25 feet tall.
999
1000 Mr. Lawrence - That's correct.
1001
1002 Ms. Dwyer - Usually when we get proffers, better quality, less density or less
1003 intensity is offered in this case. What's being offered is below the minimum in the Code. Which
1004 controls?
1005
1006 Mr. Lawrence - I think the more intense would control. Actually, what is proffered
1007 here is the 30-foot which is your standard height in the O-1 District. There's that little caveat
1008 which isn't mentioned in the proffer. But, I think when you enforce the zoning ordinance, the
1009 more intense is what's followed through.
1010
1011 Ms. Dwyer - In other words, he could have a 30-foot building even though the
1012 Code says 25 feet?
1013
1014 Mr. Lawrence - No. He would have to go with the 25-foot maximum height if he
1015 was within 100 feet of the residential zoning boundary.
1016
1017 Ms. Dwyer - Well, I have a question about that, because I heard the County
1018 Attorney say at one time, a proffer that's accepted by the Board is a County Ordinance; is a part
1019 of the County Ordinance.
1020
1021 Mr. Lawrence - Okay.
1022
1023 Ms. Dwyer - And so, I think what you then have would be a conflict of law,
1024 rather than one clearly controlling over the other. I could be wrong on that, but I would hate to
1025 knowingly accept something in a proffer that, at best, would create a conflict.
1026
1027 Mr. Lawrence - I think, with that, we could just ask the applicant to just remove that
1028 building height, because it is the same as what the Zoning Ordinance is stating. We actually
1029 discussed with the applicant the 25-foot height restriction, and he was aware of that, and it doesn't
1030 affect their proposal.
1031
1032 Ms. Dwyer - So, again, its another proffer that really doesn't add anything to the
1033 case. It simply reiterates what's already in the Code.
1034
1035 Mr. Lawrence - That's correct.
1036
1037 Mrs. Wade - I think it was put on there originally relating to the building that
1038 currently exists.

1039
1040 Mr. Lawrence - Right.
1041
1042 Mrs. Wade - Which, assuming that it's, although it seems to me its more like
1043 three story, rather than 30 feet. So, that would essentially be eliminated from this site with this
1044 proffer.
1045
1046 Mr. Lawrence - As the conceptual site plan illustrates, the existing residence on the
1047 property is not included. And they've indicated that it would be removed, as the site plan
1048 indicates. It's no longer on the property. So, that height provision, which may have originally
1049 have been put there to address the house, can probably be stricken if the applicant feels that's its
1050 appropriate.
1051
1052 Mrs. Wade - Say if you wanted to put an 8-story building on here and you put a
1053 proffer in here that said 8 stories, that would precede the County Code?
1054
1055 Ms. Dwyer - I don't think so, but I guess I have a question about it.
1056
1057 Mrs. Wade - We're not talking about this case.
1058
1059 Ms. Dwyer - If the proffer becomes an ordinance, I mean I would assume that
1060 the County Ordinance, adopted by the Board, would control over a proffer, and the proffers are
1061 also adopted by the Board. I don't know. We need to probably speak to the County Attorney on
1062 that.
1063
1064 Mr. Lawrence - The staff will look into that. I'm sure we can clear that up.
1065
1066 Ms. Dwyer - At least if we're aware of a conflict...
1067
1068 Mrs. Wade - A new concept.
1069
1070 Ms. Dwyer - Yes. It would be. On Proffer No. 2, Buffers, the 15-foot proffer,
1071 is that designed to be along the church property?
1072
1073 Mr. Lawrence - That's correct.
1074
1075 Ms. Dwyer - Would that stop at the end of the zoning line, or is it intended to
1076 cover the other property too?
1077
1078 Mr. Lawrence - It's illustrated on the conceptual layout essentially along the right
1079 hand side. The 25-foot actually comes up to where the building is. And, then when you pass the
1080 end of the property line for residential, it drops to 15 feet, and continues. But, obviously, its only
1081 for the O-1 section, because we're not considering the existing B-1 property. So, all the buffers
1082 and everything else stop at that current split.

1083
1084 Ms. Dwyer - Well, I guess I'm just going to make a comment to quote Mr.
1085 Vanarsdall who one time said, "It looks like you're trying to get 10 pounds of potatoes in a 5-
1086 pound bag."

1087
1088 Mrs. Wade - That was Mr. Zehler.

1089
1090 Ms. Dwyer - Mr. Zehler said that. And that's what this strikes me as. We're
1091 only asked to zone one piece of this parcel, and yet, we've been given a conceptual site plan that
1092 includes additional property, that's not even a part of this zoning case. And, I'm very concerned
1093 that this site plan really has no validity in light of the last proffer which states; has so many
1094 caveats, I'm not quite sure what the effect of the site plan is.

1095
1096 And, secondly, it appears that to get sufficient parking, perhaps, they would have to use the B-1
1097 site. So, my first question is, could they fit all of this on the site that we're asked to rezone,
1098 tonight, which you probably can't answer. We would need an accurate, I think, site plan that just
1099 includes the part of the property that we're asked to consider tonight. Can they, as a practical
1100 matter, under Code, are they permitted to have parking offsite, or would this be offsite parking?

1101
1102 Mr. Lawrence - I don't believe its offsite parking. It's all on the same property.
1103 Parking is a permitted use in the B-1, as it is in the O-1, is my understanding.

1104
1105 Ms. Dwyer - Okay. I just did a little bit of research in the Code. Let me see if I
1106 can find that on parking, and, maybe Mr. Silber can enlighten me. But, it seemed to me they said
1107 parking had to be on the site. And, I assumed from the way it was worded, it had to be on the
1108 zoned part, and not on differently zoned property.

1109
1110 Mr. Lawrence - Staff can certainly look into it.

1111
1112 Mrs. Wade - I think you can park next door, if the zoning's correct, can't you?

1113
1114 Ms. Dwyer - Well, there's some exceptions, you know, for "B" and for "M."
1115 But I didn't see any for Office.

1116
1117 Mrs. Wade - Oh. For Office. Some "B" can park on some "O," because we've
1118 encountered problems, occasionally, with that.

1119
1120 Ms. Dwyer - I have just been informed by Mr. Silber that parking on the other
1121 zoned property is acceptable under the Code. Are there any other questions for Mr. Lawrence?

1122
1123 Mr. Archer - Madam Chairman, I did have one question, and Mrs. Wade has
1124 asked it. But I'm having a problem trying to reconcile the traffic count. The letter that we got
1125 from Cross Keys indicates that the staff report concerning 8,500 vehicles per day is erroneous.
1126 At least, they're taking that as the erroneous one. And I'm wondering if the Carematrix case

1127 could have been the erroneous one. I think that count plays a critical part in the decision we have
1128 to make. I'm just curious as to which one is correct. Or could it be that the volume has changed
1129 since the Carematrix case?

1130
1131 Mr. Lawrence - As I mentioned earlier, I inquired and I didn't get a response from
1132 Todd Eure yet.

1133
1134 Mr. Archer - You know that's a considerable decrease, and I think its an
1135 important part...

1136
1137 Mrs. Wade - I got the Carematrix case out. It seemed to me it was closer to
1138 13,000 than to 8,000.

1139
1140 Mr. Archer - I mean the possibility exists that, that one could be erroneous. We
1141 just don't know.

1142
1143 Mrs. Wade - Well, I guess that's always a problem. Given the cars that go by
1144 there, I expect the 13,000 is closer than the 8,000, but, okay, we will consider what that might
1145 be...

1146
1147 Mr. Archer - That was my only question.

1148
1149 Mrs. Wade - ...a conflict there. Maybe one of the neighbors can share some
1150 more light on that.

1151
1152 Ms. Dwyer - Any other questions by Commission members? Thank you, Mr.
1153 Lawrence. We'll hear from the applicant.

1154
1155 Mr. Marlles - Mr. Condlin, would you like to reserve a portion of your time for
1156 rebuttal?

1157
1158 Mr. Andy Condlin - If I could reserve three minutes for rebuttal time, if you could let
1159 me know. I've got some other speakers who want to speak in favor of this case. If you would let
1160 me know when there's four minutes of the remaining time, after I've spoken for three minutes,
1161 which may be a record for me, as you know.

1162
1163 For the record, my name is Andy Condlin from Williams, Mullen. I have with me, Earl and Gail
1164 Johnson from Rainbow Station and a number of people here in support of this case. I would
1165 make one request. I'll be happy to answer your questions. I've asked, because of the time
1166 constraints, that not be charged against me. I'd be happy to just do it right now, or wait until the
1167 end. But, as a consideration, I would appreciate that. I won't belabor all the portions you
1168 haven't asked about.

1169

1170 Let me first discuss with you Rainbow Station, the child development center. This is not your
1171 usual day care. It's better described as an early education, and after school recreation facility. It
1172 provides for children ages newborn up to the age of 12. They have a very unique facility. They
1173 have the "Get Well Place," which is for sick children, not just from Rainbow Station, with a full-
1174 time registered nurse at this location. They also have very innovative and unique leaning
1175 concepts, such as the entire play village being located in one of the buildings. I've got some
1176 pictures here. Eric, if you can put those up for that (referring to document camera). And, I'll be
1177 happy to pass them around to you, if you need.

1178
1179 Rainbow Station is a fully licensed and nationally accredited facility. It's one of only six percent
1180 of child care facilities nationwide, fully accredited by the National Academy of Early Childhood
1181 Programs. It was started in Henrico about ten years ago. They now have three facilities. One in
1182 Chesterfield, and Hanover, as well. Henrico now has three leased spaces that are all separate.
1183 Two across from the shopping center, across Three Chopt Road, and one immediately adjacent
1184 along on the Deep Run Baptist Church.

1185 To consolidate and control their facilities and to upgrade to their other existing facilities, they're
1186 asking to go into this use. They actually have to move because of the lease arrangements that
1187 they have. They're not expanding their use. There was a question raised about the licensing and
1188 the fact of the number that we have. I'm afraid there were some misunderstandings as to that.
1189 We have well under the number, with respect to what's allowed by licensing. Licensing is based
1190 on square footage. We just have more square footage per child than you would have minimally.
1191 There is an accreditation issue that we have to meet to get that accreditation that's allowed for six
1192 percent of the day care facilities within the nation. And we meet those standards as well.

1193
1194 As you know, we're requesting an O-1 Office use, in conjunction with the B-1 which would allow
1195 the Rainbow Station facility. We come to you with a recommendation in the staff report
1196 consistent with the Land Use Plan, and consistent with the surrounding uses. We're consistent
1197 with, on the corner of Three Chopt and Church, there's a gas station and convenience store.
1198 There's Office along Church. There's shopping centers across Three Chopt Road. With the
1199 shopping center across here, Deep Run Baptist being here, only the residential being on the rear
1200 and around this area (referring to slide).

1201
1202 It is our thought that Residential, when you take into the account the buffers and the other
1203 protections provided by the proffers, that office and child care makes sense as a nice transition
1204 from business and the busy roadways of Three Chopt Road to residential.

1205
1206 Substantial protections have been provided by the proffers, and I'm willing to discuss those right
1207 now. If I may, I may present a letter from Todd Eure that actually sets the current road count at
1208 13,500, to settle that issue, if I may present that for the record. In that, you'll also notice that
1209 Mr. Eure discusses the ability for Three Chopt Road to handle the traffic from this location.

1210
1211 With respect, and let me go through your other questions, if I may, again, not to have this
1212 charged against my time. I will be quick. With respect to the 15-foot buffer, the church property
1213 is zoned B-1, immediately adjacent to our B-1, as well. The church property adjacent to this is

1214 also zoned B-1 as we are. There are existing zonings. We just provided our Office zoning in this
1215 case, so we can't proffer beyond that.

1216
1217 With respect to the underbrush, that area I think is a matter of opinion as to whether it looks good
1218 or not. Quite honestly, and I'm sure, I've had clients in situations where a tree falls and its dead.
1219 And I know there was an issue at one time where a natural buffer could be upgraded when a tree
1220 falls. It's dead. It's laying there. It's kind of an eyesore. That's a natural process. And I
1221 believe the County Attorney ruled at one time, if you don't have a clean up proffer or a
1222 landscaped proffer, that dead natural tree has to stay there.

1223
1224 I, quite honestly, again, it's a matter of opinion. We want to be able to clean some of it up.
1225 They're going to retain as much of the foliage, the evergreens. It's a very mature area. I don't
1226 think this map (referring to slide) does it justice to show exactly the extent of the entire buffer,
1227 which all this area in the green, right there, is a treed area.

1228
1229 With respect to, as I'm going to the building height, Mrs. Wade is absolutely correct. That was
1230 used for another purpose. We've since deleted that purpose. I didn't want to be accused of
1231 taking away. I'll be happy to admit to delete or say that the Code will be enforceable over this
1232 proffer. There's no intent to do away with the Code. I'd just like to do away with the issue.
1233 Obviously, I can't do it this second, but I'll be happy to delete, or if that's a condition of the
1234 approval, that we delete Proffer No. 4, with regard to building height, which again, is 25 feet
1235 near the residential and 30 feet otherwise.

1236
1237 With respect to the conceptual sketch, I feel like I'm caught between "a rock and a hard place." I
1238 asked for guidance as to whether I should include the B-1 property. I was told, "Yes, you should
1239 because it would look darn funny if you didn't show any parking and just buildings on the O-1."
1240 I asked for that, and, again, I think its more of what you feel is appropriate. We'd also asked
1241 about whether we could have parking on B-1, in conjunction with, and in supporting as accessory,
1242 to the O-1. We were given an affirmative answer to that. That's why we showed it quite
1243 honestly. I would say, although we haven't included the B-1 property, as you can see from the
1244 layout plan, we have to have parking on this to supply the buildings on this O-1 property.
1245 Parking has to go next to the B-1 in the adjacent piece which we'll all own one piece at that
1246 location.

1247
1248 As to that second sentence, I have not seen a conceptual sketch that at the time of rezoning says
1249 this is how the building is going to look. I know you probably have at some point. I took the
1250 proffer right out of an existing case that I had in the past, exactly as it has been accepted. There
1251 are a number of engineering issues. The only issues that have come up with respect to how this
1252 might vary is, we put in the very maximize size of the buildings that would be placed there. The
1253 size might shrink a little bit, depending on their exact plans. Also, depending upon the
1254 underground. A lot of it is driven by, there's an underground drainage facility that will be placed
1255 in the front of the property to pick up all the impervious surface on the O-1 and the B-1 property.
1256 Depending upon the rulings that's already been approved. We've already gone through and
1257 received conditional acceptance for that drainage facility that's underground. It's one of the first

1258 of its kind in Henrico County, underground sand filter system. And, there's some question about
1259 landscaping you can put on there. We know when we come back for POD, those are some
1260 questions.

1261
1262 And our concern was, will that shrink the parking? It may shrink the buildings because we may
1263 not be able to get enough parking on there. Quite honestly, I mean there's no ulterior motive.
1264 Again, I think this proffer is, and I know you can correct me if I'm wrong, consistent with what I
1265 have used in the past. And I looked at some other cases, and I think its consistent and exact with,
1266 and also has been accepted with a conceptual plan in the past.

1267
1268 Finally, I would like to address, what I anticipate, has been a concern by many that we have not
1269 been as responsive to the neighbors as we should have been. We have tried to respond to the
1270 extent that we can. I do believe we have.

1271
1272 One of the concerns they've addressed has been traffic. We're already on Three Chopt Road,
1273 across, and on this same side of Three Chopt Road. The staff report sets forth the County
1274 Engineer's opinion, that this facility can be accommodated by Three Chopt Road, including the
1275 additional letter I got from Mr. Eure. Three Chopt, actually, is to be a four-lane, divided road
1276 system. And we will have the ability to have a median break to get across both ways across
1277 from, I believe its Old Cox Road. Again, it will be a nominal amount of traffic that's going to be
1278 generated, especially once they pick up all the traffic from Wellesley and bring it forward to
1279 Gaskins to pick up I-64.

1280
1281 As to a drainage concern, we've already had, as I said, the drainage plan approved. I don't
1282 believe that's any further issue with respect to the County, certainly, and I would hope not with
1283 the neighbors, since that would actually be creating less flow than is currently existing and going
1284 towards the rear of the property.

1285
1286 Finally, I anticipate that there will be, in addition to concern of the use, which, again, it's a use
1287 that is called for by the Land Use Plan, and it is a use that we need to have. And, if you can't
1288 agree to it, I can't address it in the proffers. But, the concern is, I think, primarily, having to do
1289 with the noise that may be generated by this facility.

1290
1291 We have provided already a 25-foot buffer, with a six-foot fence. Quite honestly, we're dealing
1292 with children. This is not a situation where we have traffic. As you can see, our conceptual plan
1293 shows there's not to be any parking or any road systems behind the building. We tried to get the
1294 play area behind the buildings.

1295
1296 We proffered out loud speakers; alarms outside. All traffic's to the front. The only noise is the
1297 children. Our existing facility at the church is right next door to Deep Run. It's right next door
1298 to residential. We have not received any complaints. I've checked the County and have been told
1299 they have not received any complaints about our outdoor activities that currently exist without any
1300 buffer immediately adjacent.

1301

1302 As a matter of fact, on the Plan, you will notice the 2.3 acres we are asking to be rezoned, we
1303 have shown on the conceptual plan; 1.7 acres of open area and playground. No matter the
1304 number of systems, we don't have 300 some children that we have. It's not like they all go
1305 "Playtime, let's release them."
1306

1307 They actually have a system – I do that at my office, but certainly not...It is a system where they
1308 have with children only half a class is allowed one at a time. You saw the village center where
1309 the older school children are in school most of the day and only in the afternoon do they come.
1310 And we've gone through and looked at the numbers. The numbers are 15, 20, 30 during one
1311 hour during the summer when the children are not in school. In fact, they actually have up to 70
1312 kids for one hour out on 1.7 acres. And I'd like to present that to Mrs. Wade, the numbers that
1313 we went over at that time.

1314
1315 Mr. Marlles - You currently have four minutes.
1316

1317 Mr. Condlin - Thank you. Rainbow Station is a well established small business in
1318 Henrico. It's simply trying to consolidate and control their existing facilities. Nothing's changing
1319 other than putting them in a location upgrading to what they have in Hanover and Chesterfield,
1320 going off of what they've learned in the past. They want to have as little impact on the parents,
1321 the children, and despite what you might hear otherwise from the adjacent neighbors, as possible.
1322

1323 I do believe that a child care facility is consistent with this area, particularly if you take into
1324 account the existing commercial all along Church and Three Chopt to make it a good transition
1325 between that commercial development, which is residential in the rear.
1326

1327 It's consistent with the Land Use Plan. We've attempted to alleviate the concerns, as we could,
1328 by providing proffers associated with high quality development. We've met all jurisdictional
1329 prerequisites. We have the staff recommendation based on the staff report. And we meet the
1330 Land Use Plan, both as designation, as well as Goals, Policies and Objectives. Accordingly, I
1331 would recommend you recommend to the Board of Supervisors they approve this case. I'd be
1332 happy to answer any questions at this time.
1333

1334 Ms. Dwyer - Are there any questions for Mr. Condlin by Commission members?
1335

1336 Mrs. Wade - That indicates now they have 325 enrolled?
1337

1338 Mr. Condlin - That's the anticipated enrollment. Yes ma'am, which is the
1339 maximum. They had 300 children last year. They have, as I said, through 12 years. They've
1340 only been here 10 years. Their 12-year olds will finally be coming through. They finally have
1341 some attrition rates as they go through. Yes ma'am.
1342

1343 Mrs. Wade - I thought I heard, as some point, they take them up to 14, but limit
1344 it to 12?
1345

1346 Mr. Condlin - It's simply 12. They take them up to 14, but the common is 12.
1347 Common at 12 is the graduation rate. That is, you can see in the numbers that have been
1348 presented.

1349
1350 Ms. Dwyer - Mr. Condlin, the front "B" portion of the property, is it your
1351 client's intent to develop that for business, and that's why it's not part of this rezoning case?

1352
1353 Mr. Condlin - No ma'am. I have to pay an extra fee, Number 1. I understand.
1354 Number 2, this is part of an estate with a trustee relationship which we're purchasing it from.
1355 Part of the relationship and direction we had, as you know, a B-1 case that's unconditional is
1356 absolutely more valuable than any condition that's placed on that. To get Rainbow Station on
1357 here, we checked with that beforehand. And we were confirmed that we can get, going with O-1
1358 on the back, using the entire facility. As you can see in the conceptual plan, the plans are for a
1359 small office building to house the offices for Rainbow Station.

1360
1361 Ms. Dwyer - Your client owns the whole parcel?

1362
1363 Mr. Condlin - Contract purchaser. Quite honestly...
1364 Ms. Dwyer - And intends to use it for office, but doesn't want to rezone it for
1365 office?

1366
1367 Mr. Condlin - You know, they always want the flexibility 30 years down the road,
1368 you know. I don't know what's going to happen 30 years down the road. It's already been
1369 zoned. It's certainly not my practice, nor my recommendation to zone property that already
1370 allows your use.

1371
1372 Ms. Dwyer - I guess, my concern would be, you know, two years down the
1373 road, you could have a business use in front of a child care center.

1374
1375 Mr. Condlin - Yes ma'am.

1376
1377 Ms. Dwyer - That's my concern.

1378
1379 Mr. Condlin - Certainly.

1380
1381 Ms. Dwyer - It would allow for that.

1382
1383 Mr. Condlin - I mean, it's certainly their concern, as well. The last thing they
1384 would want, and the last thing the parents would want, would be to have a child care center, the
1385 education quality that we have at Rainbow Station - And in the past case, that's one of the
1386 reasons, they had 35,000 square feet of projected buildings on the B-1 and O-1 in the denied case
1387 in 1988 which is just down the road at Pemberton and Three Chopt now. It's that same facility
1388 that they had planned, from what I understand from the developer. They don't want that kind of
1389 avenue into or gateway into Rainbow Station. This is a separate piece of property. It was part of

1390 a contractual obligation. I know it really doesn't bind you, but again, I find it hard to recommend
1391 to a client to rezone property that which does not need to be zoned for their anticipated use.

1392
1393 Mrs. Wade - Pemberton and Three Chopt?

1394
1395 Mr. Condlin - Same side. I'm not good with my north, south, east, or west
1396 without my map up there.

1397
1398 Mrs. Wade - Okay. They have, you said, 325 now, and they may...

1399
1400 Mr. Condlin - It may have been my fault about specifically; they've had enrolled
1401 in the past, was 300 children as far as the last year. Now, with the enrollment, that's where
1402 they're going to stay is at 325. It may go down, based on attrition. It may go up slightly, but,
1403 based on the class list and the samples they're trying to obtain, that's where they're at. And that's
1404 not unusual for the area. I do know, and Gayle, correct me if I'm wrong, but in surrounding
1405 areas, there are facilities that have twice that at the same location, including nearby on Church
1406 Road.

1407
1408 Mrs. Wade - They can have twice that number of children?

1409 Mr. Condlin - Is that correct? Yes. Close to 600.

1410
1411 Mrs. Wade - I heard these figures earlier, and then I see them on the tentative
1412 site plan here. One building is 9,000 and one 8,500?

1413
1414 Mr. Condlin - Again, those are the maximums we're trying to obtain, based on the
1415 underground drainage facility up front. We didn't want to show one building and come in and
1416 ask for more. I'm certainly thinking that it's more acceptable to shrink them. As you know we
1417 come through with POD as what's necessary for Rainbow Station and what occurs because of
1418 engineering purposes.

1419
1420 Mrs. Wade - And the underground sand filter is progressing?

1421
1422 Mr. Condlin - I believe it has already received tentative approval from Public
1423 Works. There was that question when we walked the property. They still had some maintenance
1424 issues to take care of, and that's been taken care of. They will agree to that. The County will
1425 agree to that with an underground drainage facility with a sand filter.

1426
1427 Mrs. Wade - And that will take care of all the drainage or...

1428
1429 Mr. Condlin - No ma'am. As we discussed, that's takes care of all impervious
1430 surface on the O-1 and B-1 property, other than the house that's existing on there, which we're
1431 going to cover with primarily one of the buildings. The playground area, the way the topography
1432 of the land goes, the playground area, some of which is going to be under building, actually goes
1433 down back to the rear of the property into this area (referring to slide) naturally drains. From

1434 what I understand from Public Works, this drainfield BMP area was designed to accommodate,
1435 and we discussed that at length with the Public Works folks that were at that location. That will
1436 not change. It will actually make less drainage because some of that which drains now is being
1437 put under impervious surface. Any impervious has already been designed to forward. So, it's
1438 going to be less than what we have otherwise draining back there now.

1439
1440 Again, the staff report, in the original case, was denied, had concerns with the drainage problems.
1441 In this case those concerns were not present, based on Public Works' comments.

1442
1443 Mrs. Wade - Somewhere I have a note about the hours from roughly from 6:30
1444 a.m. to 6:30 p.m. I don't see that anywhere in the case.

1445
1446 Mr. Condlin - Yes. Yes.

1447
1448 Mrs. Wade - But that's not proffered on here.

1449
1450 Mr. Condlin - No ma'am. No.

1451
1452 Mrs. Wade - One concern is, of course, the proffers, I think, are intending to
1453 address the child development center-daycare situation. Whereas this then would be zoned also
1454 for Office. And, so, in some ways, you don't know how long the daycare center will be there nor
1455 do we. We would have to be thinking ahead to what...

1456
1457 Mr. Condlin - ...potential is...

1458
1459 Mrs. Wade - ...potential is in terms, also of the design standards and things that
1460 we're talking about.

1461
1462 Mr. Condlin - Yes. Let me say that that's one of the reasons they want to own the
1463 facility such as they do in Hanover and Chesterfield. They found it is much more advantageous
1464 to be able to provide the atmosphere that they want for the children.

1465
1466 The other thing is, when I dropped you off these proffers, I felt more confident than I do right
1467 now about them. But, when I drafted them up, I took an Office case. We have the setbacks. We
1468 have the materials listed that are only allowed. And, quite honestly, when you and I discussed
1469 this, my concern about proffering a conceptual plan, and you know, I asked you. "What happens
1470 20 years down the road when this use is no longer appropriate, or something else occurs. They
1471 want to put office in here, which, as we all know, can occur. And we've got this site plan." The
1472 answer was, they have to come back for an amendment. And I think that's correct. I mean if
1473 we're going to revise the buildings, I think these buildings are generally shown, but if we're
1474 going to put one big building, or move them back to meet the setback, in the site plan, I believe
1475 the buildings are shown approximately 180 feet from the rear property line. I think that's
1476 significant. And if we wanted to do anything other than that, I believe we have to come forward
1477 for a proffer amendment, despite the opinion of the second sentence.

1478
1479 Mrs. Wade - Yes. Well, I'll get to that in a minute.
1480
1481 Mr. Condlin - Okay.
1482
1483 Mrs. Wade - Starting at the top here, the underbrush sentence that we've been
1484 thinking about, of course, one advantage of that heavy growth back there is more of a buffering
1485 situation, although I understand it might need some cleaning up.
1486
1487 Perhaps, it would be better to say, though, if they remove supplemental planting "shall" be added
1488 to the buffer instead of "maybe."
1489
1490 Mr. Condlin - That's fine. Sure. Don't forget, remember, there's that toxic
1491 barrel sitting out there.
1492
1493 Mrs. Wade - No, I don't, but I heard about it. You told me.
1494
1495 Mr. Condlin - It was an opinion. I thought it was kind of ugly. It had a six foot
1496 fence. So anything below six feet and below, which would include children, obviously, is going
1497 to be shielded from the neighbors as it stands.
1498
1499 Mrs. Wade - Okay. You're talking about taking out in No. 4 about the building
1500 height? Do you feel better...
1501
1502 Mr. Condlin - Absolutely. I will say this, I know it's the opinion of the Planning
1503 Staff, or at least the policy, not to include proffers that are consistent; certainly. I didn't mean to
1504 make it contrary to the Code, but are consistent with. But there is also the opinion, I know that as
1505 the Code changes, that doesn't change if you have your proffer. A lot of neighbors like to see the
1506 uses and like to see specific proffers even if its already mentioned in the Code because they feel
1507 more comfortable having been committed in writing and that it won't change other than a public
1508 hearing. I'll just make that comment and I'll be happy to take it out at your pleasure.
1509
1510 Mrs. Wade - Your comment about Wellesley going through here to I-64 isn't
1511 helping your traffic situation description very much, Mr. Condlin.
1512
1513 Mr. Condlin - Well, the only point I make is the entire Three Chopt Road is being
1514 improved.
1515
1516 Mrs. Wade - It is?
1517
1518 Mr. Condlin - ...into a four-lane road system, a divided median in there.
1519
1520 Mrs. Wade - I hope they all won't be coming down through here.
1521

1522 Mr. Condlin - Nor do I, but there's a reason I'm putting it in there. We're
1523 currently existing on Three Chopt, as it is. Again, it's deemed a nominal effect on what Three
1524 Chopt can handle.

1525
1526 Mrs. Wade - We hope that we will live long enough to see some sort of access
1527 directly to I-64 out in the Gayton area out that way which is, obviously, badly needed. It would
1528 relate to this in the long run.

1529
1530 Mr. Condlin - Absolutely.

1531
1532 Mrs. Wade - It may be awhile. Okay, now No. 12 Mr. Lawrence was
1533 concerned about, and you and I talked about this. We really didn't get back to discuss it again.
1534 You say, we'll that's what you're seen. I haven't seen it exactly like that in my records, but I did
1535 find one that said it will be developed in substantial conformance to the attached plan, unless
1536 otherwise requested and specifically approved at the time of POD review, and doesn't go into all
1537 these exceptions, basically that you've got in here.

1538
1539 Mr. Condlin - I know I used this in Linhard, and I know Summit used the exact
1540 same thing in that exact same case. You know, it's kind of a big case. It's the last one, I've
1541 done, so it's in my mind. That's where I pulled it, quite frankly. I'm not smart enough to come
1542 up with anything unique. I just pulled it out of there. That's where it came from.

1543
1544 Mrs. Wade - Well, of course, that was the car dealer, and he showed what he
1545 was going to do, and probably be there for a long time.

1546
1547 Mr. Condlin - If you remember, in that case, we had to come back, based on the
1548 opinion, come back and amend the proffers to present a new site plan because of the separation
1549 from the two buildings, chopping one building in half and moving the back part forward. I think
1550 that's a prime example of how that proffer worked. It was the opinion of the staff that we needed
1551 to come back, and we came back and amended it to give a new conceptual plan.

1552
1553 Mrs. Wade - Well, that was substantial and that wasn't surrounded by or wasn't
1554 adjacent to single family residential.

1555
1556 Mr. Condlin - Well, I would beg to differ. There was some opposition to that
1557 across the street.

1558
1559 Mrs. Wade - Well, you know, they had been there a long time.

1560
1561 Mrs. Wade - I think there's probably all the questions of you. Does anybody
1562 else have any?

1563
1564 Ms. Dwyer - Are there any other questions for Mr. Condlin by Commission
1565 members?

1566
1567 Mrs. Wade - About how many of the children are say over 12 to 14? Do you
1568 have that on here, the pink sheet? Okay. Well, this just says up to 12.
1569
1570 Mr. Condlin - How many children are 12 to 14? Three children between 12 and
1571 14, currently.
1572
1573 Mrs. Wade - I was just going to say it might depend on the three. I'm sure these
1574 are lovely, but you understand.
1575
1576 Mr. Condlin - I think it says something to the fact that we have children here and
1577 they've been sitting here for the entire time, and I don't think people find these deliberations...
1578
1579 Mrs. Wade - Oh. Okay. Thank you.
1580
1581 Ms. Dwyer - Mr. Condlin, why is the office located in a separate location from
1582 where the children are?
1583
1584 Mr. Condlin - The Office on the B-1 portion? That's simply to separate the
1585 administrative offices for Rainbow Station to run all three facilities, separate it from the children
1586 to maximize the room that the children have. The idea is to give children more room, despite the
1587 licensing to allow them to play. And the accreditation is based on open, useable space within the
1588 building. I understand if you've got a desk there, it's not useable. A closet, its not useable. It's
1589 useable for children and that's how you get that accreditation that's limited. Quite frankly, it's
1590 quite an honor to have that for Rainbow Station.
1591
1592 Ms. Dwyer - In most schools the administrators are in the same buildings so they
1593 can see what's going on...
1594
1595 Mr. Condlin - Absolutely. And then they'll have offices in there as part of that.
1596 But, I mean, you have a lot of letters going out that have nothing to do directly with the children.
1597 You have other administrative billing and those kind of things that are taking place.
1598
1599 Mrs. Wade - I went out to the Hanover Medical Park and looked at the facility
1600 out there. This certainly seems to me to be a more appealing site for this kind of use than theirs.
1601 As I recall, they backed up pretty close to a bank and a FasMart. And the playground had very
1602 little in the way of trees. Of course, it doesn't mention clearing of trees in here anywhere,
1603 although they said they were going to try to leave some of the big ones, but its not referred to in
1604 the case, basically, which sometimes we have.
1605
1606 I do have one question for you. You had this Penrose case that was deferred?
1607
1608 Mr. Condlin - Yes ma'am. This is going to count against me in time.
1609

1610 Mrs. Wade - In the original case, and it's a large office park, for some reason
1611 they prohibited day care centers. I just wondered why?

1612
1613 Mr. Condlin - I wasn't involved. Mr. Axselle, Bill's around here somewhere,
1614 that did the rezoning of that.

1615
1616 Mrs. Wade - It was detached, free standing. I know that was a long time ago,
1617 but I did notice they prohibited a child care center.

1618
1619 Mr. Condlin - You know, I mean there are certain uses any time, as you know, as
1620 you go through the proffers, to the extent that you can cross off any anticipated uses. That's a
1621 professional office park that they didn't have any plans. I don't want to use the term, "waste."
1622 But the rate of return on money, I'm sure they didn't want to use it for a day care. To the extent
1623 that you can cross off any uses, that's what you try to do, and that certainly makes my job easier
1624 if you can do that. A day care facility is allowed in many areas within Henrico County adjacent
1625 to residential, not just be right next door. It's adjacent on two sides to residential areas.

1626
1627 Mrs. Wade - Actually, Innsbrook has one, separate day care center. Of course,
1628 it is also adjacent to residential. It's in the office park.

1629
1630 Mr. Condlin - I mean, you want to be near for convenience for clientele too. But
1631 I think you're going to hear a lot of people say it's not a bad use. I, personally, live next to a
1632 shopping center, which I know people have fought before. I don't have any complaints about it.
1633 The trucks bang once in awhile, and they don't have a proffer for parking lot cleaning at 4:00
1634 o'clock in the morning.

1635
1636 Mrs. Wade - That's everything I have.

1637
1638 Ms. Dwyer - Mr. Condlin, I guess, I just want to underscore my concern about
1639 having B-1 zoning directly in front of the child care center. If, for example, Rainbow Station
1640 needed a larger facility and moves in the future, they would have two buildings that would be
1641 ideal for a day care center. Another day care center could go in there. The seller could then have
1642 some sort of business there right now. If we had the opportunity to see into the future, we might
1643 say, that future business use would not be compatible with the day care center and yet, that could
1644 not be changed in the future because of this continued rezoning of the business in the front.
1645 That's something we have to look at as planners. You have two buildings designed for children
1646 in a day care situation directly behind a business zoning.

1647
1648 Mr. Condlin - Let me say this, as you said, you have the two buildings, but you
1649 have the parking in the conceptual plan. If they try to sell the B-1 from the requested O-1
1650 property, they would have to accommodate the parking by either coming back and amending that
1651 proffer for the conceptual plan, or accommodating it by taking most of the space on the B-1.

1652

1653 Ms. Dwyer - Why would that be any different in the future if someone put a
1654 building there?
1655
1656 Mr. Condlin - You still need parking for the office building, which is not shown
1657 on the conceptual plan, which is proffered. And, in order to put parking on the O-1 to allow for
1658 the child center on the O-1, they'd have to come back and amend the conceptual plan at that time.
1659
1660 Ms. Dwyer - Why couldn't you just continue using the parking as shown.
1661
1662 Mr. Condlin - Well, there'd be no room for the B-1, business uses at that point.
1663 The Code, and I don't have it at the top of my head. It certainly requires more intensive parking
1664 requirements than an Office use does. Most of the parking is geared towards needed for the child
1665 care and the office building in the front.
1666
1667 Ms. Dwyer - How much more parking would you need?
1668
1669 Mr. Condlin - I haven't done number counts, but, Randy, I believe it's what; 200
1670 for retail and 250 for office?
1671
1672 Mrs. Wade - I did have one other question now that I look at this site plan again.
1673 Are you all finished with that? I'll ask when you finish that. I thought I saw potential
1674 architectural renderings; pictures of what the buildings might look like.
1675
1676 Mr. Condlin - That's what's expected, but you're right, we haven't proffered that
1677 specifically, on the look of the exterior of the building.
1678 Mrs. Wade - I don't know whether that site in Hanover didn't have any trees to
1679 begin with and it was a farm field or whether in connection with the medical park, they just
1680 scalped the whole place?
1681
1682 Mr. Condlin - I believe that's the way it was. It's a part of the office. It's
1683 relatively new, so they're still putting stuff in there. I have pictures. They're still constructing
1684 some of the playground too.
1685
1686 Mrs. Wade - On this site plan, now, you've got these two buildings on the side
1687 and big empty space, and then the field's back in the corner?
1688
1689 Mr. Condlin - Right. The idea is to put more of a park-type setting that's fenced
1690 in. Again, we want to try to separate the play area; the 1.7 acres of the open space from the
1691 traffic. And, in between, we have tried to retain as much of the mature trees on the property, not
1692 just in the buffer, obviously, which we're not going to touch. But there's going to be a park area
1693 in between the two for people to go in. I've got some pictures of the trees on the property.
1694
1695 Mrs. Wade - I guess the big plan I saw had the trees identified, located on there?
1696

1697 Mr. Condlin - Yes ma'am. I didn't think we needed to go into that detail.
1698
1699 Mrs. Wade - No. That's all right.
1700
1701 Mr. Condlin - Those are some of the trees we are going to expect to retain around
1702 the facility, itself. You can see they're pretty mature trees.
1703
1704 I would say this, a comment was made about, "This may not be appropriate," but I don't see the
1705 inappropriateness of this use. The land use plan designation calls for this. We are preserving
1706 open space in the back. That's where we want to put the children. It's not an office with a lot of
1707 trucks coming in bothering the neighbors and that kind of thing. Again, I would contend that it is
1708 an appropriate use for this location, particularly, making a transition between the transition in this
1709 area and the residential in the back.
1710
1711 Ms. Dwyer - Any more questions of Mr. Condlin by Commission members?
1712 Thank you, Mr. Condlin. You have a few minutes left.
1713
1714 Mr. Condlin - We do have a couple of supporters. Three minutes.
1715
1716 Ms. Dwyer - You had some favorable comments?
1717
1718 Mrs. Dawn Vonbeckman - Good evening, my name is Dawn Vonbeckman. And my husband
1719 and I are residents of the Church Run Subdivision right on Three Chopt Road. And we have
1720 three children currently enrolled in Rainbow Station. I wanted to take a minute to share my
1721 personal experience, which, I believe, underscores the importance of Rainbow Station to our
1722 community.
1723 When our first child was born, she came very close to dying and was diagnosed as having Sudden
1724 Death Syndrome. As a result of that, my subsequent children needed to be hooked up to aptney
1725 monitors until they were a year old to make sure that they didn't have the same type of incident.
1726 And when my husband and I looked for a day care situation, none of the day cares in the west end
1727 were interested in taking, or able to take our children. But Rainbow Station welcomed our
1728 children and many, many children, with special needs with open arms, because they have a full
1729 time nurse on staff that's trained to deal with children with special needs.
1730
1731 I found that it is a vital part of the community and serves a very strong need. And I just urge you
1732 to recommend the rezoning of this so that Rainbow Station can continue to fill this need in our
1733 community.
1734
1735 One other side note, I happen to live in Church Run which backs right up to the Tuckaway
1736 Barony and we haven't found that to be disruptive at all. Our neighborhood actually fought the
1737 rezoning of that to business use, but when I found out it was going to be a day care center, our
1738 neighborhood stopped fighting the zoning because we thought that was, actually, a positive use.
1739 We didn't want a 7-Eleven or a car wash or an adult book store there, but we were fine with
1740 having a day care center there.

1741
1742 The only sound I ever hear is the sound of happy kids playing which, I think, is a nice sound.
1743 Thank you.
1744
1745 Mrs. Wade - You are a little far away from it, though, than some of these.
1746 There is quite a drainage area or something through there. But they seem to have a lot more
1747 children.
1748
1749 Mrs. Ann Richmond - Madam Chairman, members of the Commission, forgive me if I
1750 talk quickly. My name is Ann Richmond and my husband and I have two boys currently enrolled
1751 in Rainbow Station. We've always lived in the Innsbrook area and have watched its phenomenal
1752 growth. This growth necessitates that quality child care be available and accessible to all. We
1753 have struggled with our child care options. And, after much searching found Rainbow Station.
1754 We are convinced that our children are receiving the highest quality care and development
1755 available. Rainbow is not just a child care center. It's truly a child development center.
1756
1757 It is obvious that the management and staff really love children, and are committed to quality
1758 child development. We are able to go to work and not worry about the care our children are
1759 receiving. We would really be devastated if practicality forced to seek alternative arrangements.
1760
1761 Ms. Johnson has spent much time seeking a solution to Rainbow Station's facility issues. Meeting
1762 the needs of the currently enrolled children and families is a high priority. This means, not only
1763 minimal disruptance to the program, but to also retain in a general location of the center. This is,
1764 obviously, important to existing families as it already fits into everyone's routines and schedules.
1765
1766 Excuse me. It also has a central location and has easy access to neighborhoods and main
1767 thoroughfare. The subject property, and the proposed facility, represents the consolidation of the
1768 center's facilities as it will be in two buildings on one side of the road, as opposed to the existing
1769 three buildings on both sides of the road which will actually improve the traffic flow as you won't
1770 have cars going from one side to the other to pick up children. I urge you to approve Rainbow
1771 Station's application. I appreciate your time and consideration.
1772
1773 Mrs. Wade - Yes, it did occur to me, related to the traffic that there are a
1774 number of families that have more than one child at this facility.
1775
1776 Mrs. Richmond - Yes.
1777
1778 Mr. Andy Ferguson - My name is Andy Ferguson. I currently have one child at Rainbow
1779 Station. And I could go on and on about what a great place it is and how wonderful the staff is
1780 and how stable the staff is.
1781
1782 Mrs. Wade - That's not what the issue is here.
1783

1784 Mr. Ferguson - That's not the issue. I do happen to live, though, in Barony
1785 Woods, which goes right up against Tuckaway and is very involved in discussions about
1786 Tuckaway there. It's been pretty delightful to me to see the back of that. It's had pretty minimal
1787 impact on our neighborhood. The noise is non-existent, except for the noise of playing kids.
1788 There's no trash. There's no problems with having that day care in my back yard. And, so for
1789 me, that has not been an issue. I think that is an issue, I think, for many of the neighbors of the
1790 proposed facility who are here tonight. I would agree that there may be noise. The kind of noise
1791 you want to hear though. You want to hear the noise of kids who are playing together, learning
1792 together, who are friends together, and who, on a regular basis, play together. This is a good
1793 place. That's all I have to say. Thanks.

1794
1795 Mrs. Wade - Thank you.

1796
1797 Mrs. Susan Fowler - Hi. My name is Susan Fowler. I'm one of the old timers at
1798 Rainbow. My daughter, Casey, was an infant in the original class, and my family has been there
1799 for 10 years.

1800
1801 Two years ago, we moved a significant distance from Rainbow Station. And I checked out every
1802 day care within a two-mile radius of my new home thinking it would be more convenient and
1803 easier for my family. I found nothing that even compared to Rainbow Station.

1804
1805 As Mr. Condlin has already told you and everybody else, its more than a child care center. It's a
1806 child development center. My son was in the private kindergarten program. His teacher has her
1807 masters degree from the University of Virginia. Most child care centers don't require such high
1808 requirements of their members.

1809
1810 You've heard a lot about taking children with special needs. My kids come home knowing that
1811 when they're at school, they may have to keep the door open so Kaylee can get her wheel chair
1812 through or they might come home really excited because Joey, who has Downs Syndrome, has
1813 learned to say their name. It's an unusual place. This is a place that is doing it right. And so
1814 many day cares get bad press. I just urge you to look at this center. It's something special.
1815 Please support them in their rezoning application.

1816
1817 Ms. Dwyer - Thank you. Okay. We're out of time for the proponents. Would
1818 the opposition come forward, please?

1819
1820 Ms. Linda Langhorne - My name is Linda Langhorne. I am President of the Coles Way
1821 Homeowners Association. We have a slide that I'm going to begin with here.

1822
1823 Ms. Dwyer - Why don't you go ahead and continue with your presentation while
1824 we're getting the slide up? Okay. I guess you need your slide, don't you?

1825
1826 Ms. Langhorne - Thank you. I have a question? Is this the laser pointer (referring to
1827 pen on podium)? Is that what this is? Okay. There are four important issues that we want to

1828 address here tonight, and we have three speakers that are going to make brief presentations. And
1829 those three presentations have to do with the property development.

1830
1831 The traffic, which you hear a lot about in this area, and then we have a petition from this area,
1832 along with report of presentation on the activity level, concerning this property.

1833
1834 What I'm going to do, as President of the Homeowners Association, I'm going to give you a brief
1835 summary on the issues just to tie everything together. And in doing so, the first thing I want to
1836 do is, I have made a video to show you. And its my understanding that I can get a VCR light up
1837 here (referring to slide).

1838
1839 This is a scene that I made yesterday afternoon. This is an afternoon flow traffic that I'm going to
1840 move with in just a second. But, what I'm showing you is I'm at the corner. There's a
1841 convenience store at Three Chopt and Church. And this is maybe about 5:00 o'clock. I'm not
1842 sure of the exact time. But this is showing you the flow of the traffic. Right over here is in this
1843 area is Rainbow Station. And the new proposed site will be right over here. Okay. If you notice,
1844 in the scenes that I'm going to show you, notice this median right here, because this is going to be
1845 pointed out on the traffic, and just other conversation is going to focus on this location; this
1846 median and the new proposed site and the new proposed entrance.

1847
1848 Old Cox Road is about right here. We'll be able to see it better in a minute. So, the new
1849 entrance here will be right across here. We'll turn on the Video and see what happens. Okay,
1850 my point is, I want you to see how much traffic is going along here at 5:00 o'clock in the
1851 afternoon.

1852
1853 Notice how difficult it would be to come across here, okay. And we'll pause this for just a
1854 moment. Okay. Now, I'll be going to my second scene here. I just want to set it up for a
1855 second. Okay. This next scene is Monday morning at 8:00 o'clock in the morning. Now, where
1856 this first scene was made was right up here. So, if you will bear with me and try to understand
1857 where I was, here again, this is the intersection of Three Chopt and Church. A minute ago, I was
1858 standing right here.

1859
1860 Now, this is showing how traffic stacks in here in the morning. This is around 8:00 a.m.
1861 showing how traffic stacks at this intersection. And, if you will notice, right in here where this is,
1862 that is about where the traffic will be turning left into the new location.

1863
1864 Just notice, in a minute, how this traffic is going to stop and back up. And in just a moment,
1865 notice that median that I pointed out too. This is the summer months. So, you can see how the
1866 traffic is backed up. You're going to notice, in just a moment, this jeep is going to stop to allow
1867 for that traffic. So, there again, its just an example of how the traffic is a problem here in the
1868 summer months. And, when we've got the median here.

1869
1870 Right ahead, if you'll notice right here. Here's the median at the bottom, directly in front of you,
1871 directly in front is where the entrance will be to the proposed site. Now, if you'll notice, its

1915 We had lots of discussions. We had many, many meetings about our concerns. And a good
1916 example of that is, since our last meeting here, a month ago when this was deferred, we didn't get
1917 a revised proffer until two days ago, which really wasn't sufficient time for us to analyze and
1918 understand their proffers.

1919
1920 We also don't feel that the proffers are as extensive as they have indicated to us informally. For
1921 example, the BMP, they said they would have the BMP proffered tonight. We would have that
1922 available. It's not proffered tonight. There's some suggestions that may be an issue, an
1923 opportunity to do that on the front end of the property. But, again, that's not proffered.

1924
1925 The location of the day care has nothing to do with the quality of care of the children. I have four
1926 children, myself. Many of my employees use Rainbow Station as a service. They have, no
1927 doubt, the best in the area as far as quality care. And that's not the neighborhood's issue is the
1928 quality care. It's about the location. And the location of a high intensity, high traffic issues that
1929 this day care center would generate is, what we feel, would not be harmonious with the
1930 neighborhoods that are there now.

1931
1932 If we go back 10 years ago to the rezoning, that rezoning was denied and there was even a proffer
1933 in that rezoning not to put a day care center there. So, I hope that can be considered.

1934
1935 As far as the 25-foot buffer, I think the 25-foot buffer might be the distance we need. And Mr.
1936 Donati, this 25-feet, that's the buffer that I would see in my back yard where the fence is. We
1937 have a very quiet neighborhood. Most of our families that live there are retired, empty nesters,
1938 and love to be out during the day. They don't work. They're at home and want to be able to
1939 enjoy the scenrinity that they moved there for. And I think the high intensity use of this land is
1940 going to detract from that.

1941
1942 Another comment as far as the use of the land has to do with the buffer, the natural growth that's
1943 there. It is very thick and lush this time of year. Six to eight months of the year it is very sparse.
1944 And, in fact, from my backyard, I can see the florescent lights from the dry cleaning facility at
1945 the shopping center across from Three Chopt, as well as the flashing strobe light on the blue
1946 water tower that's over there.

1947 So, the buffer there is only during this time of the year. The proffers requested to enhance the
1948 amount of buffer and the foliage that's in there has been less than acceptable, from our point of
1949 view. We don't feel like the buffer is enough and we don't think there's enough foliage there
1950 during the winter months, early spring and late fall months to substantiate the comments that
1951 Andy Condlin made about. It's a matter of opinion. It's very obvious.

1952
1953 The other point about the land is, it slopes up from where the property line is and my property
1954 line. It slopes up so that a six-foot fence doesn't really create a barrier for the eye sight. You
1955 stand in my driveway, you can see the Three Chopt median. So, the land rises and crests in the
1956 middle where the buildings would be and then falls again to Three Chopt. So, I think that that
1957 would be another consideration that you should take into mind.

1958

1959 And with that, I'm going to pass this onto John whose going to talk about traffic.
1960
1961 Ms. Dwyer - Before you sit down, I just had a question. This is zoned
1962 Agricultural, on the long range plan, it shows it for Office use.
1963
1964 Mr. Owen - We don't oppose office use. We just oppose the day care center on
1965 this site. We want to be reasonable. We've been trying to be reasonable throughout the process.
1966 But, again, the lot is so small that there just isn't a lot of room to put this size facility they're
1967 talking about.
1968
1969 As far as the two different zonings, I'm sure you're concerned about that. The Johnson's are
1970 really wonderful people and we've had many meetings with them. And I don't doubt that their
1971 integrity and their level of care, but there's no guarantee 10 years from now someone else owns
1972 the property, they will do something else with it. We will like to see some other commitments in
1973 the proffer that says, "No. We're not going to do anything more with this." And in the future,
1974 owners would also be bound by the proffers that were given in this rezoning.
1975
1976 Mr. John Sprandlin - I'm John Sprandlin. I live next door to Don Owen, also at the
1977 back, the south side of the property. I'm going to try to talk about traffic, without beating a dead
1978 horse try to make the point of our concern. I had hoped to put up a picture of the traffic pattern,
1979 but I don't know whether I'll be able to do that or not.
1980
1981 I don't claim to be an expert on traffic, but I am an industrial engineer. I do know something
1982 about bottlenecks and the dynamics they create. I also drive Three Chopt every day, as do many
1983 people in this room.
1984
1985 At our first meeting with the Johnsons and Mr. Condlin, and, as he said, tonight, they view traffic
1986 as not being an issue. The fact is, they're moving from the north side to the south side of the
1987 road. They're already there. The cars are already there. What's the big deal? It is a big deal. It
1988 makes a big difference.
1989
1990 I don't argue that Three Chopt can handle the traffic. The traffic study says that Three Chopt is
1991 big enough to handle this. That's not the issue. Once the cars get onto Three Chopt, it won't be
1992 a problem. Getting on to Three Chopt, that, I think, will be a problem.
1993
1994 The vast majority of traffic in and out of Rainbow Station is morning rush hour, evening rush
1995 hour. Parents dropping off children, picking up children. The proposed move will put them a lot
1996 closer to Three Chopt/Cox Road intersection. Right now, there is a median area. That's what
1997 I'm trying to show in that shaded area (referring to slide). There's a median in front of the
1998 Rainbow Station location that I don't know whether its supposed to be used for this. But it allows
1999 cars making left turns to get out of the way of traffic, or they wait for an opportunity to turn.
2000
2001 When you move to the new location, that area will end. They will be able to use that median for
2002 making left turns in, but they'll be no help trying to get out there and making left turns out.

2003
2004 The majority of parents picking up children in the evening, today, are making right turns into
2005 Rainbow Station, right turns out of Rainbow Station to head towards Church. In the future,
2006 they'll be making left turns in and left turns out, trying to cross Three Chopt at the worse time of
2007 the day.

2008
2009 What I'd like to do is walk through the traffic patterns in a little more detail, but in the interest of
2010 time, I'm going to concentrate on evening rush hour. The morning rush hour will be more
2011 difficult than it is today, but I think evening rush hour will be a lot worse. I'm going to leave you
2012 with a write up where I describe both. For the sake of brevity, I'll just stick with the evening
2013 rush hour.

2014
2015 At that time of day, there's heavy traffic on Three Chopt, especially coming from Gaskins and I-
2016 64 heading towards the Church/Cox area. Parents coming in that direction to pick up students are
2017 making a right turn picking up children, and making a right turn into Rainbow Station. That's,
2018 obviously, not a problem.

2019
2020 Those coming from the Innsbrook area, come down Cox and across and make a left turn with the
2021 help of the median. It's workable. They may have to wait for a clearing to cross the north side
2022 of Three Chopt, but they have that opportunity and out of the traffic while they're waiting. Most
2023 of the parents leaving there, coming out making a right turn, again to head to Cox/Church area.

2024
2025 Going down to the new location, the situation is a lot different. In fact, I really can't imagine
2026 how it's going to look. It's really going to affect the parents. The parents have no problem with
2027 this situation, more power to them, but it looks like a nightmare to me.

2028
2029 At 5:00 o'clock, again, you've got heavy traffic going west on Three Chopt. A lot of parents will
2030 be coming from Innsbrook to pick up children. That should not be a problem. They'll make a
2031 left and then a right turn into Rainbow Station, no problem. Parents coming from I-64 and
2032 Gaskins will have to make a left. Again, they can use the median for that left turn. So, traffic
2033 can back up in the median as they wait to cross the south side of Three Chopt.

2034
2035 Cars trying to get around them should be able to. The median is not a full lane wide, but it's
2036 wide enough for people to get around them.

2037
2038 Ms. Dwyer - Sir, you have about a minute left.

2039
2040 Mr. Owen - The real trick will be for them to get out of there. Most of the
2041 people coming out will need to make a left turn and they're going to have to fight east bound
2042 traffic; people trying to get into Rainbow Station from both right and left, and then trying to cross
2043 that and join traffic heading towards Church Road on Three Chopt.

2044
2045 I'll wrap it up. We're not anti-children. We're not anti-day care. My wife and I raised two
2046 children. In fact, its rumored, I was once a child myself. Moving Rainbow Station here will

2047 cause an immediate traffic problem during the school year. Judging now is not the way to do it.
2048 Traffic right now is very light during the summer. The enrollment is down. Traffic, in general,
2049 is down. People are on vacation. But come the school year, this is a heavily traveled area. It
2050 will be a problem immediately. Down the road, it will be increasing problems as the site grows,
2051 as more development occurs on Three Chopt, and certainly if another day care goes in across the
2052 road at the current Rainbow Station location, which would seem an ideal use for that property.
2053

2054 The site is well suited to office use. Office use that would involve sporadic traffic throughout the
2055 day, like a medical building or an insurance office that might employ a relatively small amount of
2056 people arriving and leaving during rush hour. But it is an inappropriate use for a day care facility
2057 with 200 plus cars attempting to arrive and depart during rush hour periods. For this reason and
2058 the others discussed, tonight, I ask that you deny the rezoning of this property for use as a day
2059 care center. Thank you.

2060
2061 Ms. Dwyer - Is this the last speaker? I'll give you one minute and I'll add it to
2062 the proponent's time.

2063
2064 Ms. Pam Shellspranklin - Pam Shellspranklin, Adjacent landowner, parent, and by
2065 experience, an elementary school teacher and a nursery school teacher, so I love kids. Again,
2066 that's not the issue.

2067
2068 Activity level for me is a strong concern. And I'm going to present also a petition that most of all
2069 of Coles Way has signed. I wish you would understand the playground is right next to our
2070 homes. A six-foot fence is not going to block the activity level, nor the noise level. The soccer
2071 fields and the other game fields are going to be right there next to us. Our community is empty
2072 nesters, retired people. Every adjacent landowner, but one, is home during the day. And one of
2073 them, currently, from Deep Run Manor has said that she does hear the children that are over at
2074 the church right now from Rainbow Station. And it does bother her. But we are very much on
2075 top of the children when we're put together.

2076
2077 From my deck in the winter and the fall, straight out, its got the visual. And if you can see it, the
2078 noise will also be coming our way.

2079
2080 Ms. Dwyer - Thank you, ma'am. If you'd like to hand the petition to Mrs.
2081 Wade, and we'll put it in the record. Mr. Condlin, would you like to come forward for your
2082 rebuttal?

2083
2084 Mr. Condlin - I'm not quite as organized. All you get is me and no side show, so
2085 I apologize for that. Let me first address the traffic issue. The best I can say is that, if you'll
2086 notice in the video, every time they talked about one side of the street, the other side of the street
2087 was empty, which I thought was curious as to what they were trying to prove. I'll also pass out
2088 what, I would deem, I expect a pretty accurate traffic count, Mrs. Wade. It's right there that the
2089 Rainbow Station has taken. I think the last sheet is quite telling.

2090

2091 According to our traffic counts that we've got, at the most at the peak areas for coming out of
2092 Rainbow Station, we've got in a 15 minute period, I think 16 or 17 cars. So, it's averaging better
2093 than one per minute, which is consistent.

2094
2095 We have, with us, one of the parents, Rob Tobecka, if you could stand up. Rob, has 12 years
2096 experience as a traffic engineer. He agrees with Mr. Eure's letter that allows for this traffic, it
2097 will be safe. I will say this, everything that we'll do is going to be controlled by the Traffic
2098 Department. The plans are to put in a hard median on both sides of the entranceway opposite Old
2099 Cox Road and Three Chopt Road with a left turn on both sides going both ways.

2100
2101 If it's unsafe, obviously, its in their discretion to close it. Three Chopt Road is a public road.
2102 And another comment was made about the traffic and what's expected. Enrollment stays the
2103 same all year long.

2104
2105 With respect to noise, I can't answer. Any noise, certain noise is going to bother certain people.
2106 That's the way it goes. And I understand that. If this were office, certain noises would bother
2107 them as well, I think, at certain times.

2108
2109 This is a 25-foot buffer with a six-foot fence and this is children. I would ask, the point about
2110 bringing the children up by Three Chopt Road, I'd like a show of hands from the parents that
2111 would say, "Yes." They would prefer that it be behind the building as opposed to right on Three
2112 Chopt Road where the kids were playing. If you would agree that it be behind the building, I'd
2113 ask you to put your hand up.

2114
2115 Finally, you know, the adjacent properties, as you can see, there's five properties immediately
2116 adjacent to this. Most of it is common area. And I would ask that most of the parents that
2117 support this case, that the people that support this case are not just the parents. It's beneficial to
2118 the County to have services for the residential areas within the community.

2119
2120 I would ask that all the people that are here to support this case stand up so they can see the
2121 overwhelming support that we received from our parents that think that this is a good use. These
2122 are Henrico County residents who work here, that vote here, that pay taxes here. They are
2123 expecting that they have the good services that are provided for them.

2124
2125 Our lease ends up across the road. We have to get out. We need a place to go. And, this, I
2126 think, is a sufficient place. It's not inconsistent with the neighborhood. It's not going to be
2127 adverse to the neighborhood. And I would say that every use has its downside. I truly believe
2128 there's little to argue with this case. To lose this very valuable service to the County, by failing
2129 to obtain this site, would be the biggest downside of all. Not just to Earl and Gail, not just to the
2130 parents, but to the County as a whole.

2131
2132 I, again, point to the staff recommendation. I point you to the Land Use Plan and ask that you
2133 recommend this for Board of Supervisors approval.

2134

2135 Ms. Dwyer - Are there any questions of Mr. Condlin by Commission members?
2136
2137 Mrs. Wade - Now, would everybody who lives in the neighborhood stand up.
2138 Not the opposition, I mean the others?
2139
2140 Mr. Condlin - Well, what neighborhood are you concerned with? Adjacent
2141 neighbors, I think there's five adjacent neighbors; Mr. Owens, another person in Coles Way, two
2142 on Deep Run, and one, Mrs. Childress, on Church Road.
2143
2144 Mrs. Wade - I didn't mean the opposition. I meant those who stood up before.
2145
2146 Mr. Vanarsdall - We have an unidentified picture. What is this?
2147
2148 Mr. Condlin - I don't think I presented that.
2149
2150 Mrs. Wade - Mrs. Langhorne gave it to us.
2151
2152 Mrs. Langhorne - (Comments unintelligible - not at microphone).
2153
2154 Ms. Dwyer - Okay. Thank you. Mr. Condlin, I had one question. The BMP
2155 would be underground entirely? There would be no above ground detention or BMP on this site.
2156 Is that right?
2157
2158 Mr. Condlin - That's correct. We do have a proffer in there. And the only
2159 promise we made that there'd be no BMP within the buffer area. We said we were going to try
2160 to put it up front. It has been my experience that the County prefers not to place above ground
2161 BMPs, you know, the ponds next to roads. I think that's consistent with the policy. Certainly, if
2162 your experience is different, please tell me so.
2163
2164 Ms. Dwyer - Will you have a pond?
2165
2166 Mr. Condlin - No. Its underground. We wanted to put it up front. If we couldn't
2167 put it underground, the County would say, "We don't want it up along Three Chopt Road." We
2168 don't want the kids up on Three Chopt Road. The County wouldn't want the water up on Three
2169 Chopt Road. Where does it go and have to go back? We agreed that it wouldn't go in the buffer.
2170 We proffered that.
2171
2172 Ms. Dwyer - Sir. Mr. Condlin has the floor. He's answered the question.
2173 Thank you. Go ahead, Mr. Condlin. You were finished?
2174
2175 Mr. Condlin - I'll concede the floor.
2176
2177 Mrs. Wade - So, the difference between a BMP now and a drainage basin;
2178 settlement basin, detention pond?

2179
2180 Mr. Condlin - Well, this is going to handle all the drainage. It's going to be a
2181 complete drainage facility to handle all the impervious surface that's going to be constructed on
2182 both properties.
2183
2184 Ms. Dwyer - Would you be willing to proffer that, the detention, BMP, all these
2185 facilities would be underground?
2186
2187 Mr. Condlin - Yes. Mr. Johnson, you come up.
2188
2189 Ms. Dwyer - ...between now and the Board?
2190
2191 Mr. Condlin - The problem is, it's not underground on this particular site. It's
2192 underground on the B-1 portion of the property.
2193
2194 Mr. Johnson - To answer your question about the BMP and the underground
2195 storage, I don't know whether we could proffer it or not, because right now, what we have done
2196 is we dealt with Sam Amos and his group in terms of the ability to do this. And they have said,
2197 tentatively, "Okay, you can do it." We still have got to do a site plan and we've got to go
2198 through POD. Proffering it now and then having them say to us, "No. You can't do it." I don't
2199 see how we could do it at this point.
2200
2201 Our intention is to do that. It's costing us about six times what a BMP would cost us. But we
2202 don't want to have an above ground BMP. We much prefer to have this facility.
2203
2204 Mr. Condlin - We can proffer that there'll be no above ground on the B-1 portion
2205 of the property, which is what the proffer would address. We can proffer that, so that if it has to
2206 be above ground, it has to be on the B-1 portion, which, would, you know, again with the
2207 understanding that's what you're asking. I hope that, based on the policy, that will be approved.
2208 If you see where I'm going with that.
2209
2210 Ms. Dwyer - Thank you, Mr. Condlin. I'm sorry.
2211
2212 Mr. Condlin - That's fine.
2213
2214 Ms. Dwyer - Any other questions by Commission members?
2215
2216 Mr. Archer - Yes, Madam Chairman. Mr. Condlin, what period of time is
2217 allotted for outdoor play?
2218
2219 Mr. Condlin - Well, I passed around the list. I think it's about a half hour period
2220 at a time of outdoor play. Is that right?
2221
2222 Mr. Archer - How many periods?

2223
2224 Mr. Condlin - It's shown on that list that I passed around.
2225
2226 Mr. Archer - It's so much stuff coming by, I can't keep up with it.
2227
2228 Mr. Condlin - I'm sorry. I don't have it in front of me. Do you have another
2229 copy? They've got in the morning from approximately 9:30 to 11:30, so that's a two-hour
2230 period, and then in the afternoon from 2:00 p.m. until 5:00 p.m.
2231
2232 Mr. Archer - 9:30 to 11:00, 2:00 until 5:00?
2233
2234 Mrs. Wade - There's goes your afternoon nap.
2235
2236 Mr. Condlin - A lot of it has to do with the heat and getting lunch, quite honestly.
2237
2238 Mrs. Wade - But you're not prepared to adjust your No. 12 here?
2239
2240 Mr. Condlin - Help me on that. What's causing the greatest concern? I've heard
2241 that you just don't like it, but I'm not sure exactly what it is...Do you want sole discretion to
2242 amend, even it's a cost in engineering and it's an exorbitant amount, or we reduce the size of the
2243 building? You never know what comes up on these things. To adjust the lot line slightly, we
2244 wanted to have that ability at the time of POD review. When I said, "lot line," I meant the
2245 "building line." If there's something specific that you'd like taken out?
2246
2247 Mrs. Wade - Well, I think most people who do site development and so forth I
2248 hope would agree with you, that we're pretty reasonable about they try to do everything
2249 administratively they can. But, we realize that engineering-wise, sometimes you have to change
2250 some things, but here you pretty much kept (unintelligible) all the details.
2251
2252 Mr. Condlin - We'd be willing to accept to...
2253
2254 Mrs. Wade - Are you're going to accept or are your going to offer?
2255
2256 Mr. Condlin - Offer. It's a proffer term. I'll do both.
2257
2258 Mrs. Wade - You're the profferer.
2259 Mr. Condlin - I'm the profferer. Yes. It would be just to limit the condition that
2260 any change is subject to change at the time of Plan of Development review. I can get rid of
2261 "engineering and regulatory reasons." I would assume that, you know, if some regulatory reason
2262 by State or Federal law that we have to adjust it because we are a child care facility, that would be
2263 agreeable and reasonable understanding...
2264

2265 Mrs. Wade - I realize that, but instead of say, "generally compatible," could you
2266 say "substantial conformance," if you're serious about this site plan which, I guess, we're
2267 trying...

2268
2269 Mr. Condlin - "substantial conformance." I'll be willing to do that. I can take the
2270 original and cross it off and initial it. The property shall be developed in substantial conformance
2271 with the attached layout plan, attached Exhibit A, which layout plan is conceptual in nature and
2272 may vary in detail. The exact location, footprints, configurations, size and details of the
2273 buildings, drives, roads, and other improvements may..."

2274
2275 Mrs. Wade - Why don't you just put, cut it off after "detail?" And say,
2276 "...unless otherwise requested and specifically approved at time of POD review?" I'm not
2277 making this up. We get this sometime.

2278
2279 Mr. Condlin - I understand. I assume by when you say "requested," requested by
2280 the applicant?

2281
2282 Mrs. Wade - Well, yes.

2283
2284 Mr. Condlin - Okay.

2285
2286 Mrs. Wade - Or, as you say, any government. If it's required by some
2287 government entity. That could be the reason you'd be requesting it.

2288
2289 Mr. Condlin - I understand it, and I'd be willing to write it out. This would read
2290 then, "The property shall be developed in substantial conformance with the attached layout plan,
2291 attached is Exhibit A, (see the case file), which layout plan is conceptual in nature and may vary
2292 in detail as requested and approved at POD review or required by any governmental entity having
2293 jurisdiction." Is that?

2294
2295 Mrs. Wade - This isn't really the best way to do these things...

2296
2297 Mr. Condlin - I understand.

2298
2299 Mrs. Wade - ...but, basically, you know, we got all the people here now to hear
2300 everything. Okay. I'm sorry. Would you read the first part of that again?

2301
2302 Mr. Condlin - I would be happy to repeat it. "The property shall be developed in
2303 substantial conformance with the attached layout plan, attached is Exhibit A, (see the case file),
2304 which layout plan is conceptual in nature and may vary in detail as requested and approved at
2305 POD review or required by any governmental entity having jurisdiction." It's got to be like this,
2306 unless...

2307
2308 Mrs. Wade - Mr. Marlls, does that sound all right to you?

2309
2310 Mr. Marlles - I got most of that.
2311
2312 Mrs. Wade - I mean, does that sound satisfactory?
2313
2314 Mr. Marlles - Yes. It does. It does tighten it up considerably.
2315
2316 Mrs. Wade - It's really just to confirm, you know, the seriousness of your plan,
2317 otherwise, the plan isn't really valuable.
2318
2319 Mr. Condlin - Yes ma'am. If I understand correctly, I'm offering to delete No. 4,
2320 and make the change we discussed on No. 12?
2321
2322 Mrs. Wade - And No. 2 under the underbrush, it said "supplemental planting
2323 shall be added."
2324
2325 Mr. Condlin - Yes ma'am.
2326
2327 Ms. Dwyer - And what about the BMP?
2328
2329 Mr. Condlin - I didn't mean to leave that out. Yes ma'am. That can be a new
2330 No. 4. I'm deleting 4. "No above ground," is that the proper terminology? Is that the proffer
2331 terminology, "above ground?"
2332
2333 Ms. Dwyer - Just say that the BMP or any other detention facility shall be located
2334 underground.
2335
2336 Mr. Archer - Underground?
2337
2338 Mrs. Wade - You're proffering that you're going to put it below?
2339
2340 Mr. Condlin - Well, what we would be proffering is on the O-1 property, what we
2341 would be saying is any BMP or other detention facility on the property, property being defined as
2342 O-1 shall be underground. So, if it's on the property, not serving the property, if it's above
2343 ground and on the B-1, it can be above ground.
2344
2345 Ms. Dwyer - That removes it.
2346
2347 Mr. Condlin - It removes it from those proffers. Right. Which is the intent. So,
2348 any BMP or other detention facility on the property shall be underground. Is that the proper
2349 term?
2350
2351 Mrs. Wade - Well, the County Attorney can look at them between now and the
2352 Board.

2353
2354 Mr. Condlin - Yes ma'am.
2355
2356 Ms. Dwyer - Mrs. Wade, we did give Mr. Condlin a little bit of extra time and I
2357 see there's some comments and I did cut this gentleman on the front row off, because we try not
2358 to have people at the podium discussing points with each other. But, we'll be glad to give you
2359 one minute, if that's all right with you, Mrs. Wade?
2360
2361 Mrs. Wade - That's fine.
2362
2363 Ms. Dwyer - One minute for the opposition if you had a final point you wanted
2364 to make.
2365
2366 Mrs. Langhorne - I have one questions with regard to Proffer 12, which you currently
2367 have been discussing the conceptual sketch. It is my understanding that this conceptual sketch
2368 that you're making adjustments to, I'll refer to as Exhibit A, I have a question here. Is this
2369 proffer binding on the B-1 parcel?
2370
2371 Ms. Dwyer - No ma'am.
2372
2373 Mrs. Langhorne - Since this zoning is only for the A-1 parcel, so the sketch you're
2374 showing me is, or does include Exhibit A, does include the (unintelligible). So, that's my
2375 question to you. Would this proffer be binding?
2376
2377 Ms. Dwyer - I see. Mr. Condlin, thank you. We'll have the question answered.
2378 My understanding of these is that it would not be binding on the B-1 property only the...
2379
2380 Mr. Condlin - Yes ma'am. I mean, I can't proffer something offsite which I
2381 would be, technically, offsite. You know, you show adjacent property on these conceptual plans
2382 just to get an idea of where things are. And, again, I truly believe, if I cut the line off at the O-1,
2383 somebody would say, "Where's the parking? Why didn't you show the rest of the parking?
2384 What are you proposing? We just wanted to be, contrary to what some people might think, we're
2385 trying to be completely forthcoming and say, "Here's the plans for the entire property." I'll be
2386 happy to amend that conceptual plan, if you so desire, to chop it off at the O-1 line so there's no
2387 confusion so it just shows the property and only the property.
2388
2389 Ms. Dwyer - Well, it is a little bit confusing.
2390
2391 Mrs. Wade - Well, yes, on the one hand, but on the other hand, you have given
2392 some idea about what you intend to do there. I don't have any problem with leaving it on,
2393 because the proffer doesn't apply to it.
2394
2395 Ms. Dwyer - The only other thing that might be done between here and the
2396 Board is to look at Proffer No. 12 and just specifically state that it applies to the O-1?

2397
2398 Mr. Condlin - I can put a statement on the plan, itself, that says, "The proffer
2399 does not apply to this portion of the plan."
2400
2401 Ms. Dwyer - So anyone looking at it...
2402
2403 Mr. Condlin - I can make those revisions to make it clear.
2404
2405 Ms. Dwyer - Any other questions? Ready for a motion.
2406
2407 Mrs. Wade - I suppose I'll ask the opposition one more question. Mrs.
2408 Langhorne, Mr. Owen, one of you come up please, for a second. Do you see, I know you are
2409 opposed to this for the traffic noise and what not, do you see any way that it could be adapted or
2410 improved, to your point of view, that would make it more acceptable with less impact on the
2411 neighborhood?
2412
2413 Mr. Owen - I think I'd like to point out that the latest proffers just came two
2414 days ago. And, that's typically of the kind of response we've gotten from the applicants.
2415
2416 Mrs. Wade - That's unusual.
2417
2418 Mr. Owen - And we asked about many of these things that were offered two
2419 days ago in some of our first two meetings. And it just talks about the flexibility. The lack of
2420 flexibility that they have given the size of the property. We really haven't had a chance to look at
2421 those firm proffers and really talk, as a community, on how we feel about them. We are not
2422 against this rezoning for Office use, but for day care, and the high traffic, high intensity, and high
2423 burden, its going to create on our neighborhood and our...
2424
2425 Mrs. Wade - Yes. I understood it. Okay, so, it's not acceptable, period? Of
2426 course, whatever we do, it will come up before the Board next month. So, you can take your
2427 concerns to the Board member. And, if you have other suggestions, he would consider those, I'm
2428 sure. Thank you.
2429
2430 Mr. Condlin - May I just respond to the question about, I just felt, personally, that
2431 you know, giving them two days beforehand, we offered to meet, and we were told there's no
2432 reason to meet and we only just finished up revising the proffers, based on our meetings,
2433 otherwise. I got them to them as fast - I thought we had a pretty good relationship. We held a
2434 number of meetings beforehand. We were told no more meetings were necessary. The decision
2435 is final. And I couldn't get a list of the exact concerns.
2436 Ms. Dwyer - We will have no more comments.
2437
2438 Mrs. Wade - I already commented that some of the improvements have been
2439 slow in coming. There have been a lot of meetings. I know. Well, this is one case I'd like to be

2440 able to make everybody happy on both sides, but that doesn't seem to be possible. I was hoping
2441 there still might be things that make everybody happier.

2442
2443 The Land Use Plan does say, and I would quote. In fact, one of the letters I got from one of the
2444 neighbors. "Both the Board and the Commission have always been willing to listen and be
2445 sensitive to all, and have done a commendable job of balancing the needs of the County and
2446 businesses and those of its current residents..." Actually, I said, "neighbors." It came from one
2447 of the parents whose writing in support of this case. And, this, of course, is what we try to do a
2448 lot. None of you, or very few of you live in the area. I don't know how you feel about the day
2449 care coming behind you. It might make, you know, a difference in your feelings. But it certainly
2450 is a transitional use. It is in the Office designation of the Land Use Plan, although it isn't,
2451 obviously, specifically, limited to providing for office use.

2452
2453 A number of the concerns and objections have been answered. I'm not sure that there might not
2454 be something else they could do that would make it more acceptable.

2455
2456 I understand the noise problem, as, you know, I've said to you all. I've been sensitive to that,
2457 myself, and yet, people have ideas about, you know, what's good noise and what's bad noise.
2458 And a lot of people do live near churches and day schools and schools where they have children
2459 out playing and seem to coexist rather happily.

2460
2461 As far as the traffic is concerned, we deal with this problem all the time. I haven't heard anybody
2462 say, people who are in favor of it, that this is a concern to them. They are the ones who are
2463 going to be at risk if they have trouble getting and out of this. The Barony one has better access,
2464 obviously, than this one will, and I am concerned about the traffic thing.

2465
2466 He had a letter from the Traffic Engineer, Mr. Eure. I talked to him yesterday and he's still
2467 saying he thought it wouldn't be a big problem. We haven't had a case in here in years that
2468 traffic hasn't been a big issue.

2469
2470 They have cleared up some of our concerns about the actual site treatment and the buildings. The
2471 hours, although they're not proffered, I understand, are you know from say 6:30 to 6:30 five days
2472 a week which has, you know, some advantages in terms of it would be quiet in the evening and
2473 on the weekends.

2474
2475 So, as I said, when we first got this case, I did hope it could be worked out to make everybody
2476 happy, but it doesn't seem - I'm afraid that's not going to be what has happened. Anyway, I
2477 would then, since it does conform pretty much to the Land Use Plan. It is a service that is
2478 helping a lot of people. As I commented also about the traffic. I gather they're not one car per
2479 family that some of them double up and they come in different cars. Even, hopefully, maybe
2480 sometimes they carpool. But, I would move - No. Let's see we've got to waive the time limit to
2481 accept. Did you put those proffers in tonight? Submit those tonight? We don't like to do that,
2482 as a rule, but since you are the basic case for the evening, and as long as everybody is here, it
2483 would be better, I think, to do that than to put it off anymore. I believe we've covered everything

2484 there is to cover in connection with this. You have submitted them, then? I guess you give them
2485 to the Secretary, do you? Sign them? So, I move, therefore, that we waive the time limit for
2486 accepting the amended proffers.

2487
2488 Mr. Archer seconded the motion.

2489
2490 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer to waive the
2491 time limit. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr.
2492 Donati abstained). The motion carries.

2493
2494 Mrs. Wade - So, with the new proffers then, I would move that Case C-49C-99,
2495 and I will again mention the changes. The one about the underbrush; he's adding that
2496 "...additional plantings 'shall' be added to the buffer." The one about building height and adding
2497 about the drainage structures on the "O" property being below ground, and is revising No. 12
2498 about the sketch so it will be in substantially conformance with Exhibit A unless other requested
2499 and approved at time of POD review. I move that Case C-49C-99 be recommended to the Board
2500 for approval.

2501
2502 Ms. Dwyer - Do I have a second?

2503
2504 Mr. Archer seconded the motion.

2505
2506 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those
2507 in favor say aye—all those opposed by saying nay. The vote is 4-1 (Ms. Dwyer voted nay, Mr.
2508 Donati abstained). The case is recommended for approval to the Board of Supervisors and the
2509 Board meeting to consider this case will be when, Mr. Secretary?

2510
2511 Mr. Marlles - September 14th.

2512
2513 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Archer, the Planning
2514 Commission voted 4-1 (one nay, one abstention) to recommended the Board of Supervisors
2515 **accept the proffered conditions and grant** the request because it conforms to the
2516 recommendations of the Land Use Plan; and the proffered conditions should minimize the
2517 potential impacts on surrounding land uses.

2518
2519 **C-50C-99 Henry L. Wilton for WILHOOK L.L.C.:** Request to
2520 conditionally rezone from A-1 Agricultural District to O-1C Office District (Conditional), part of
2521 Parcel 9-A-36, described as follows:

2522
2523 Beginning at a point being a rod set located on the east side of Pouncy Tract Road, State Route 271 and
2524 lying at the northern most intersection of Pouncy Tract Road and Nuckols Road; thence along the right of
2525 way of relocated Nuckols Road N 62°27'04"E 12.41' to a rod set; thence along a non-tangent curve to the
2526 right with a radius of 1197.92, a length of 217.58', a chord of 217.28 and a chord bearing ors 40°54'
2527 15"E to a rod set; thence S 42°01'37"E 104.92' to a rod set; thence along a non-tangent curve to the right
2528 with a radius of 1209.92, a length of 159.86', a chord of 159.74 and a chord bearing of S 54°51'16"E to a

2529 rod set; thence S 17°23'42"E 125.74' to a rod set; thence S 25°37'50"W 21.31' to a rod set; thence along
2530 a non-tangent curve to the right with a radius of 751.20, a length of 68.91', a chord of 68.89 and a chord
2531 bearing of S 23°00'09"W to a rod set; thence S 60°01 '58"W 47.91' to a rod set; thence N -74°09'27"W
2532 45.34' to a rod set; thence along a curve to the right with a radius of 75.00, a length of 25.19', a chord of
2533 25.07 and a chord bearing of N 64°32'12"W to a rod set on the eastern line of Pouncey Tract Road; thence
2534 with said right of way N 24°59'18"W' 586.68 to the point of beginning and containing 1.492 acres.

2535
2536 Mr. Marlles - Mr. Lee Householder will be giving the staff presentation.

2537
2538 Ms. Dwyer - Is there any one in the audience in opposition to C-50C-99 Henry
2539 Wilton for Wilhook, L.L.C.? No opposition.

2540
2541 Mr. Householder - The applicant, in this case, is seeking O-1C zoning on 1.49 acres
2542 on this triangular piece of property located at the northwest corner at the intersection of Pouncey
2543 Tract Road and Nuckols Road. They're proposing an office use. The majority of the
2544 surrounding property, as you can see on this aerial photo, is vacant, however, there is increasing
2545 development in this area. The property to the northeast was recently approved as the Cambridge
2546 Subdivision where the plus sign is. To the west is the Westfield Subdivision recently approved.
2547 And staff is also currently reviewing a church on this property here (referring to slide).

2548
2549 This property was the subject of a proposed rezoning earlier this year. Case C-15C-99 proposed
2550 R-5C on this property and proffered that the use of the site be limited to a child care center. At
2551 that time, staff had concerns about the appropriateness of a child care center, and they,
2552 specifically, mentioned the traffic generation during peak hours, the safety of children on the site,
2553 and the limited access of this site. The case was recommended for denial by the Planning
2554 Commission on February 11, 1999 and was, subsequently, withdrawn on June 10, 1999.

2555
2556 As you know, in conversations earlier tonight, 0-1 allows for child care centers to be developed
2557 on the site. The applicant has addressed our concerns of a child care center and proffered that no
2558 Child Care Center shall not be permitted on the property.

2559
2560 The Land Use Plan recommends Suburban Residential for this site. Because of it's irregular shape
2561 and location at a major intersection, we felt that this site would not be desirable for residential
2562 use.

2563
2564 The applicant has addressed a number of staff concerns about the appropriateness of an office use
2565 at this site. They have proffered a landscaped buffer around the perimeter of the site. They have
2566 proffered limited hours of operation, trash pick-up and parking lot cleaning with limited hours.
2567 Lighting will not exceed 20 feet, and trash receptacles will be screened from public view.

2568
2569 In addition, the applicant has proffered that the architectural style of this site will be substantially
2570 similar to what is shown here in Exhibit B. The front and rear of the building shall have the same
2571 architectural appearance.

2572
2573 They have also proffered Exhibit A showing the point of access to this property to be on the

2574 western side of the site. Staff's only concern about this access is the future construction of a
2575 median on Pouncey Tract Road. Pouncey Tract, at this point, will have a median to prevent
2576 access from people turning left on Pouncey Tract. Access will be a right in, right out from this
2577 site. We consider that to be difficult for traffic entering the site.

2578
2579 As you can see in this piece right here, adjacent to State Route 271 has been replaced by Nuckols.
2580 It is no longer functioning, but it still is a VDOT road. We have encouraged the applicant to seek
2581 vacation of this property from VDOT to increase buildable area on the site.

2582
2583 Overall, we think the applicant has sufficiently addressed our concerns, and, therefore, we
2584 support this proposal. I'll take any questions you may have.

2585
2586 Mr. Vanarsdall - You say you do support?

2587
2588 Mr. Householder - We do.

2589
2590 Mr. Vanarsdall - On Proffer 4, what happened to Sunday? No Sunday hours?

2591
2592 Mr. Householder - I take that to mean no Sunday hours, but...

2593
2594 Mr. Vanarsdall - Could that be added to that?

2595
2596 Mr. Householder - Sure. I imagine.

2597
2598 Mr. Vanarsdall - In the beginning you said it wasn't big enough to build on. Is this
2599 one of those cases they go to BZA and get the variance? Mr. Wilton is shaking his head, so thank
2600 you.

2601
2602 Ms. Dwyer - Maybe he'll proffer that.

2603
2604 Mr. Vanarsdall - He's in the mood to do it, I believe.

2605
2606 Ms. Dwyer - Come on, Proffer No. 12...

2607
2608 Mr. Householder - As you can see by my staff report, I was originally concerned about
2609 the buildable ability of this site. The applicant has worked with Mrs. Wade to show us how the
2610 site can work. They haven't proffered a conceptual, but they have submitted one that shows how
2611 it would fit on the site.

2612
2613 Mrs. Wade - It's on the screen now.

2614
2615 Mr. Householder - The trees on the perimeter are not necessarily going to be there,
2616 because the attractiveness of the building, the trees may detract. They're saying the building is
2617 attractive enough that you may just want to enhance it with landscaping, as opposed to hiding it.

2618 So, in their proffer, they've addressed that, leaving it up to staff at the time of Plan of
2619 Development to assess the appropriateness of what should be in the landscaping.

2620
2621 Mrs. Wade - It's also in the back there across from a neighbor.
2622

2623 Mr. Householder - Yes. and they have also contacted the neighbor directly with a
2624 letter to work out with her what she would like to see, whether she would like some landscaping,
2625 or whether she would just like to have a view of the building which they consider to be attractive.
2626

2627 Mrs. Wade - There has been a slight change since the last copy of the proffers I
2628 had. This final copy, Proffer 1, has changed a little bit.
2629

2630 Mr. Householder - We added a maximum. It's shown on the copy that's handed out.
2631

2632 Mrs. Wade - Yes.
2633

2634 Mr. Householder - It's a slight change on Proffer 1.
2635

2636 Mrs. Wade - I was a little concerned about they have to be 10,000 to the foot or
2637 5,000.
2638

2639 Ms. Dwyer - If the road, Route 271, were vacated, would it just be up to the
2640 access point, and then the other portion of the road would remain to allow access as suggested by
2641 the site plan?
2642

2643 Mr. Householder - That's still up in the air at this point, not knowing whether it would
2644 be vacated or not. The applicant would be most likely to address that, but they will be able to
2645 provide access to this lady who lives in this house. What I had envisioned was incorporating the
2646 access vacated point in order to accommodate more landscaping.
2647

2648 Ms. Dwyer - Usually, when its vacated, each property owner gets half of what is
2649 vacated. Is that right?
2650

2651 Mr. Householder - I'm not familiar with vacation.
2652

2653 Ms. Dwyer - That's the way it works in the County. What has changed since the
2654 staff report was written? What changes were made to the proffers that were significant to
2655 change...
2656

2657 Mr. Householder - The biggest thing for me was the architectural style of the building,
2658 because I was not privy to what the structure would look like. And, I also, myself, did a
2659 buildable area work up to see how I saw it could fit. I realized that there was a number of ways
2660 that a 10,000 square foot structure could fit with parking. I still think its an awkward site, but the
2661 structure, itself, is going to mimic the structures in the Cambridge Subdivision. And, therefore, I

2662 felt like it was much more reasonable than I had originally anticipated.
2663
2664 Mrs. Wade - I think its going to stand out for awhile, but when other things get
2665 developed around it, it won't be quite so out.
2666
2667 Mr. Householder - Another point that came to me after the staff report was that,
2668 solidifying the site with an attractive office use will, hopefully, encourage residential development
2669 on this portion down here (referring to slide). If it were to remain vacant, this eventually could
2670 become more of a commercialized corner attractive to a commercial development. That's one
2671 reasoning I used. And, I thought by solidifying a nice attractive residential-styled structure would
2672 encourage that.
2673
2674 Ms. Dwyer - If the road were vacated, this might be incorporated into a
2675 residential development.
2676
2677 Mr. Householder - That's true, too.
2678
2679 Mrs. Wade - I think it would cohabitate with the residential.
2680
2681 Ms. Dwyer - Would it be desirable to have a single story here, as opposed to the
2682 two-story? I think a two-story would be very imposing at that location.
2683
2684 Mrs. Wade - Except, there would be two-story houses in the area.
2685
2686 Mr. Householder - I think this structure picture in the rendering is a little larger than
2687 they anticipate what they submitted. I think they've also entertained the idea of two smaller
2688 structures on the site, which is why they mentioned that in the proffer.
2689
2690 Mrs. Wade - In that last aerial view we were looking at a minute ago, that
2691 triangle across the street, is that now in the church property? It's going to be a church over there.
2692
2693 Mr. Householder - It's incorporated into the plan of development for the church.
2694
2695 Mrs. Wade - And we don't know yet what that's going to look like?
2696
2697 Mr. Householder - Not at this point.
2698
2699 Mrs. Wade - Probably taller.
2700
2701 Ms. Dwyer - I notice that Mr. Tokarz commented that architectural style in the
2702 original proffer was not clear and not definite enough, and this language has been added. But,
2703 suppose we put language in there that said, "as approved by the Planning Commission." In other
2704 words, the Planning Commission would have the authority at POD time to say, "Okay. This is
2705 satisfactory as a colonial brick in keeping with the surrounding neighborhood." In other words,

2706 that judgement call would be made by the Commission.
2707
2708 Mr. Householder - I think that's reasonable. What Mr. Tokarz recommended, we
2709 have an architect certify a certain style at the time. That's the preferred way. I think the exhibit
2710 is what makes this proffer different from that because they're actually proffering the exhibit by
2711 matching the style.
2712
2713 Ms. Dwyer - All right. That's what we were saying. We didn't get a copy of
2714 that. I neglected to account for that exhibit.
2715
2716 Mrs. Wade - You didn't get a copy?
2717
2718 Ms. Dwyer - No. I didn't get a copy.
2719
2720 Mrs. Wade - Have you seen it?
2721
2722 Ms. Dwyer - Yes. It was passed down.
2723
2724 Mrs. Wade - Oh. Okay.
2725
2726 Ms. Dwyer - I mean it was on the monitor.
2727
2728 Mrs. Wade - Yes. There it is.
2729
2730 Ms. Dwyer - Any other questions by Commission members? Thank you, Mr.
2731 Householder.
2732
2733 Mrs. Wade - And these proffers were before the deadline?
2734
2735 Mr. Householder - Yes.
2736
2737 Mrs. Wade - Thank you.
2738
2739 Mr. Henry Wilton - For the record, my name is Henry Wilton. And, tonight, I
2740 represent Wilhook. We're requesting the O-1 zoning for a small office building. I have passed
2741 out a rendering of the building we're proposing.
2742
2743 The two-story is much more residential in character. In fact, all the homes across the street are
2744 going to be two-story homes. We very seldom do, especially in the price neighborhood that we
2745 have on the other side of the street, we don't have any ranchers per se, because they are going to
2746 be larger homes, 4,000 to 5,000 square feet, up to a half million dollars. And the rancher is just
2747 not a preference.
2748
2749 As far as keeping the residential character of the neighborhood,...Also the building is going to

2750 take up less space. It will give us more room for ample parking and so on. As I said, we had
2751 requested the R-5 for the child care center, but this Commission actually suggested that possibly
2752 the best use, or more appropriate use, would be an office. That's what we're doing tonight.

2753
2754 Mrs. Almond is the adjacent neighbor. I was on the phone with her as late as 5:00 o'clock today.
2755 I am meeting her next week. I've met her before and talked to her several times in regard to
2756 additional buffering for her and also in regard to the access point, looking at VDOT coming in
2757 and actually taking either a partial amount of that road, or all of Route 271.

2758
2759 But, actually, the part of the road that passes our entrance area is the area that nobody is using, or
2760 nobody will be using. And, in fact, she has told me, on numerous occasions, that people will go
2761 down there at night late. So, the whole point is more of a safety issue to vacate at least that part
2762 of the road. VDOT has told me, though, that it is a very long involved process—three to four
2763 years.

2764
2765 The proffers, we've gone through some changes in the proffers. Basically, Proffer No. 1 refers
2766 to the maximum amount of square footage of 10,000. At our meetings we've discussed the
2767 possibility of taking that down to 7,500 square feet. In between now and the Board of
2768 Supervisors meeting, I think we'll probably do something to that effect.

2769
2770 The reference to the planting strip easement, basically, we'll come back to you after we go ahead
2771 and get the exact design of the office. At that point, we'll let you decide what you think the best
2772 application is going to be in regard to buffering the facility. We don't think just putting a line of
2773 pines all the way around the parcel is probably the best idea, especially when we're looking at the
2774 residential character. Placing nice trees and landscaping all around it, and in front of it, along the
2775 road, we think it will be a better option and we'll do that here.

2776
2777 In regard to access, we've talked about hours of operation. Yes, we're excluding Sunday. I
2778 understand that there are no hours where this office would be on Sunday.

2779
2780 Architectural, again, we've got the rendering. Trash pickup. Vacation of the road, we'll institute
2781 again. Who knows how long that will take. And then not being able to use the property as a
2782 child care facility due to the additional amounts of traffic it will generate. We've agreed to that,
2783 of course.

2784
2785 In regard to the traffic pattern, the staff report says the traffic can be handled that's going to be
2786 generated by this office. It's probably not the ideal access, but it is sufficient for what we're
2787 planning to do here. Other than that, we would request approval of this case. If you have any
2788 questions, I'd be happy to answer them.

2789
2790 Ms. Dwyer - Any questions by Commission members for Mr. Wilton?

2791
2792 Mrs. Wade - I have reason to believe the Board may be looking at the size of the
2793 building. I mean at the Board meeting as he indicated.

2794
2795 Ms. Dwyer - What about for 10, for road vacation. Instead of just initiating the
2796 process, saying "use due diligence" or some other...
2797
2798 Mr. Wilton - I'd be happy to do that. We can adjust the proffers to use due
2799 diligence to vacate the area.
2800
2801 Mrs. Wade - Now, I had written on my original then, they had seemed
2802 comfortable with that so I didn't...
2803
2804 Mr. Wilton - I agree. I think from a safety issue for us, too, we would like to
2805 have it removed. There's just no telling what VDOT will do.
2806
2807 Ms. Dwyer - I've been through that before and its very lengthy.
2808
2809 Mr. Wilton - They told me, up to four years.
2810
2811 Ms. Dwyer - The Transportation Board has to vote on it.
2812
2813 Mrs. Wade - So, we can add that between now and the Board.
2814
2815 Mr. Wilton - Yes ma'am. I'd be happy to.
2816
2817 Ms. Dwyer - And then, "a maximum" was added to Proffer No. 1, "For the
2818 maximum of 10,000 square feet."
2819
2820 Mrs. Wade - That was the one we got just now. That met the deadline dated
2821 August 10.
2822
2823 Ms. Dwyer - Gotcha.
2824
2825 Mr. Archer - Mr. Wilton, does this contemplate that the entire building, then,
2826 will be a maximum of 10,000 square feet?
2827
2828 Mr. Wilton - Or two 5,000 square foot buildings. We had that, as an option,
2829 after we met with Mrs. Wade. Under no conditions will there be more than 10,000 square feet to
2830 be built on this particular site. As I envision, there probably is going to be one building of
2831 approximately 7,500 square feet. We just left it flexible.
2832
2833 Mr. Archer - I was just wondering, you know, if it's an office building, it might
2834 be more than one office in this building?
2835
2836 Mr. Wilton - It might be up to two 5,000 square footers on a total of no more
2837 than 10,000 square feet.

2838
2839 Mr. Archer - Even if it was just one building?
2840
2841 Mr. Wilton - If there was one, it's not going to be more than 10,000. Under no
2842 condition will it be any more than 10,000 square feet.
2843
2844 Mr. Vanarsdall - Well, you're saying the outside structure would be one building,
2845 with two 5,000 square foot offices inside or either would be two...
2846
2847 Mr. Wilton - There may be one 10,000 square foot building.
2848
2849 Mr. Vanarsdall - Or be two 5,000 square foot buildings separate, two story?
2850
2851 Mr. Wilton - Well, the two 5,000 square foot buildings could be single story or
2852 two story. We make no reference going two story or one story in the proffer. Quite frankly, I
2853 think it is going to be one building approximately 7,500 square feet. We picked an upward
2854 square footage.
2855
2856 Mr. Archer - I think what is confusing in the language is the word, "office." It
2857 might be better to exchange that word, "office," to "building." The maximum floor area of any
2858 "building."
2859
2860 Mr. Wilton - And that would be fine. We can adjust that.
2861
2862 Mr. Archer - It sounds almost like this is an office building that you could have
2863 more than one office in it.
2864
2865 Mr. Wilton - I understand. We'll clarify that between now and the Board of
2866 Supervisors.
2867
2868 Mr. Archer - Is that what you were thinking
2869
2870 Ms. Dwyer - Is someone taking notes
2871
2872 Mr. Wilton - I understand now what you're getting at.
2873
2874 Mrs. Wade - When you said, "office," he thought you meant something
2875 different.
2876
2877 Mr. Vanarsdall - You wanted us to take a long time on your case.
2878
2879 Mr. Wilton - Yes sir. I wanted to you take plenty of time. I don't want to feel
2880 left out.
2881

2882 Mrs. Wade - Can you add that, too, before the Board, please?
2883
2884 Ms. Dwyer - All right. Are we ready for a motion?
2885
2886 Mrs. Wade - There's nobody here to speak to this? Anybody else? All right, he
2887 has certainly overcome, at least, most of the reservations to that particular site. And it's not
2888 suitable, I don't think, for residential, as it stands, the Land Use Plan recommends. It should be,
2889 with its style, compatible with any residential that's being planned for the area. I move that Case
2890 C-50C-99 be recommended for approval with the suggested changes to the proffers to be made
2891 before the Board. Add "building" after office in the first one, and " with due diligence," to
2892 Number 10. I move that it be recommended for approval.
2893
2894 Mr. Vanarsdall seconded the motion.
2895
2896 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All
2897 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).
2898 The motion carries.
2899
2900 Mr. Vanarsdall - Did we take long enough, Mr. Wilton?
2901
2902 Mr. Wilton - Yes sir.
2903
2904 Ms. Dwyer - Do we need to waive the time limit?
2905
2906 Mr. Vanarsdall - They are dated the 10th.
2907
2908 Mrs. Wade - He's going to make them before the Board meeting.
2909
2910 Mr. Vanarsdall - Oh. That's right. We did do some wording.
2911
2912 Mrs. Wade - Watch, to see that he does.
2913
2914 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning
2915 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **accept the**
2916 **proffered conditions and grant** the request because it is not expected to have a precedent setting
2917 effect on the zoning in the area; it would not adversely affect the adjoining area if properly
2918 developed as proposed; and the proffered conditions should minimize the potential impacts on
2919 surrounding land uses.
2920
2921 Mr. Marlles - Madam Chairman, before we move to the next case, I would like
2922 to recognize one of our other staff members who you don't normally see, but June Redford, who
2923 is sitting in the back, actually works in our drafting section. She, and the other members of the
2924 drafting section, of course, are the staff that do the maps that are a part of your reports and a lot
2925 of the graphics. She's actually here tonight to see these graphics to see how they're being used

2926 and, hopefully, to make some improvements in the future. I do want to acknowledge her
2927 presence here and thank her for coming.

2928
2929 Ms. Dwyer - Are you having fun?

2930
2931 Mrs. June Redford - Yes.

2932
2933 Mrs. Quesinberry - The pen down there that never works, is that yours?

2934
2935 **C-51C-99 J. Thomas O'Brien for Menin Development Companies, Inc.:**

2936 Request to conditionally rezone from A-1 Agricultural District to B-2C Business District
2937 (Conditional), Parcel 36-A-25, described as follows:

2938
2939 Beginning at a point on the northern line of State Route 250 (Broad Street Road), such point lying
2940 919.94', more or less to the west of the intersection of the northern line of State Route 250 and
2941 the western line of Pouncey Tract Road; thence from such point of beginning N. 72° 51' 50" W.,
2942 44.32' to a point; thence N. 76° 11' 18" W., 55.75' to a point; thence N. 13° 49' 22" E.,
2943 258.13' to a point; thence S. 76° 10' 38" E., 100.00' to a point; thence S. 13° 49' 22" W.,
2944 260.68' to a point; such point being the point and place of beginning, and containing 0.594 of an
2945 acre.

2946
2947 Mr. Marlles - The staff presentation will be by Mr. Lee Householder.

2948
2949 Ms. Dwyer - Is there any one in the audience in opposition to Case C-51C-99
2950 Menin Development? No opposition.

2951
2952 Mrs. Wade - Will you summarize, please?

2953
2954 Mr. Householder - Summarize, okay. This 0.594 acre site is located on West Broad Street is
2955 proposed to be a part of a larger shopping center development about 15 acres. The location does
2956 lie within the West Broad Street Overlay District.

2957
2958 It is currently vacant as you will see on the aerial photo, and its surrounded by two recent Plan of
2959 Development approvals. One being Short Pump Town Center to the west and then one being
2960 Downtown Short Pump to the east. Construction on both of these projects has not begun. This
2961 proposal seeks to incorporate the subject property with the adjoining B-2C parcels to the east,
2962 which would be Downtown Short Pump, as it stands today.

2963
2964 The proffers submitted, with this case, address construction materials, parking lot lighting,
2965 buffering, signs, coordinated design, and consistency with the guidelines and standards of the
2966 West Broad Street Overlay District. The proposed proffers also require that the site be developed
2967 as part of the shopping center to be built on the adjacent property.

2968

2969 Staff's main concern with this case was the possibility of the subject parcel having direct access
2970 onto W. Broad Street. The traffic engineer has stated that this parcel should be treated as an
2971 outparcel, and all access should be internal to the shopping center. Staff feels that the site
2972 coordination proffer, submitted with the case, and the requirements, in combination with the
2973 requirements of the West Broad Street Overlay District are appropriate to ensure the appropriate
2974 access to this site.
2975 The zoning is consistent with the 2010 Plan and compatible with approved development on nearby
2976 parcels. Therefore, we recommend approval of this rezoning request. Any questions?

2977
2978 Ms. Dwyer - Thank you, Mr. Householder. Are there any questions by
2979 Commission members?

2980
2981 Mrs. Wade - It seems to me some of the proffers are superfluous, but that's all
2982 right. They address things that are included in the Overlay anyway. The main item of concern
2983 here was the access. That proffer, I believe, is worded so that decision will be made when all the
2984 information is in. I assume they're not going to put an adult video store on that site.

2985
2986 Ms. Dwyer - I don't know.

2987
2988 Mr. Householder - We chose to leave the proffers as they are because they mimic the
2989 proffers on the adjacent parcel to save confusion so that we didn't have a half acre site with
2990 substantially different proffers next door. They conform totally with the adjacent 12 acres and use
2991 and buffers and things like that.

2992
2993 Mrs. Wade - But staff and Public Works both recommend as the Overlay, really,
2994 that the access be internally from the shopping center, and not from Broad Street. But they
2995 wished to have that considered when they come in with the POD.

2996
2997 Ms. Dwyer - What guarantees that, Mr. Householder?

2998
2999 Mr. Householder - The site coordination proffer states that it will be developed in
3000 coordination with the site. There's no guarantee in that there will not be access. But, on top
3001 of that, the West Broad Street Overlay District guidelines say, "No outparcels in the District shall
3002 have direct access to Broad Street."

3003
3004 Ms. Dwyer - Do we know how its going to fit into the overall shopping center?
3005 Do we have a map?

3006
3007 Mr. Householder - We have not seen a diagram showing that.

3008
3009 Ms. Dwyer - Will Hagen Drive cease to exist?

3010
3011 Mr. Householder - That will be an entrance to Short Pump Town Center. It will be
3012 incorporated into that plan. That's already been approved.

3013

3014 Ms. Dwyer - There's another outparcel, then, between that access drive and this
3015 parcel?

3016
3017 Mr. Householder - As a part of that. I think its actually parking, as a part of Short
3018 Pump Town Center. But I might have to check on that.

3019
3020 Ms. Dwyer - Is there any reason why we didn't get a site plan that specifically
3021 shows how this will fit into the shopping center?

3022
3023 Mr. Householder - I think the applicant might be best to address that.

3024
3025 Ms. Dwyer - Any questions by Commission members? Will the applicant come
3026 forward, please?

3027
3028 Mr. Thomas O'Brien - I'm Tom O'Brien with Menin Development Companies. We've
3029 got the site under contract. Let me address just a couple of things quickly. First, this is .6 of an
3030 acre. It's roughly about 260 feet deep, only 100 feet wide. Once you impose the buffer
3031 requirements of the West Broad Street Overlay District, which we had previously complied with
3032 even before it was enacted as an Ordinance on adjacent property. There's really not much room
3033 there. We believe we can fit roughly 55 to 60 parking spaces on it.

3034
3035 The reason that we haven't come in, or shown a conceptual plan, is simply that, you know, the
3036 discussions with staff, it really never came up. We've got an approved POD on the remaining
3037 land. And this is such a small adjunct to that. And any changes that we make, obviously, would
3038 come through the Planning Commission for POD approval.

3039
3040 At this point, we don't envision it not being an outparcel, but being incorporated into the main
3041 parking field for the shopping center.

3042
3043 Ms. Dwyer - Any questions of Mr. O'Brien by Commission members?

3044
3045 Mrs. Wade - I'm also a little curious about your signage proffer on the next one.
3046 You say, these are the same ones that are on the other case?

3047
3048 Mr. O'Brien - Actually, these proffers go back to, I think, originally, 1996, with
3049 one of the first cases. And, in just, in order, at that time, not to create additional confusion, if
3050 you look back at this, you can see that there are actually three other B-2C parcels that were
3051 originally residences on Broad Street. This parcel, this parcel, this parcel, and actually, this
3052 parcel. And when we rezoned those properties to B-2C, they were done in different cases; two of
3053 them at the same time. One of the properties was acquired later. And we just tried to track the
3054 language so that there really wasn't any confusion overall. So, the fact that this language may
3055 actually predate some of the ordinance changes, I mean, I'm certainly happy to massage it or to
3056 change it in whatever way would be appropriate.

3057

3102 Mr. Marlles - Mr. Mark Bittner will be giving the staff presentation.
3103
3104 Ms. Dwyer - Is there any one in the audience in opposition to C-52C-99 Citizens
3105 and Farmers Bank. No opposition.
3106
3107 Mr. Mark Bittner - Thank you, Madam Chairman. This proposal would amend the
3108 proffers for C-51C-93 on the C&F Bank located on Route 5 and Strath Road. The proffer
3109 requires the closure of the Route 5 entrance to the C&F Bank, because an alternative entrance
3110 has been constructed to the new Food Lion Shopping Center of which C&F Bank is a part.
3111 (Referring to slide) Right here, this dirt area is now a full blown commercial entrance. It's,
3112 actually, a public right of way and its called Produce Road.
3113
3114 This new main entrance to the Food Lion Shopping Center, which is back here in this area, is
3115 approximately 100' west of the existing C&F Bank entrance. Here (referring to slide).
3116
3117 Produce Road also now serves as an access to Varina Elementary School further to the west.
3118 The Route 5 entrance to the school was recently closed so that access could be achieved via
3119 Produce Road. That access right here (referring to slide), that has been closed onto Route 5, and
3120 there is now a driveway coming off of Produce Road into the school parking lot.
3121
3122 The County's Department of Public Works has stated its opposition to this request. The Virginia
3123 State Department of Transportation is responsible for maintaining Route 5. It has also expressed
3124 opposition to this request, mainly, because it would create unsafe left turn movements into and
3125 out of the site.
3126
3127 Staff sees no planning justification for keeping this entrance open. Route 5 and Strath Road has
3128 become a high-activity intersection. Limiting the number of driveway entrances at, or around
3129 this intersection, would help improve traffic safety and flow. Keeping this entrance open places
3130 two driveways along a right-hand turn lane that not only handles traffic going to the shopping
3131 center, but also handles through traffic to Strath Road. Closing the C&F Bank entrance would
3132 help to minimize traffic conflicts and hazards. The C&F Bank would still have adequate Route 5
3133 access via Produce Road. Also, a precedent has been set with the closing of the school entrance.
3134 Staff recommends that the Planning Commission deny this application. I'd be happy to answer
3135 any questions you may have.
3136
3137 Ms. Dwyer - Thank you, Mr. Bittner. Are there any questions by Commission
3138 members?
3139
3140 Mrs. Quesinberry - Mark, is the school entrance just east of the entrance that was
3141 closed; the circular driveway, is that still open as well?
3142
3143 Mr. Bittner - This one here (referring to slide)?
3144
3145 Mrs. Quesinberry - Yes.

3146
3147 Mr. Bittner - Yes. That is open.
3148
3149 Mrs. Quesinberry - Do they still use that to drop off children? They just closed that
3150 one?
3151
3152 Mr. Bittner - Right. This one here is the only one that was closed by the school.
3153
3154 Ms. Dwyer - Any other questions by Commission members? Thank you, Mr.
3155 Bittner. Would you like to hear from the applicant?
3156
3157 Mrs. Quesinberry - Yes.
3158
3159 Ms. Dwyer - Would the applicant come forward, please? Good evening.
3160
3161 Ms. Laraine Isaac - Good evening. My name is Laraine Isaac representing the Citizens
3162 and Farmers Bank. Citizens and Farmers Bank wishes to request that the existing entrance to the
3163 bank from New Market Road remain open. They would wish to leave that open as a service to
3164 their customers and to maintain existing traffic patterns in the area.
3165
3166 The entrance, in question, lies west of Strath Road on the south side of New Market Road
3167 directly opposite from the entrance to the FasMart Convenience Store. And has been used for
3168 the past five years as an entrance to the bank.
3169
3170 Based upon the staff report, I contacted Todd Eure of Public Works. And, at my request, he did
3171 some further investigation with VDOT concerning their comments. It is my understanding that
3172 the major issue is that the west bound traffic turning left into the bank will back into the
3173 intersection, therefore, blocking the traffic movements. That distance of 140 feet would handle
3174 seven cars making a left hand turn into this bank. This week I have been on the site three times
3175 at three different times of day and have spent many hours watching the traffic patterns in and
3176 around the bank.
3177
3178 I observed one car making a left hand turn into the bank. One car. Now, I don't know how one
3179 car can back itself up into the intersection, but I saw nothing to indicate that people are making
3180 this left hand turn movement that VDOT is concerned about.
3181
3182 What I observed was all the traffic that was west bound on New Market, except for this one
3183 motorist, turned left onto Strath Road and entered the bank at the Strath Road entrance.
3184
3185 I think that people are using this entrance from Strath Road going west bound because they have
3186 to drive beyond the bank, turn left, and come back into the bank parking lot. This makes the
3187 Strath Road entrance more attractive.
3188

3189 Now, I'm sure that more than one car entered the bank by making a left hand turn from New
3190 Market Road, but I don't think there's a problem. I don't think there's been a problem. I know
3191 there has been no problem in the past. There's no problem now. And no one foresees a
3192 problem in the future.

3193
3194 A majority of the traffic using the bank is coming from the west. And usually its called "the
3195 going home side." I would say that maybe 80 to 90 percent of the traffic, based on my
3196 observation, is entering the bank from the east bound lane, and is exiting Strath Road back to the
3197 signalized intersection.

3198
3199 Because of the way the entrance is being used, it's alignment with the FasMart entrance, and
3200 established traffic patterns, I request that the Commission recommend approval of this request.
3201 I'd be happy to answer any questions.

3202
3203 Ms. Dwyer - Are there any questions of Ms. Isaac by Commission members?

3204
3205 Mrs. Quesinberry - I just had one. Would you consider adding a proffer, or a
3206 condition, in the event that there was some future traffic problem to bring the case back and
3207 consider closing the entrance?

3208
3209 Ms. Isaac - I think to possibly bring it back for further discussion.

3210
3211 Mrs. Quesinberry - I don't know how we could word that. I don't think it's a big issue
3212 there right now.

3213
3214 Ms. Isaac - There is a possibly another mechanism. And, since this has a Plan
3215 of Development on it, it may be that, through that Plan of Development process, it could be
3216 reviewed. I don't know. That just came off the top of my head.

3217
3218 Ms. Dwyer - I think it was a promise made during the original rezoning. I think
3219 it would have to be handled with a proffer now or in the future.

3220
3221 Mrs. Quesinberry - Because what you're really asking to do is take off a proffer.

3222
3223 Ms. Isaac - Right.

3224
3225 Mrs. Quesinberry - ...that exists right now.

3226
3227 Ms. Isaac - Right.

3228
3229 Mrs. Quesinberry - And the proffers says, "They will close the temporary entrance."
3230 So, if we recommended to approve that to take that proffer off, I'm asking, could you add a
3231 proffer that would be agreeable to closing that entrance at a future time should the Board of
3232 Supervisors deem that there's a traffic problem in that area? I don't think there's one right now.

3233
3234 Ms. Isaac - I saw no traffic problem. In reading the staff report, I really
3235 expected something quite different than I saw. Like I said, I saw one car making a left hand
3236 turn.
3237
3238 Mrs. Wade - What time of day, day of the week, and the month did you go?
3239
3240 Ms. Isaac - Well, I was there three days this week. I was there early in the
3241 morning. I was there early in the afternoon, and I was there another day late in the afternoon.
3242 So, I saw a whole variety of users of the bank.
3243
3244 Mrs. Wade - It wasn't the first of the month.
3245
3246 Ms. Isaac - When you watch the traffic leaving the bank and look directly
3247 across the street at FasMart, which has traffic going in and out constantly, and people going into
3248 the FasMart making a left hand turn; that, obviously, presents no problem.
3249
3250 Ms. Dwyer - Well, Ms. Isaac, they're not making a left hand turn and
3251 potentially backing up traffic into the intersection, though. That's a right turn, which is not a
3252 turn which would require a car to stop. If you're coming west bound, even if it is just one car,
3253 that car has to stop and wait for east bound traffic to go before it turns into the bank. Even
3254 though you may not have seven cars pulling into the bank, it could easily back up seven cars.
3255
3256 Ms. Isaac - You have room to back up seven cars. You also have a lane to the
3257 right, if you want to go through.
3258
3259 Ms. Dwyer - Is that a through lane? I can't tell (referring to slide)?
3260
3261 Ms. Isaac - It's a through lane and a right turn. So, that lane can handle seven
3262 stopped cars turning into the bank, and still allow traffic to pass it on a through lane. And, I'm
3263 saying, I saw one car.
3264
3265 Ms. Dwyer - I'm sorry. Route 5 doesn't have two lanes.
3266
3267 Ms. Isaac - Pardon?
3268
3269 Ms. Dwyer - Oh, I see. They can just go around and go into the right turn lane
3270 for FasMart to make...
3271
3272 Ms. Isaac - It's not even marked as a right turn lane. It's a through lane that
3273 tapers back in. We've shown it as a right turn straight.
3274
3275 Ms. Dwyer - Then it ends right there?
3276

3277 Ms. Isaac - It ends on the other side of FasMart entrance. When one car is
3278 turning, it doesn't back up everyone whose going east bound on New Market. You still have
3279 through lanes, and you can handle seven cars turning into the bank. And, I'm sure the bank
3280 would love to know there's seven cars stacked out there waiting to get in. Of course, the way
3281 most banks are, the evening is the worse time, and that's when the traffic is coming from the city
3282 and its going east. That's the bulk of their traffic.
3283
3284 Ms. Dwyer - I'm not a traffic engineer, but it's rare to have both the County and
3285 the State opposed to a traffic maneuver. I don't think I've ever seen that in any case that we've
3286 had.
3287
3288 Ms. Isaac - When this zoning case was originally submitted, this entrance had
3289 planned to be the main entrance into the shopping center. There was no comment made on its
3290 location by either VDOT or the County.
3291
3292 Ms. Dwyer - No. I thought the other entrance was the one...
3293
3294 Ms. Isaac - When this was originally submitted, and before it was decided to
3295 do away with this entrance, there were no comments at all, because it aligned with FasMart,
3296 because it met the requirements of the State. And, now, they're coming back, after the fact,
3297 saying, "Well, now we don't like it." But it works. It all works very well. The traffic flows.
3298 Since the bank has been there approximately five years, there have been no accidents.
3299
3300 Ms. Dwyer - The original requirement to close the entrance was when, 1993?
3301
3302 Ms. Isaac - 1993.
3303
3304 Mrs. Quesinberry - How is the bank impacted if the entrance is closed with the new
3305 Produce Road on one side and Strath on the other? Does it really change their business and their
3306 traffic significantly?
3307
3308 Ms. Isaac - It's an inconvenience to their customers who come in, want to get
3309 off the road, get in, do their business, and get back out.
3310
3311 Mrs. Quesinberry - I mean, does it change what you do, as you circle that lot? I'm
3312 thinking of convenience. People come in that entrance. Does that make it easier to get to the
3313 front of the bank or get to the drive-in window or...
3314
3315 Ms. Isaac - Really, it works, as I have seen. I mean, you have two users
3316 coming in. You have one that's coming in going directly to the front of the bank. The
3317 employees park to the side, so that you can usually find a place to park right in front. Of course,
3318 everybody wants to park in front, because nobody can walk anymore.
3319
3320 Mrs. Quesinberry - Right.

3321
3322 Ms. Isaac - So, you come in and you pull in and park. You walk in, do your
3323 business. And what I have observed, people leaving by Strath Road and going back out to the
3324 light. The others come into that entrance and go directly to the bank, back of the bank and go
3325 through the windows. And, its done very quickly. It's done very safely. They're not getting in
3326 with traffic with other people, with the school, Food Lion. Those people who are coming to this
3327 shopping center only for the bank can use the bank and leave.

3328
3329 For those who are going to the bank and the grocery, most people go the bank before they go to
3330 the grocery. Grocery is usually your last stop because you've got frozen food, and milk and
3331 pork chops that you've got to get into the refrigerator. So, you're going to come into the bank,
3332 and then continue on back through the shopping center to Food Lion and then leave whichever
3333 way is most convenient for whatever direction you're headed.

3334
3335 Mr. Donati - Do you have a layout, if you were going to the drive through to get
3336 money, and then go the shopping center, how you can access the shopping center by that
3337 routing? It's really inconvenient. I'm a frequent user of this bank, and I come in the direction
3338 that you're talking about. And I have never had to wait to go in there. But it is awkward to go
3339 through the drive through and try to meander back to the Food Lion Shopping Center.

3340
3341 Ms. Isaac - There is still undeveloped property in there. And I wish I could
3342 answer your question, and say, "This is exactly how its going to end up." Of course, a master
3343 plan was submitted with the original rezoning. That master plan was subsequently changed when
3344 the Food Lion went in. I suspect, with future development, we may see other changes to the
3345 master plan. I think that's something that's going to have to be considered with Plan of
3346 Development approvals for the remainder of the property.

3347
3348 Mr. Donati - Come back with another POD. You could look at it again. But,
3349 anyway.

3350
3351 Ms. Dwyer - Would you propose to not have an entrance to Produce, or to have
3352 three entrances to this one bank?

3353
3354 Ms. Isaac - Well, Produce serves the entire site. It, basically, right now, goes
3355 back to Food Lion.

3356
3357 Ms. Dwyer - So, you would propose three entrances, then, Produce, Route 5,
3358 and Strath for the bank?

3359
3360 Ms. Isaac - And they will all serve the entire shopping center. Yes.

3361
3362 Mrs. Quesinberry - I'll get back to my original question. It doesn't seem to be a
3363 problem there right now.

3364

3365 Ms. Isaac - Right.
3366
3367 Mrs. Quesinberry - I'm not usually in favor of fixing something that's not broke. It's
3368 not broke right now.
3369
3370 Ms. Isaac - Right.
3371
3372 Mrs. Quesinberry - It doesn't mean it won't get broke as we develop further on this
3373 site, or just have increased traffic and other mayhem going on in that area. So, I understand that
3374 you don't want to close this now.
3375
3376 Ms. Isaac - Right.
3377 Mrs. Quesinberry - And its convenient now. We certainly don't want Varinains to
3378 walk any further than they have to. It's a large area out there. We cover a lot of ground. So, if
3379 we can save a few steps, it makes us all happy. But, I get back to my original question about
3380 inserting something in this case that would cover us, if you will, because we may be faced with a
3381 plan of development with this site and it may become necessary, at some point, to consider
3382 closing that entrance. And I don't want to be in a position where we have to beg and fight for it.
3383 I want to be able to pull it up and say, "Now's the time, and we've got to do it."
3384
3385 Ms. Isaac - Right.
3386
3387 Mrs. Quesinberry - So.
3388
3389 Ms. Isaac - We have talked about it, internally, you know, in the office with
3390 the client. And we don't know if that would happen if there's a way to not have a left turn. And
3391 I don't know. Sure, you can put up a sign and that doesn't mean anything. I don't know if that
3392 left turn movement would become a problem? Whether there would be a way to physically
3393 prohibit the left turn movement from the west bound lane? I think that's the real problem, and
3394 the concern with VDOT. I don't know if it is physically possible to do that, but that may be also
3395 an alternative.
3396
3397 Mr. Archer - Ms. Isaac, again, did you state that you had had a conversation
3398 with Mr. Eure recently?
3399
3400 Ms. Isaac - Yes.
3401
3402 Mr. Archer - Had he changed his opinion about...
3403
3404 Ms. Isaac - No. He hadn't changed his opinion. He just gave me a lot more
3405 information.
3406
3407 Mr. Archer - Okay.
3408

3409 Ms. Isaac - The original recommendation from Public Works was made by
3410 Tim Foster. And I called him, because his comments were against it, period. And I called Tim
3411 to try and flesh out his comments. And I was told that he was gone until August 16th. So, the
3412 burden fell to Todd. And Todd told me he didn't understand his comments either.

3413
3414 So, he did have a conversation with Tim Foster. And I believe he talked to VDOT three times,
3415 and then got back with me to report his findings. So, what I'm telling you is my understanding
3416 of my conversations with Todd Eure.

3417
3418 Mr. Donati - My credibility with VDOT decreases everyday.

3419
3420 Ms. Isaac - Pardon.

3421
3422 Mr. Donati - I said my credibility with VDOT decreases everyday.

3423
3424 Mr. Archer - Well, if we were to adopt the strategy that Mrs. Quesinberry is
3425 saying, we would need some kind of measurable basis for determining a point at which we
3426 would have to do something with this intersection. Instead of leaving it in general terms, I don't
3427 know if it would be a traffic count, or something that you can quantify so that we could have a
3428 definite time to say its time to close this.

3429
3430 Ms. Dwyer - Well, it might be good, too. We have spoken to Mr. Eure, but we
3431 don't have anybody here to sort or clarify or amplify. Apparently, their opinion has not changed
3432 since the staff report was written. Is that right, Mr. Bittner?

3433
3434 Mr. Bittner - That is correct. And I just wanted to add a couple of points. One
3435 is, back in 1993 when this site was rezoned, this issue was examined by Public Works. And its
3436 stated in the Staff Report, they recommended one entrance on Strath and one on Route 5. And,
3437 then the applicant said, "Well, I wanted to build the bank first." So, they worked out this
3438 proffer whereby they could have a temporary entrance to the bank, knowing that it would be
3439 closed in the future, once the main entrance to the Food Lion Center was built.

3440
3441 So, Public Works from 1993 on has been of the opinion that they should limit access onto Route
3442 5 to one entrance. And all we're doing is carrying that through. Another point I'd like to make
3443 is, VDOT's concerned with left turns not only from Route 5 into the bank, but from that bank
3444 entrance making a left onto Route 5, where you'd have to cross the turn lane of Strath Road, the
3445 through lane of Route 5, the left turn lane from Route 5, the straight lane on Route 5, and
3446 possibly also people coming out of FasMart on the other side. And the potential for conflicts
3447 between cars just grows expotentially when you have that situation. That's why VDOT feels -
3448 Again, you're going to have that situation at times anywhere. But, if you limit the number of
3449 intersections and entrances, you'll limit the overall number of conflicts and that's what we're
3450 trying to do here.

3451

3452 Ms. Dwyer - You have a lot more residential property being developed in that
3453 area, too, Four Mile Creek.

3454
3455 Ms. Isaac - I'd like to point out something on this drawing in front of you.
3456 Diagonally across New Market is an Eckerd Drug Store, and medical center. We've shown the
3457 distances from their entrance and the bank's entrance from Strath Road. The Citizens and
3458 Farmers entrance is 230 feet, allowing stacking for seven parking spaces.

3459
3460 Diagonally, across the street, you're talking about a situation where an entrance is 195 feet from
3461 the entrance. It allows stacking for spaces, and there's no place for the traffic to go because
3462 there's no other through lane.

3463
3464 This entrance was approved by VDOT with a Plan of Development. VDOT seems to want it
3465 both ways all the time. So, we have a situation where we have plenty of room to maneuver.
3466 There's room for through traffic and they say, "No. We don't like it." But, yet, these entrances
3467 do meet the minimum standards as proved by the Accrete entrance. So, I don't think we're
3468 asking for anything that is unusual. And, I think VDOT would be happy if we didn't have any
3469 entrances because, then, we wouldn't have any conflicts.

3470
3471 Ms. Dwyer - At the drug store, Ms. Isaac, they didn't have any other option. I
3472 mean they have one option for that access to that side. There was no other way to give them
3473 access.

3474
3475 Ms. Isaac - But there is a stacking problem. They've got a shorter stacking
3476 area to serve them.

3477
3478 Ms. Dwyer - I just have one more question. What has changed since 1993 when
3479 this agreement was reached to have this one access?

3480
3481 Ms. Isaac - I think that everything is working well. No one in 1993, you can
3482 make drawings and you can do models and you can do a whole lot of things. But that doesn't
3483 tell you how people are going to react to put them in a car and put them on the road. I have
3484 been out there. I have spent hours out there watching traffic. And it works.

3485
3486 The cars are not leaving the bank, and taking a left back onto Route 5. They're going back out
3487 on Strath to the light. That's the way people are using this site. And back to your original
3488 question. Yes, I think we can do something to give you a comfort level with a proffer. The
3489 Police had no comment.

3490
3491 I don't know if this is really a police safety problem or a traffic problem, or a combination. But,
3492 yes, if we offer this proffer, I'd like to tie it to something concrete. And I don't know, unless
3493 it's just a matter of working something out between now and the Board meeting, if this is passed.

3494

3495 Mrs. Quesinberry - Well, that could be possible. I had a suggestion. And I didn't
3496 want to say this. I don't know if Mr. Archer is going to like this or not. But, "The existing
3497 entrance to the bank located on Route 5 shall be closed if the Board of Supervisors determines
3498 that a traffic hazard is created in the future." That's one option. All it would take, would be
3499 citizens to bring it to a Board of Supervisor's attention and take another look at it. That would
3500 bring it up at any time. If it appeared to create some kind of problem in the area. It just doesn't
3501 seem to be a problem there right now.

3502
3503 Ms. Dwyer - Traffic is on the increase.

3504
3505 Mrs. Wade - One problem we have is, everybody up and down the street, then,
3506 when they want their cut, they'll look up there and say, "Look. They've got that cut at the bank.
3507 Why can't we have one too?"

3508
3509 Mr. Bittner - I'm not sure about saying, "In the future we'll look at it if it
3510 becomes a problem." Then, you get into the question of when is it a problem; one accident,
3511 two accidents? I don't know. I would recommend against that. I think a promise was made in
3512 1993. Nothing has changed since 1993 relative to that promise, and I think we should stick with
3513 it.

3514
3515 Yes, there haven't been any accidents here yet. This intersection, as it is, hasn't been there very
3516 long. But, that's not to say there won't be accidents in the future. Perhaps, its divine
3517 intervention that we haven't had one yet. I just think closing the entrance is a logical thing to do
3518 in this case, and that's what I'm going to continue to recommend.

3519
3520 Mrs. Quesinberry - Why is this coming up now?

3521
3522 Mr. Bittner - Well, the applicant submitted an application. That's the only thing
3523 we know. Nothing has changed.

3524
3525 Ms. Isaac - It's tied to the occupancy of the Food Lion. And they're opened
3526 under a temporary occupancy.

3527
3528 Mr. Archer - So, in other words, its time to close the entrance, and they're
3529 asking to not close it.

3530
3531 Ms. Isaac - It's a timing issue.

3532
3533 Mr. Archer - The biggest problem I have with this, as Mr. Bittner said, you
3534 know when this was originally done back in what was it, 1993, I'm sure VDOT and the County
3535 probably did this based on what they thought would occur as time went by. And maybe it hasn't
3536 occurred. But, I think, at some point in time, we need to have some input from them, based on
3537 some kind of information if we don't do any more than get them to look at it and rethink it. But
3538 you know, it just seems foreign to me to go against both of them. I agree with what you're

3539 saying. There's no problem. Then, maybe we're creating one on paper here. I don't really
3540 know. But, I can understand Mark's discomfort with not recommending what they
3541 recommended some time ago. And then all it takes is for one accident to happen and somebody
3542 says, "See. I told you so." So, I think we need some input from somebody that's a little more
3543 authoritative than we are. We are just kind of presupposing what might not happen here. I'm
3544 not adverse to what Ms. Isaac is saying, but I would like to have some support from somebody
3545 in Traffic, before we just arbitrarily make a decision to do or not do it.

3546
3547 Mrs. Quesinberry - Do we get another look at this entrance at the next POD for the
3548 future site developments in this project?

3549
3550 Ms. Isaac - Not really. You would be reviewing whatever is proposed on
3551 whatever piece of ground its on. I mean, you would be looking at relationships, but, technically,
3552 no.

3553
3554 Mrs. Wade - It seemed to me the citizens had a lot of input, didn't they, with
3555 this shopping center?

3556
3557 Mrs. Quesinberry - There's a lot of input just in development in this area, in general,
3558 when everything came up.

3559
3560 Mr. Vanarsdall - Let me ask a question. In answer to Mr. Archer, who else do we
3561 have to hear from? VDOT is against it. Department of Public Works is against it. Police, for
3562 some strange reason, didn't give anything. So, where's traffic? What happened to them? Our
3563 traffic.

3564
3565 Mr. Archer - That's Public Works.

3566
3567 Mr. Bittner - They're against it as well, as they've been since 1993.]

3568
3569 Mr. Vanarsdall - I remember the case in 1993. There was a lot of discussion about
3570 being careful about egress/ingress and Route 5. That was one of the top concerns from citizens.
3571 Who else would we have to hear from?

3572
3573 Mr. Bittner - We could, perhaps, get more detail. I don't know another body
3574 we could hear from, or what other persons, specifically. But, maybe there's a little bit more
3575 detail on the situation out there. I'm not a Traffic Engineer. Tim Foster, perhaps?

3576
3577 Mr. Archer - So, to your knowledge, Mr. Bittner, they've not restudied this
3578 information since the original decision was made in 1993? They haven't looked at it again?

3579
3580 Mr. Bittner - To my knowledge, there has been no additional traffic study done.

3581
3582 Mr. Archer - Okay.

3583
3584 Ms. Dwyer - But they looked at this particular request and gave their opinion?
3585 Is that right?
3586
3587 Mr. Bittner - They did look at this case application. Yes.
3588
3589 Mrs. Quesinberry - I'm ready for a motion.
3590
3591 Ms. Dwyer - Okay. Ready for a motion.
3592
3593 Mrs. Quesinberry - If everybody else is. I'm not trying to rush anybody. What my
3594 good friend, Mrs. Wade, at the end of the table, we got hung up on traffic on every case we had.
3595 That's all we do is get hung up on traffic, because it is significant with just about everything we
3596 look at. And we never get passed it.
3597
3598 We all do a lot of the theory and the practice of what goes on in all these planning cases. We
3599 don't have a problem out here right now. And most people kind of like it the way it is. We
3600 know there's development coming and it's always change. And, so, we'll have more traffic.
3601 And that's life out there, and every where else, too.
3602 I would like to ask Ms. Isaac if she will consent to a proffer on this case that says, "That the
3603 existing entrance to the bank located on Route 5 shall be closed if the Board of Supervisors
3604 determines that a traffic hazard is created in the future." It's pretty open ended and I kind of like
3605 it that way, because we can bring this up any time in the future that we might think is appropriate
3606 and look at it again. And, at the same time, if we can recommend approval for her request,
3607 tonight, to strike the language that says, "The initial entrance from State Route 5 shall be closed
3608 prior to the issuance of this Certificate of Occupancy, etc., etc." I think we're covered.
3609
3610 Ms. Dwyer - Would you state that proffer again?
3611
3612 Mrs. Quesinberry - The added proffer on this case says that, "The existing entrance to
3613 the bank located on Route 5 shall be closed if the Board of Supervisors determines that a traffic
3614 hazard is created in the future." That could be left turn, right turn, too many driveways on
3615 Route 5. That could be anything that we determine as a traffic hazard. It almost puts you more
3616 at risk than not doing anything, but...
3617
3618 Ms. Dwyer - And then the Board would have a hearing on that. That's what
3619 would take place and the Board would make a determination that hazard existed? Is that what
3620 you envision the process as?
3621
3622 Mrs. Quesinberry - That's what I would envision. It would give them the opportunity
3623 to close it. They could hear about it; have that hearing and vote to close it.
3624

3625 Ms. Dwyer - And the standard, I guess, of determining the traffic hazard would
3626 be, it seems like we're building in a new process of how this would be determined. (Comments
3627 unintelligible).

3628
3629 Mrs. Quesinberry - I don't think they would have to be helped to do anything. If they
3630 agreed to a proffer that says the Board can do it, then the Board can do it. They don't,
3631 necessarily, have to justify it with a benchmark or standard.

3632
3633 Ms. Dwyer - Maybe we should talk to the County Attorney about this. I have
3634 some concerns about the enforcement of that, personally. We have to justify if we deny these
3635 zoning cases, even though we have a great deal of discretion to do that, to justify that. And
3636 there are lots of cases that say that a Board wasn't justified. Even though, we are giving the
3637 Board authority, I just want to make sure that we have some idea about how it would work.

3638
3639 Mrs. Quesinberry - You could probably address it between now and the Board
3640 meeting.

3641
3642 Ms. Dwyer - The Board would have absolute discretion. Something like that
3643 might work.

3644
3645 Mrs. Quesinberry - Would you be agreeable to that?

3646
3647 Ms. Isaac - Yes.

3648
3649 Mr. Vanarsdall - Is that your addition to approve it? Is that what you're saying?
3650 That's a condition. Not a proffer. That's your motion to approve it.

3651
3652 Mrs. Quesinberry - I was looking for a proffer. We're being asked to eliminate a
3653 proffer on the zoning case. And I wanted something just as binding in the way of protection
3654 later, should it be necessary. I can make a motion. I said I was ready for a motion, and I am.

3655
3656 I'm going to recommend to approve C-52C-99 Citizens and Farmers Bank, which is, in effect,
3657 removing that part of the proffer that required the entrance on Route 5 to be closed. And, as
3658 part of my recommendation, would like to include some proffer with wording that would
3659 adequately protect the citizens in the area, should it become necessary to close this entrance at
3660 some time in the future. And between now and the time that the Board meets, they'll come up
3661 with some language that will protect us and give us the ability to close this entrance should we
3662 deem it necessary in the future because of traffic.

3663
3664 Ms. Dwyer - Motion to approve Case C-52C-99 has been made. Is there a
3665 second? No second. Is there an alternative motion?

3666
3667 Mrs. Wade - Well, being from the land of big traffic, I generally oppose curb
3668 cuts whenever possible. I guess we do have to move on this one way or another.

3669
3670 Ms. Dwyer - We have to make a motion.
3671
3672 Mrs. Wade - Okay. That this request be denied.
3673
3674 Ms. Dwyer - Okay. Motion by Mrs. Wade for denial. Is there a second? I'll
3675 second. All in favor of the motion say aye—all those opposed by saying nay. The vote is 4 to 1
3676 (Mrs. Quesinberry voted no, Mr. Donati abstained). Case C-52C-99 is recommended for denial
3677 to the Board.
3678
3679 REASON: Acting on a motion by Mrs. Wade, seconded by Mrs. Dwyer, the Planning
3680 Commission voted 4-1 (one nay, one abstention) to recommend that the Board of Supervisors
3681 **deny** the request because it could potentially lead to an unsafe traffic condition; it could set a
3682 precedent for additional multiple access designs with future development in the area; and it
3683 would not be in the best interest of the health, safety, and welfare of the residents in the vicinity.
3684
3685 **P-9-99 Steven W. Pearson for Hops Grill & Bar, Inc. t/a Hops**
3686 **Restaurant, Bar and Brewery:** Request for a provisional permit in accordance with Sections
3687 24-58.2 and 24-122.1 of Chapter 24 of the County Code in order to permit extension of hours of
3688 operation until 2:00 a.m. on Fridays and Saturdays, on part of Parcel 49-A 35P, containing 1.34
3689 acres, located at the northeast intersection of Old Springfield Road and W. Broad Street (U. S.
3690 Route 250). The site is zoned B-2.
3691
3692 Mr. Marlles - Mr. Eric Lawrence will be giving the staff presentation.
3693
3694 Ms. Dwyer - Is there any one in the audience in opposition to P-9-99 Hops Grill
3695 & Bar, Inc.? No opposition. Mr. Lawrence.
3696
3697 Mr. Lawrence - Thank you. This application would allow the Restaurant, Hops
3698 Restaurant, Bar and Brewery to extend hours of operation until 2:00 a.m. on Friday and Saturday
3699 nights. The site's B-2 zoning requires that the business close off at 12:00 a.m. midnight.
3700
3701 With a Provisional Use Permit, they can extend the hours of operation. So, that's what they've
3702 submitted here for your consideration.
3703
3704 To give you an idea where its located, its at the old Black Eyed Pea Restaurant on W. Broad
3705 Street at the corner of W. Broad and Old Springfield. It's right in front of the Lowe's Home
3706 Improvement.
3707
3708 Currently, Hops Restaurant is renovating the facility to open it up for their restaurant. They've
3709 determined that they'd like to be open until 2:00 a.m. So, they've submitted this application.
3710
3711 In the review of this, staff has contacted the Police Department to get an idea of what the
3712 restaurants in the area, and what the Police calls are. We've also touched base with restaurants,

3713 and done some research, to figure out what restaurants in that general vicinity are opened passed
3714 Midnight. I'm not going to list them all, but they're in your Staff Report. I would point out that
3715 Applebee's, which is almost across the street from this site, has weekend closing hours of 1:30
3716 a.m. and they've also generated 23 police calls over the past year.

3717
3718 With that in mind, the location of this restaurant does conform with the 2010 Land Use Plan for
3719 Commercial Concentration. It's also pointed out, in the Plan, that the uses are encouraged that
3720 minimize disruption among residential and commercial uses. It's also always important to
3721 consider the impacts a particular use may have on the County services.

3722
3723 Based on the number of Police calls that we've had at other restaurants, it's important to consider
3724 that.

3725
3726 With that said, staff would propose approval of this request with the following conditions that the
3727 business shall not operate beyond Midnight Sunday through Thursday, and beyond 2:00 a.m.
3728 Friday and Saturday.

3729
3730 That security personnel should be on duty from 11:00 p.m. to closing on Friday and Saturday
3731 nights. Such security officers shall monitor both the interior and the exterior of the property;

3732
3733 Condition 3, the interior and exterior of the business shall contain a security camera and video
3734 system. The applicant shall consult with the Police Department when formulating the plan for
3735 the security system. The security plan should include the following items:

3736
3737 a. Interior and exterior surveillance cameras shall be in operation from 6:00 p.m. until the last
3738 employee leaves the premises nightly, and,

3739
3740 b. Tapes recording activities observed by the surveillance cameras shall be preserved for a
3741 period of six (6) months. Authorized representatives from the Planning Department and Police
3742 Department shall have access to such tapes upon request.

3743 These conditions were generated, based on Staff's concern, and also based on what other
3744 restaurants in the area had conditions applied to them when they obtained their Provisional Use
3745 Permits to extend hours of operation. I'd be happy to answer any questions.

3746
3747 Ms. Dwyer - Any questions for Mr. Lawrence?

3748
3749 Mrs. Wade - How close is the nearest house? Do you know?

3750
3751 Mr. Lawrence - Well, I wrote in the staff report that the Broadmoor Apartment
3752 Complex is approximately 300 feet south of there. There are houses behind the Lowe's
3753 Building, which, looking at the map, its not even shown. So, you're looking at maybe 600 feet;
3754 700 feet due north.

3755
3756 Mrs. Wade - A lot of customers will come from across the street.

3757
3758 Mr. Lawrence - Actually, if you look at the aerial, you can see right across the
3759 street, due south, there's tennis courts for the Broadmoor complex and then the buildings are a
3760 little further away.
3761
3762 Mr. Archer - The houses are set back quite a ways from Broad.
3763
3764 Mr. Lawrence - There's no single family immediately adjacent to the property.
3765
3766 Mr. Vanarsdall - Mrs. Wade, they have called about this; Camilla Phelps and they
3767 are interested in it, and I'm surprised they're not here tonight.
3768
3769 Ms. Dwyer - Maybe they left. Mr. Lawrence, I noticed that on the police call
3770 report, Mulligan's is the only one open until 2:00 a.m. Is that the Mulligan's at the old bridal
3771 store?
3772
3773 Mr. Lawrence - Yes.
3774
3775 Ms. Dwyer - They have 100 "a" calls as opposed to some of the earlier closing
3776 various calls.
3777
3778 Mr. Vanarsdall - We agreed that Mulligan's should not be in this because it is not in
3779 the immediate area. It was put in there because they have an outside security officer, and an
3780 inside security officer, and video tape. I guess that's the reason it was put in there.
3781
3782 Mrs. Wade - They've got all those, and they still have 108 police calls?
3783
3784 Mr. Vanarsdall - Ma'am?
3785
3786 Mrs. Wade - I said, Mulligan's has all of that, they still have 108 police calls.
3787
3788 Mr. Vanarsdall - Well, they write tickets on the property. That's the good thing
3789 about it.
3790
3791 Mr. Lawrence - There's a little chart I included.
3792
3793 Mrs. Wade - They wanted all night, at one time, but it wasn't approved.
3794
3795 Mr. Lawrence - The little chart also indicates that a lot of the restaurants aren't
3796 even open past Midnight.
3797
3798 Ms. Dwyer - Right. They've got very small...
3799
3800 Mr. Lawrence - And they've got limited police calls, correct.

3801
3802 Ms. Dwyer - But Mulligan's that's open until 2:00, has 108. Do we know what
3803 those are? Why is that so high?
3804
3805 Mr. Lawrence - Most of them are just alcohol related.
3806
3807 Mrs. Wade - Probably in the parking lot.
3808
3809 Mrs. Quesinberry - I can just tell you, from my second hand experience. There are
3810 two in my household who wear the badge. They get a lot of alcohol related calls there, and its
3811 mostly fights and things that spill over into the parking lot. One of the things you need to
3812 consider, as you look at this and there are a lot of calls. It certainly ties up County services and
3813 dangerous people who are immediately involved in this sort of thing. It endangers every one of
3814 our officers who have to respond to one of these calls, because, just the fact that they receive a
3815 call like this and some kind of incident is going on at these places, that they have to use their
3816 emergency equipment and respond quickly. It always takes more than one because you're
3817 dealing with crowds of people. It is a very dangerous situation. I, just from my perspective, we
3818 need to have an opportunity not to put them in a situation where they're forced into more of
3819 those kinds of situations, we shouldn't do it. Or if there's some compelling reason. It's just a
3820 couple more hours of drinking alcohol, and whether situations arise from that until the bars close
3821 at 2:00.
3822
3823 Mr. Vanarsdall - I didn't want to get into numbers, but 30 of the calls were drunk
3824 and disorderly; 34 of them was loud music. The rest of them; a couple was somebody broke in
3825 a car; things like that. But I'm glad that Debbie mentioned this, because I was going to ask Mr.
3826 Marlls to do this, before I made a motion. Before Colonel Foster left the force, we had
3827 approached him about the Police endorsing what we're trying to do. We have been doing this
3828 now for a good while in our district, the videos, and the security. And Roger was all for it.
3829
3830 In this particular one here, the report that was filed and sent to Planning, they had "no
3831 comment." From Police, they had "no comment," from Police, nothing.
3832
3833 Mrs. Wade - I noticed that.
3834
3835 Mr. Vanarsdall - We're not asking the Police Department to push video tapes to sell
3836 them, or do anything like that. We're trying to do what we just explained. I do not feel, never
3837 have felt, that our Police patrolmen should be looking after these kind of places without these
3838 places doing something. Hops Grill & Bar wants something extra. They should have to put up
3839 something to get that extra. This is what happened to Food Lion recently in Merchants Walk.
3840 When they applied for it, I met with Gloria Freye and said we want two police officers; and
3841 video cameras and surveillance. They said, "too much money." So they withdrew it.
3842
3843 So, could you follow that up for us, and find out why the Police; what position the Police takes
3844 and why they don't take a better position. We're trying to help the citizens and them.

3845
3846 Ms. Dwyer - Well, I agree fully with you, Mr. Vanarsdall. I think that
3847 sometimes we have a concern about something, but we're not getting enough information from
3848 staff; not Planning Staff necessarily, but from other staff. And this is one example here where
3849 we have a concern. We have 108 calls at Mulligans. What does that mean as far as this case.
3850 We had a case earlier where I had a concern about school children getting on a bus stopped on a
3851 very sharp curve. It's happened in other cases. And we get no data or input from the School
3852 Transportation people. I just think that we need more data to inform us about the issues involved
3853 in some of these cases so that we can make a more reasoned decision. We do our best, but I
3854 think we need more facts. That's what I think Mr. Vanarsdall is asking for here.
3855
3856 Mr. Vanarsdall - I appreciate you supporting me.
3857
3858 Mr. Marlles - Madam Chairman, I think those points are well taken. And, we
3859 will make more of an effort. We know there are certainly sensitive issues that we may have to
3860 make an extra effort to try to get those...
3861
3862 Mr. Vanarsdall - I think, if you don't want to contact Henry Stanley, I think that
3863 maybe whoever is in charge of that; that Major Fox should give us a ruling on it. Maybe when
3864 we approached Roger Foster, he was surprised that we didn't get anymore information.
3865
3866 Ms. Dwyer - I guess the next question, Mr. Vanarsdall, is, do the tapes and the
3867 security personnel, does that help? Do we see a...
3868
3869 Mr. Vanarsdall - It may not look it in figures, but it helps because they can write
3870 them up there. They can call the Police. They know what's going on. And these people, I
3871 understand, don't act up as much when they see that. Anyway, we'll hear from Mr. Pearson, if
3872 you don't mind, and we'll see what he has to say about it.
3873
3874 Ms. Dwyer - Thank you. Would the applicant come forward, please?
3875
3876 Mr. Steve Pearson - Good evening, Steve Pearson, on behalf of the applicant. A
3877 couple of things I think are relevant. I'm very sensitive to your concerns that you've expressed
3878 about Mulligan's and police calls.
3879
3880 Mr. Vanarsdall - Would you speak up, please. I can't hear you.
3881
3882 Mr. Pearson - Is this better? Can you hear me? Hops is an upscale restaurant
3883 chain. They're not a sports bar facility. Their average, in close to the 60 restaurants that they
3884 operate, is something on the 75 to 80 percent of their business is in food, and not in alcohol.
3885 The reason they're called Hops is they have a microbrewery theme to it. Their marketing theme
3886 is, essentially, good food and drink made from scratch. So, they brew their own beer.
3887

3888 As I say, they have close to 60 establishments. They're about 10 years old. A lot of locations,
3889 basically, up and down the east coast and some in the Midwest. They are new to Virginia.
3890 They've got a location in Alexandria. They plan a second location in Richmond at some point.

3891
3892 Their competition, they believe, is more along the lines of an Outback Steakhouse than a
3893 Mulligans. They're in the food business. They'd like to stay open on Friday and Saturday
3894 nights as late as a market is there for them to serve their food. And I have here copies, which
3895 I'll tender for the record if anybody is interested, their menus to give you a flavor of how they
3896 operate, the types of food that they serve, what their price points are.

3897
3898 You can see from these, if you're interested in looking at them, that they are quite different than
3899 a Mulligans. Their entrees run in the \$15.00 to \$20.00 range. Most of them. And they've got a
3900 pretty comprehensive selection.

3901
3902 I've also got, and I think this is a part of the package, copies of floor plans for the establishment.
3903 This establishment is an open interior sort of concept. The kitchen, cooking facilities out in the
3904 restaurant, itself. The patrons can view beer being made, if there's anything to see there. But
3905 also the food, as its being prepared, and served.

3906
3907 And this has the advantage, I think, of helping the staff maintain order on the premises. They
3908 can see everything that's going on inside. They will have, in an operation of this size, a
3909 considerable staff on the premises whenever they're open. If you just think about seating
3910 capacity of a place being on the order of a couple hundred, they're going to have quite a few
3911 employees. Their staff is trained, with particular reference to potential alcohol problems. And
3912 their philosophy in terms of training and the service is, incident avoidance.

3913
3914 Again, the interior design being open, helps the staff toward this end. What they want to do is
3915 they want to handle the incidents quickly and effectively, so that they don't turn into Police calls.
3916 I guess, with respect to the report of the staff, itself, it must have been a glitch in the mail,
3917 because an initial report was prepared sometime in July, and I had seen that. It appeared on my
3918 desk this week. There was a revised report, which I had not seen prior to talking to Mr.
3919 Lawrence, tonight, and, therefore, my client hasn't seen it. And, so the changes in that report, I
3920 haven't been able to communicate with them, and don't have a reaction for you from them.

3921
3922 The reaction that I did have of the basic plan which was on the recommendation of staff to allow
3923 the use permit, subject to security and camera requirements was acceptable to them, with one
3924 exception. And that is, that they would like to be relieved of the requirement to record the
3925 interior of the premises, after 6:00 o'clock. The exterior recommendation is fine with them.
3926 The uniformed security is fine with them. But they think that the interior video monitoring is
3927 unnecessary. It adds a level of expense that's not justified. It, in fact, sends a message to their
3928 clientele that maybe the premises are not secure, which is quite the opposite from what Hops
3929 believes is the case.

3930

3931 With that, I can answer any questions that you all have, but I would hope that you would
3932 recommend this approval, as I suggest the modification to the Board.

3933
3934 Mr. Vanarsdall - I didn't understand what you said. Let's go to Page 3. You tell
3935 me which one of those conditions that your company does not want to adhere to.

3936
3937 Mr. Pearson - If you look at 3(a), if you delete the requirement for interior
3938 surveillance cameras. If you strike the words, "interior and."

3939
3940 Mr. Vanarsdall - So, you don't agree with "a?"

3941
3942 Mr. Pearson - No problem with exterior surveillance at all, they just believe it's
3943 unnecessary...

3944
3945 Mr. Vanarsdall - But "A" says, "interior and exterior surveillance." So, you don't
3946 agree with that? Your company doesn't agree with that? Can you tell me what the reason would
3947 be?

3948
3949 Mr. Pearson - Yes sir. They have no problem, again, with exterior video
3950 surveillance at all. Interior surveillance represents, No. 1, a level of expense that they're not
3951 sure is justified and the level of staffing that they have inside and the training of these employees
3952 to handle incidents. They'd prefer to be relieved of that requirement.

3953
3954 Mr. Vanarsdall - Do they have a problem with a security officer inside?

3955
3956 Mr. Pearson - No sir.

3957
3958 Mr. Vanarsdall - They don't have a problem with the security officer, but they don't
3959 want the camera. The reason I'm asking is, this is the first time that this is ever; most of the
3960 places want the inside, because you can catch things going on inside sometimes better than you
3961 can outside.

3962
3963 Mr. Pearson - I understand. I think that, given the overall security
3964 recommendations that are contained in the report, we're talking about is really a small part of
3965 that.

3966
3967 Mrs. Wade - How much beer do they brew say in a month's time? Do you
3968 know?

3969
3970 Mr. Pearson - I don't. All I can say, is that beer is not 100 percent of their
3971 alcohol sales. And their alcohol sales are 20 to 25 percent of their business volume, at least in
3972 the other stores.

3973

3974 Mrs. Quesinberry - What other alcohol is available other than the micro brewed beer in
3975 this store?
3976
3977 Mr. Pearson - They have a modest selection of wine and then mixed drinks.
3978
3979 Mrs. Quesinberry - How much food is served after Midnight? People come in there
3980 and order these \$15 to \$20 entrees? Do they?
3981
3982 Mr. Pearson - I think that's why they want to be open. They tell me they have no
3983 desire to be open until Midnight to serve alcohol. They're interested in serving food.
3984
3985 Mr. Archer - ...can that be done?
3986
3987 Mrs. Wade - Who'd want that?
3988
3989 Mr. Archer - Too difficult to believe?
3990
3991 Mrs. Wade - No. I said, "Who would want that?"
3992
3993 Mr. Archer - Well, the people who want to eat. Nobody wants to drink at 2:00
3994 o'clock.
3995
3996 Ms. Dwyer - Nobody would want to drink between 12:00 Midnight and 2:00
3997 a.m.? I thought that's when they started.
3998
3999 Mr. Vanarsdall - We met with Mr. Pearson and talked about this at some length and
4000 he was going to get back with us. He never did get back with me. And we tried to have him
4001 understand our position in this County; in Henrico County. We're not interested in what they do
4002 in Minnesota or Kansas or anywhere else. And they have one location in Virginia, and that's
4003 Alexandria, and that hasn't been open long.
4004
4005 Mr. Pearson's answer, I believe, was he wanted the flexibility of staying open until 2:00 o'clock,
4006 whether he exercised it or not.
4007
4008 Black Eyed Pea did not have that. They had 12:00 o'clock. And if you'll look down at the line
4009 that the staff did the comparison, nobody on this list that's close to there has anything;
4010 Applebee's is the only 1:30 a.m. people there. The rest of them are 1:00 a.m. and 12:00
4011 Midnight. And where we have the 12:00 Midnight, we have the fewest police calls.
4012
4013 Damon's had 32, but that used to be somebody else. That was Renegades. Mulligan's, I don't
4014 count. That's not in the area. So, what we have, and Ruby Tuesday's really is down the road,
4015 but that's 12:00 o'clock. Arby's is 12:00 o'clock. Nobody has 2:00 o'clock hours. And you're
4016 asking for 2:00 o'clock, and then you're saying for some strange reason to me, you don't want
4017 any surveillance camera's inside. That's all I have to say about it right now.

4018
4019 Ms. Dwyer - Any other questions by Commission members?
4020
4021 Mrs. Quesinberry - I just had one, again, on the staff's recommendations on Page 3.
4022 Maybe Mr. Lawrence can answer this one. No. 2 says that security personnel shall be on duty,
4023 and I was wondering by that "should be" and not "shall be?"
4024
4025 Mr. Lawrence - We can make that, "a shall be." That's not a problem.
4026
4027 Ms. Dwyer - It's a big difference. I neglected to ask, I think, if there's
4028 opposition to this case. Is there anyone in the audience in opposition to P-9-99?
4029
4030 Mr. Vanarsdall - These patient ladies are waiting for the next one.
4031
4032 Mrs. Quesinberry - I'd just like to make another observation, not that I'm that much of
4033 a night howl. For the benefit of Mr. Archer down there, people who are hungry in this County
4034 between 12:00 Midnight and 2:00 a.m. are sitting in the Waffle House on Route 60. The people
4035 who want to drink liquor are in bars. They're not eating meals.
4036
4037 Mr. Archer - They should leave it open on Thursday night, so we'll have
4038 somewhere to go.
4039
4040 Ms. Dwyer - All right, are there any other questions by Commission members
4041 or either the applicant or the staff? Ready for a motion, Mr. Vanarsdall?
4042
4043 Mr. Vanarsdall - I'm ready for a motion. And Mr. Pearson, I know that you were
4044 reluctant from the very beginning to accept this, and I understand why. I understand why your
4045 company is. We do a lot of things in Henrico County that outside companies and corporations
4046 don't understand why. But, we have a reason for it. We're concerned about the rise in places
4047 that you can go in and get drunk and do everything else. So, since you have limited that one part
4048 that we do have on everybody else, and you have said your company doesn't want to do that,
4049 and reluctant to do any of it, and its so premature, there's nothing but a hull out there now, and
4050 you want to go past what everybody else is, I'm going to recommend P-9-99 to the Board of
4051 Supervisors be denied.
4052
4053 Mrs. Quesinberry seconded the motion.
4054
4055 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry.
4056 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
4057 abstained).
4058
4059 Mr. Vanarsdall - And its against the Goals, Objective, and Policies of the Land Use
4060 Plan and the health, safety and welfare of the citizens. Thank you.
4061

4062 Ms. Dwyer - This will appear before the Board of Supervisors September 14
4063 1999.

4064
4065 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Quesinberry, the Planning
4066 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the
4067 requested revocable provisional use permit because it would likely set an adverse zoning and
4068 land use precedent for the area; it would not be in the best interest of the health, safety, and
4069 welfare of residents in the vicinity; and it represents an increase in intensity which could
4070 influence future zoning and development of adjacent properties.

4071
4072 **C-53C-99** **Ralph L. Axselle, Jr. for FFT Hungary, L. P.:** Request to
4073 amend proffered conditions accepted with rezoning case C-38C-98, on Parcel 50-5-F-52,
4074 containing approximately 4.1 acres, located at the southeast intersection of Staples Mill and
4075 Hungary Roads. The proposed amendment is related to placement and lighting of detached signs
4076 on the property. The property is zoned B-2C Business District (Conditional).

4077
4078 Mr. Marlles - Mr. Eric Lawrence will give the staff report.

4079
4080 Ms. Dwyer - Is there any one in the audience in opposition to C-53C-99?

4081
4082 Mr. Lawrence - Thank you. C-53C-99, essentially, it's the Eckerd Drug Store at
4083 the corner of Staples Mill, Hungary Springs, and Hungary Roads. I guess about a year ago,
4084 Case C-38C-98 was approved by the County to allow for B-2C zoning, which would have
4085 allowed for Eckerd's Drug Store to be placed on that site.

4086
4087 Eckerd's is under construction right now, and the frame is up for that building. They've recently
4088 submitted this amendment request to allow them to amend one of the proffers which was
4089 associated with the original case. Essentially, the Proffer No. 17 stated that there would be no
4090 signs on Hungary Road. That there would be a detached sign on Hungary Springs Road and a
4091 detached sign on Staples Mill Road. So, what they're requesting with this amendment is that the
4092 sign from Hungary Springs Road be placed on Hungary Road. So, they just want to bump it
4093 over to the other road.

4094
4095 With staff review of that looking at the history of last year when C-38C came through, there was
4096 some discussion over the impact and the adjoining properties. Looking at the aerial, it's a little
4097 hard to tell, but you've got R-2 to the north and to the west, and you've got RTHC to the east.
4098 This property is surrounded by roads, but it is also surrounded by residential uses.

4099
4100 The property against the Hungary Road side due north, there's three residences there. They're
4101 the, I guess, the closest residents to the property. So, they're the ones the most significant
4102 impacted by this project. And part of the original rezoning last year was to maintain the trees
4103 along the roads. It, essentially, creates a buffer. It protects the neighborhoods, which is what, if
4104 you'll go out to the site, today, you'll see the trees are nicely protected around the property.

4105

4106 With this request, they would like to place the sign along Hungary Road. It, essentially,
4107 provides a better visibility for the business, but from the staff perspective and from the resident's
4108 perspective, it creates more of an impact of this business on the adjoining residences.
4109

4110 With that said, last year C-38C-98 was approved to provide additional business opportunities
4111 without impacting the surrounding area. It was felt that, through the proffers that were presented
4112 last year, that, that was achieved. This new amendment we're discussing this evening does not
4113 necessarily provide a benefit to the community. It's not providing any more business, but it
4114 providing a negative impact on the adjoining residents, which was avoided last year with the sign
4115 placement issues. Accordingly, staff does not support this request.
4116

4117 Ms. Dwyer - Thank you, Mr. Lawrence. Are there any questions for Mr.
4118 Lawrence by Commission members?
4119

4120 Mrs. Wade - Was there not a case on this, a few years ago, that was denied?
4121

4122 Mr. Lawrence - That, I'm not aware of. I know that last year it was rezoned from
4123 R-2 to B...
4124

4125 Mrs. Wade - Yes. It was last year. There had been an earlier one. There was
4126 an attempt to zone this earlier, and it was denied a few years ago.
4127

4128 Mr. Vanarsdall - Yes. And a lot of things have come up on this site.
4129

4130 Ms. Dwyer - Mr. Lawrence, the proffers allow a sign on Hungary Spring and
4131 on Staples Mill. How close to Hungary Road could the signs be, under the current proffers?
4132

4133 Mr. Lawrence - To my knowledge, there weren't dimensions that addressed how
4134 close they could be to the road.
4135

4136 Ms. Dwyer - So, even though the sign might face Hungary and face Staples
4137 Mill, well, actually, there's nothing in the proffer about the orientation of the signs or how close
4138 they could actually be to Hungary Road, as it is?
4139

4140 Mr. Lawrence - Not as its presently written.
4141

4142 Ms. Dwyer - Any other questions by Commission members? Would you like to
4143 hear from the applicant? Well, I guess we do have opposition. Will the applicant come forward,
4144 please. Thank you, Mr. Lawrence.
4145

4146 Mr. Ralph L. Axselle - Madam Chairman, and ladies and gentlemen of the Commission,
4147 Bill Axselle on behalf of the applicant in this matter. Chuck Fowler is here, with the applicant.
4148 Stacey Burcin who is the engineer is working on the matter.
4149

4150 I'll not go through everything Mr. Lawrence did. He summarized it shortly and I'll do likewise.
4151 I would, perhaps, amplify and, hopefully, clarify, one thing that was said. When this case was
4152 put together, he made the statement that the trees around the edge of the property were to be
4153 preserved. That is a statement that is accurate in part. But without going through the details,
4154 around the property, there were different buffers. Some natural, some landscaped, some
4155 landscaped with the West Broad Street Overlay District, and so forth. With that correction, and
4156 moving to the issue before you, the issue, basically, would amend the proffers to allow the sign
4157 to be on Hungary Road, as opposed to Hungary Spring Road.
4158

4159 As you know, the proffers, as were approved and as they're before you, today, in their amended
4160 fashion, state that this sign, in question, is a monolithic sign, ground mounted, in effect. It will
4161 have a brick base. It cannot be any taller than six feet tall. The staff might be able to put that up
4162 (referring to slide). And, it was agreed at that time, that the sign would not be internally lit.
4163 The agreement was the sign would not be internally lit, except for the word, "Eckerds" which
4164 could be internally lit. Those provisions that were in the 1998 case remain in this case, you
4165 know, here. So, they have not changed.
4166

4167 When we had our initial meeting with the neighbors, a couple suggestions were received, prior
4168 to our filing the case. And these new provisions were also incorporated. Language was added,
4169 that's not in the current case, but the sign has to be perpendicular to the adjoining road. That the
4170 light sources, would be screened or shielded, and that the light sources cannot be visible from the
4171 property on the other side of the road. So, the net effect is, that the request is to have this sign
4172 that's before you, which has about a one-foot brick base, four feet in the middle, and the two
4173 feet on the top, would be perpendicular to Hungary Road. The light sources would not be
4174 visible from the property on the other side.
4175

4176 What we're basically asking is, that the sign, which was previously approved to be on Hungary
4177 Spring, across from property zoned RTH, would now be located on Hungary Road, across from
4178 property zoned R-2.
4179

4180 There are some signs on Hungary Road in the area. There's other property on Hungary Road
4181 that is zoned commercial in which there are similar signs that are actually not as attractive.
4182 Also, along Hungary Road, there's a sign at Good Sheppard United Methodist Church. It is not
4183 ground mounted. It is internally lit and it is taller than six feet. So, it's a sign that would be
4184 taller and not ground mounted than this sign.

4185 First Freewill Baptist Church on Hungary Road has a ground mounted sign. It is internally lit,
4186 which this sign is not, with the exception of the word, "Eckerds." It is not six feet tall. And
4187 then, the most interesting of all, Stones Nursery on Hungary Road has what looks like a
4188 permanent mobile temporary sign, but it looks like it has been there for sometime and its going
4189 to be there for sometime. But, they are, if you will, illustrations of signs in the area.
4190

4191 Along Hungary Road the property will be accessed by a turn lane, so the people who would be
4192 accessing would come down Hungary Road, turn into a turn lane, go by the sign and come on
4193 in. And we just don't think its going to have much effect on the neighbors. They'll share with

4194 you, perhaps, a different perspective. But two of the three homes are set back right far. One of
4195 the homes, Mrs. Kite, is closer up to Hungary Road and is the one who would probably have the
4196 greatest visibility.

4197
4198 As part of the zoning case, we had agreed that we would put additional plantings on their
4199 property. And that plan has been worked out and so forth and so on. But, that, basically, is
4200 where we are as far as the sign. We think it's a reasonable request. The sign is allowed. The
4201 question is where its going to be. And it was before going to be opposite the RTH. We think it
4202 now being opposite to the R-2 would be appropriate.

4203
4204 We had initially asked that the matter be deferred because we're in discussions on some
4205 landscaping issues. We thought it would be best to try to do it all at one time, but that was not
4206 the preference of Mr. Vanarsdall. So, we go forward. I'd be glad to respond to any questions
4207 you might have, and Mr. Marlls, I'd like to reserve the remainder of my time for rebuttal.

4208
4209 Mr. Vanarsdall - Mr. Axselle, name me the church you just said had the sign.

4210
4211 Mr. Axselle - The Good Sheppard United Methodist Church.

4212
4213 Mr. Vanarsdall - Okay. That's all you have to say. I think you're familiar with
4214 that, Madam Chairman. You used to go there, and you know how far that is from where we're
4215 speaking. What's the next one?

4216
4217 Mr. Axselle - First Freewill. Both of them are on Hungary.

4218
4219 Mr. Vanarsdall - They're just as far almost as - what we said was, we didn't want
4220 this sign in the immediate area right there, and it was okay over on Hungary Spring Road,
4221 simply because there's a shopping center there. I guess you could go probably even further on
4222 Hungary Road and make a comparison, but to me, that's no comparison whatsoever. It's no
4223 where near there. Let me finish.

4224
4225 Mr. Axselle - Yes sir.

4226
4227 Mr. Vanarsdall - When this zoning case came up, Mr. Axselle knew good and well,
4228 and the people, including them, and the Pullens, and I think Pat Pullen was living there, did not
4229 want a sign on that side, next to their home. We didn't want anything that looked commercial.
4230 Anybody that can't find this building without a sign will never find anything inside the drug
4231 store. It'll be like Mr. McGoo in there looking for something. And so, I want to make that
4232 clear.

4233
4234 Now, I don't think you can stay awake long enough for me to explain what happened to the
4235 landscaping. There was a misinterpretation of natural buffer, and landscaped buffer. They and
4236 we, and all of us, Mr. Glover thought the big trees were going to stay on that site. This was
4237 almost a perfect site to put a building inside of. This, I thought, I finally are going to see a site,

4238 after all these years on the Planning Commission, that would really look landscaped and look
4239 good. It did not turn out to be that way.

4240
4241 Now, Stacey Burcin has worked very diligently and so has Bill and so has Chuck Fowler sitting
4242 there to try to rectify all of this and try to make it better. The reason that I did not want this case
4243 deferred tonight and come back to us on the 25th of this month, is this is two different cases.
4244 This under the zoning. This is a use permit and the other one is a POD issue.

4245
4246 And I want you to tell me now, Bill, is this sign going to have a bearing on what you're going to
4247 do for these people over there?

4248
4249 Mr. Axselle - No sir.

4250
4251 Mr. Vanarsdall - I mean, that's what it sounds like. It sounds like, "Well, you
4252 know, if we can get the sign, we're going to do what we can for the landscaping." I just want to
4253 know that. I want you to publicly tell me if that's what it's going to be. For some reason, you
4254 wanted to throw it in together. You wanted to have the landscaping and, for the lack of a word,
4255 "hide the sign." The sign does not belong on Hungary Road. That's why you had to ask for a
4256 proffer amendment. It's not in the original case. It doesn't belong there. And Eckerd Drug
4257 Store has agreed to that. They agreed to put the sign on Hungary Spring.

4258
4259 Mr. Axselle - May I respond?

4260
4261 Mr. Vanarsdall - It has nothing to do with landscaping. What I'm asking, you are
4262 still going to work on the landscaping as good as you've been working on it?

4263
4264 Mr. Axselle - Yes sir. If I may respond. There are three issues that are
4265 simultaneous. One is the issue, that as part of the zoning case, we agreed with the Pullens, the
4266 Coalsons, and Mrs. Kite we would put additional plantings on their property.

4267
4268 Mr. Vanarsdall - And you agreed to that when the sign was on Hungary Spring
4269 Road?

4270
4271 Mr. Axselle - Let me finish, if I may, Mr. Vanarsdall, because I think...

4272
4273 Mr. Vanarsdall - As long as you understand it. I'm not the only one voting on this.

4274
4275 Mr. Axselle - Okay. And Mr. Burcin has met with them. And I think that the
4276 commitments that have been made; two of the three neighbors have signed saying, "That's fine."
4277 I think Mrs. Kite wanted to reserve her judgement. But the point is, the commitments that we've
4278 made for what plantings we were going to put on their property have nothing to do with this.

4279
4280 Mr. Vanarsdall - Right.

4281

4282 Mr. Axselle - And those commitments have been made. Those commitments
4283 have been kept. Those plantings will be installed regardless of what is done on this sign.

4284
4285 The second thing that comes along was, "Is the sign request changed?" The third is, probably
4286 the more substitutive and more difficult of the issue. If you look at the proffers, maybe Stacey,
4287 while I'm talking, he could get the exhibit. I wasn't going to get into this, but, perhaps, its
4288 helpful. The proffers provide, and, if you'll look at the proffers, they provide different types of
4289 landscaping in different areas. And this is the source of the confusion (referring to slide). Why
4290 don't we just hold it up here.

4291
4292 To orient you, Staples Mill Road is along the top of the picture there. The proffer calls for that
4293 to be a landscaped buffer. Not a natural buffer, but a landscaped buffer, which would mean that
4294 it would have to comply with the County requirements for landscaped buffer. The area that's
4295 really in question is at the corner of Staples Mill and Hungary Road on Hungary Road. And that
4296 is covered in Proffer No. 3. That calls for that to be a landscaped buffer. That proffer there
4297 will be a landscaped buffer, and that it would comply with the West Broad Street Overlay
4298 District.

4299
4300 I think, from talking with Mrs. Kite, I think she, and some others, were under the impression
4301 that was going to be a natural buffer. But, respectfully, I would suggest the proffers and the
4302 exhibit that was approved as part of the zoning case, say otherwise.

4303
4304 Ms. Dwyer - May I ask a question here, Mr. Axselle? Is this the exhibit that
4305 was approved that we're looking at?

4306
4307 Mr. Axselle - Yes. With this modification. There is a subsequent version with
4308 only slight changes. An additional tree in there, in other words, this is a predecessor of the
4309 exhibit. It's not changed in this respect.

4310
4311 Ms. Dwyer - It looks to me, too, that the way the site plan is drawn, its
4312 indicating a natural buffer along Hungary Road.

4313
4314 Mr. Axselle - If you look at the lower part along Hungary Road, that's the third
4315 proffer. I've walked you from Staples Mill, which was landscaped. Then the upper part, if you
4316 will, near Staples Mill of Hungary Road. That was landscaped, but with West Broad Street
4317 Overlay District, because it was closest to Mrs. Kite's house. And then the part that goes around
4318 Hungary Road and Hungary Spring Road, that's a natural and landscaped buffer. The proffer
4319 says, "natural buffer which may be supplemented." And then coming on further down on
4320 Hungary Spring Road, its naturally landscaped. And the final far left of the picture, the
4321 landscaped buffer along Anderson. The point I make, that Mr. Mr. Vanarsdall has brought up,
4322 is that the POD was approved, and the landscape plan is pending is coming before you on the
4323 25th. The landscaped plan that was presented, it is consistent, we believe with the proffers, and,
4324 in particular, it called for a "landscaped buffer" with the West Broad Street Overlay District on
4325 this part of the property on Hungary Road or whatever part of it is the access. That's the part

4326 where we have now been asked by the County, and by Mrs. Kite, and others, to consider trying
4327 to leave the trees there.

4328
4329 Mr. Burcin, who had not been involved in the filing of this POD and this landscape plan, has
4330 been re-engaged and we've had meetings with the County, and he is working with the neighbors
4331 and with Eckerds to come up with an alternative that, in fact, is consistent with what some
4332 people thought was going to be preserving the trees. And that's what's coming up on the 25th.
4333 I'm sorry, it's taken so long, but I wanted you to understand that there's three...

4334
4335 Mr. Vanarsdall - That's all right. They need to know that.

4336
4337 Mr. Axselle - I wanted you to understand there's three separate, you know,
4338 issues, but they come along simultaneously. In some respects they do kind of relate to each
4339 other.

4340
4341 Ms. Dwyer - Just for clarification. Which proffer addresses the buffer east of
4342 the access drive on Hungary Road?

4343
4344 Mr. Axselle - That would be Proffer 6. I'm reading this real quickly. No.
4345 That's not correct.

4346
4347 Ms. Dwyer - I don't see it anywhere.

4348
4349 Mr. Axselle - That would be Proffer 2. That portion of the property east of the
4350 access driveway off Hungary Road.

4351
4352 Ms. Dwyer - Thank you.

4353
4354 Mr. Axselle - That was left there because that is closest to the residential area.
4355 That was to be left in its natural state. In fact, is in its natural state with supplemental planting.
4356 West of the access road, which is up towards Staples Mill, was the landscape plan with the W.
4357 Broad Street. That's No. 3.

4358
4359 Ms. Dwyer - And what's the width of the buffer east of the access drive?

4360
4361 Mr. Axselle - I do not have that with me. It's whatever was on the scale of the
4362 exhibit. It's fairly deep at that point. Stacey Burcin indicates its 50 to 100 feet. It varies there.
4363 But that's not the issue that's under discussion, not tonight, perhaps, but is the landscaped buffer
4364 B which would be west of the access point.

4365
4366 Mrs. Wade - I was surprised, going down Staples Mill, within the last week or
4367 so, to see how few trees were left along there, because, I, too, thought there were going to be
4368 more. But, that last picture you had of the sign, the base was just a little part on the ground
4369 there.

4370
4371 Mr. Axselle - Yes.
4372
4373 Mrs. Wade - It didn't look like what it's implied by the brick base.
4374
4375 Mr. Axselle - Well, I think we'd be prepared to change that, but I don't think
4376 that solves the problem, quite frankly.
4377
4378 Mrs. Wade - No. Just the comment, when they say, "monolithic with a brick
4379 base," that's not what I generally picture.
4380
4381 Mr. Axselle - So, to answer Mr. Vanarsdall's question, perhaps, even further,
4382 those discussions are underway. They will continue, and we're going to find a resolution that's
4383 agreeable with the developer, Mr. Fowler, who, I think, has been very accommodating;
4384 Eckerds, the ultimate user; the neighbors; and the County staff. But we have not yet gotten to
4385 that point. But I think good faith progress is being made, and, is, obviously, something we
4386 would hope to all be able to accomplish.
4387
4388 Mr. Vanarsdall - Let me say this for the rest of the Commission's benefit. There is
4389 nothing wrong. There is no trickery. Everything is in order exactly the way it was approved by
4390 us and by the Board. The whole thing came from misunderstanding and misinterpretation. It
4391 came from me. It came from Mr. Glover. It came from them. Even Stacey Burcin said when
4392 he looked into it, he was surprised. That's all it was. So, we had a meeting, and Mr. Glover
4393 said, "Will you do what you can to help me on this." And everything was fine. Mr. Axselle
4394 had filed for this sign to be changed. Mr. Glover thought, I thought he was going to withdraw
4395 it. You thought that too. He didn't chose to do that. So, the issue, tonight, is fine on those
4396 signs. And I got the impression, and I heard this from somebody, that the sign has now become
4397 maybe a tool to get some landscaping. And I'm glad to hear you say, "No." And so that's fine.
4398 That's where we are now. We've back on the sign. I appreciate you explaining it, Bill.
4399
4400 Mr. Axselle - Okay. Thank you.
4401
4402 Ms. Dwyer - Any other questions by Commission members for Mr. Axselle?
4403
4404 Mr. Axselle - Mr. Burcin has to say something.
4405
4406 Mr. Stacey L. Burcin - For the record, my name is Stacey Burcin with McKinney & Co.
4407 I have been working with the neighbors here as late as Tuesday night this week. One issue that
4408 you bring up, that landscaping is not part of the sign. I see that it is. How you effectively
4409 integrate the sign into the landscape in that area across the street from the neighbors can affect
4410 the appearance of the sign. As late as Tuesday, it was suggested that maybe we look at a
4411 different size sign. Look at changing some of the landscaping across the street. So, for that
4412 reason, we suggested a deferral. We do it all at one time. Because there is a possibility that we
4413 can come to an agreement of a treatment that works for the satisfaction of the neighbors, as well

4414 as the corporate interest of Eckerds. I would just like top put that on the record, please. I'd be
4415 happy to answer any questions you have.

4416
4417 Mr. Vanarsdall - Thank you. Stacey.

4418
4419 Ms. Dwyer - Thank you. Any questions for Mr. Burcin by Commission
4420 members? Okay. We'll hear from the opposition. Please come forward.

4421
4422 Ms. Lisa Kite - My name is Lisa Kite. I'm probably, in your records, as Lisa
4423 Randolph, but I recently got married. And, I guess where I want to start, it really struck when I
4424 looked at this aerial picture that you can see the white spot on Hungary Road across from the
4425 Eckerds, that is my house. I'm literally within, I think I can spit on their driveway. Of course,
4426 I wouldn't do that. But, the sign and the driveway; I'll come right out and say the sign has
4427 always been an issue. I've never wanted it there. There may have been some misunderstandings
4428 on my part, or on someone's part, that the trees across the street from my house were somehow
4429 linked to the sign issue. That, if I felt, personally, and this is probably just my understanding,
4430 that, if I did not agree to the sign, if I fought the sign, there was more of a possibility of all of
4431 those trees coming down. And, apparently, they have the legal right to do that, from what I
4432 understand, is to take down the stand of trees across from my house. But that right now is not
4433 the issue. If we were to separate the two issues, and we were going to talk about the sign, I
4434 oppose the sign. I'm just going to hit on some points here because its passed my bedtime and I
4435 think I've lost some of my fight.

4436
4437 But, Number 1, is the fact that there are no other signs in our area on Hungary Road. No other
4438 business signs. If you were coming down Hungary Road, and you were going south, you
4439 wouldn't be able to turn into the Eckerds where the sign would be. So, that sign, in effect, it
4440 wouldn't affect traffic coming in that direction on Hungary Road. If you were travelling north
4441 on Hungary Road, there's no way you could miss that building. There's no way you could miss
4442 the Eckerds. You're going to see it from Staples Mill. You're going to see it from Hungary.
4443 There's a turn lane as you cross over Staples Mill that will take you directly into that property.
4444 There's nothing else on that property.

4445
4446 The building is visible from three sides. It's visible from Staples Mill, from Hungary, and from
4447 Hungary Spring. And, I don't see how a 6-foot sign is going to impact their business enough to
4448 make up for the impact its going to have on our residences. And, granted, there's only three
4449 residences there. And you see two people here. It doesn't look like a lot of opposition, but you
4450 have two out of three.

4451
4452 And, to be honest with you, the trees that are left standing; if the trees across from my house go,
4453 will only impact one house. And that's Mr. Pullen's house on the corner. The Carlson's and I
4454 will still have to look out and see that stand of trees gone, an Eckerds sign right practically at the
4455 end of my driveway. I appreciate the fact that Eckerds and Mr. Burcin are willing to do
4456 landscaping on my property. But, because of the layout of my property, specifically, I'm closer
4457 to the road. I have very mature plantings. Maple trees in my yard that severely limit any kind

4458 of buffer you can put in my yard. So, I'm faced with the situation that there aren't a lot of
4459 solutions to. And, in light of that, I have to oppose the sign.

4460
4461 Ms. Dwyer - Thank you. Any questions of Mrs. Kite by Commission
4462 members? Thank you. Are there other opposition?
4463

4464 Ms. Cathy Coalson - I'm not going to repeat everything my neighbor said, because it is
4465 late. I've got to get up at 5:30 in the morning. I am also opposed to the sign. I want to keep
4466 our area as much residential as possible. And I feel like the sign is going to deter from that.
4467 And, from what I understand, the Eckerd building, on the building, itself, on the Hungary Road
4468 side, and the Staples Mill side will have an internally lit, huge Eckerd sign on top of the
4469 building. So, I really just don't see any need for a detached sign across from our homes.

4470
4471 Ms. Dwyer - Did you state your name?
4472

4473 Ms. Coalson - No. It's Cathy Coalson.
4474

4475 Ms. Dwyer - Any questions for Ms. Coalson? Thank you. Would the applicant
4476 like to have some rebuttal time?
4477

4478 Mr. Axselle - I want to go home. It's a little late in the rebuttal.
4479

4480 Ms. Dwyer - No rebuttal?
4481

4482 Mr. Axselle - Seriously, thank you for the opportunity, but I'll waive.
4483

4484 Ms. Dwyer - Okay. I share that sentiment, Mr. Axselle. Any more discussion
4485 or any more questions by the Commission? Ready for a motion.
4486

4487 Mr. Vanarsdall - I thank you for explaining all this and being part of it, Bill, Stacey,
4488 and the two ladies. The sign should not belong on Hungary Road in the rezoning of the case. It
4489 doesn't belong on it now. Very simply put, its an encroachment on the neighborhood and I
4490 agree with the staff. It's against the Goals, Policies, Objectives of the Land Use Plan. It's as
4491 simple as that. That's my motion to recommend to the Board of Supervisors to deny C-53C-99.
4492

4493 Mrs. Wade seconded the motion.
4494

4495 Ms. Dwyer - Motion made by Mr. Vanarsdall to recommend denial to the Board
4496 of Supervisors, seconded by Mrs. Wade. All those in favor say aye—all those opposed by saying
4497 nay. The vote is 5-0 (Mr. Donati abstained). The motion carries. Thank you. This case will
4498 come before the Board of Supervisors on September 14th.
4499

4500 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Wade, the Planning
4501 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the

4502 request because it would have a detrimental impact on the adjoining residential neighborhood; the
4503 applicant failed to meet his burden to show that the requested changes are in the best interests of
4504 the welfare and future of the community; and it does not conform to the recommendation of the
4505 Land Use Plan nor the Plan's goals, objectives and policies.
4506

4507 **AMENDMENT TO THE MAJOR THOROUGHFARE PLAN ELEMENT OF THE**
4508 **COMPREHENSIVE PLAN:**

4509 **MTP-3-99** – Reese Drive Extended

4510 Amend the Major Thoroughfare Plan by deleting a proposed minor collector road between
4511 existing Reese Drive and Elko Road. The proposed road would connect the Windsor
4512 Subdivision with Elko Road at Malpas Drive.
4513

4514 Mr. Marlles - Mr. Lee Householder will be giving a very brief, I'm sure,
4515 presentation.
4516

4517 Ms. Dwyer - Well, its not that late. We've been here until 2:00 a.m.
4518

4519 Mr. Lee Householder - I've got a long version and a short version.
4520

4521 Ms. Dwyer - Good evening, Mr. Householder. There's no one left, so I assume
4522 there's no opposition.
4523

4524 Mr. Householder - This proposed amendment would delete Reese Drive extended
4525 from the Major Thoroughfare Plan (MTP). Existing Reese Drive is in the Windsor Woods
4526 Subdivision. The MTP currently depicts the proposed road as a minor collector extending
4527 from existing Reese Drive westward to Elko, as it stretches all the way across this vacant land
4528 and connecting over to Elko Road.
4529

4530 The extension is intended to provide the skeleton of a local street network to serve future
4531 development around the existing subdivisions and to provide coordinated access to Elko Road.
4532

4533 When you look at it and you combine Reese Drive with Monaco Road, which is this street right
4534 here (referring to slide). Let me show you a different angle. This is Reese right here and this is
4535 Monaco up here. Reese doesn't actually go all the way through to White Oak Road. So, Reese
4536 Drive would actually have to make a 90 degree turn onto Monaco in order for it to serve as a
4537 minor collector all the way to White Oak Road.
4538

4539 This also, using Monaco Road, would mean this is an existing subdivision street within the
4540 Windsor Subdivision. It would actually have people's driveways accessing Reese Drive extended
4541 directly. That's not the intention of a minor collector roadway. It's supposed to be a continuous
4542 roadway through there.
4543

4544 With that said, there are a total of four stub streets provided in the Windsor Subdivision, and
4545 the adjacent Shady Oaks Subdivision. Shady Oaks is down here and that's Windsor. The

4546 better view of the stub street is there. There's one here, here, and then all the way down here
4547 (referring to slide).

4548
4549 We feel like it does not necessitate the extension of the drive as a collector roadway beyond its
4550 existing terminal point. It could be extended, in the future, to serve adjacent undeveloped
4551 property without being designed to function as a minor collector roadway. With the alternative
4552 stub roads available, a local street network will still be available to serve new development in this
4553 area.

4554
4555 So, I guess I'll recap, because I'm tired and I feel like I'm babbling on.

4556
4557 Ms. Dwyer - Take your time.

4558
4559 Mr. Householder - The major issues are the 90-degree turn on to Monaco, which is not
4560 too conducive to a minor collector. Public Works has also, in addition, commented that would be
4561 very difficult to engineer, considering the topography of that area. And the actual driveways and
4562 streets upon Monaco Road, in addition to the actual existence of the stub streets.

4563
4564 So, therefore, we recommend the deletion of Reese Road Extended. I'll take any questions you
4565 may have.

4566
4567 Ms. Dwyer - Any questions for Mr. Householder by Commission members?

4568
4569 Mrs. Wade - Is Windsor where they had septic tank problems?

4570
4571 Mrs. Quesinberry - We don't have septic tank problems in Varina.

4572
4573 Mrs. Wade - Oh. Okay. I just heard it mentioned in the last few days.

4574
4575 Mrs. Quesinberry - They all work well. We pump them regularly, despite what the
4576 County says.

4577
4578 Mrs. Wade - I wasn't sure where it was, and now I know where it is.

4579
4580 Ms. Dwyer - Well, I just have a general question relating to that. Are you
4581 finished, Mrs. Wade?

4582
4583 Mrs. Wade - Yes.

4584
4585 Ms. Dwyer - I didn't mean to interrupt. In the staff report it says, "Homes
4586 currently front on Windsor and Monaco. The subdivision was not designed with a minor
4587 collector roadway in mind at this location. And, yet, the Major Thoroughfare Plan says the
4588 primary goal of Reese Drive would be efficient movement of local traffic to and from Elko
4589 Road." So, I guess I'm wondering how is it that we end up in this situation where, at some point,

4590 it was determined that we needed a road to move traffic onto Elko and this was designated. And
4591 then the subdivision was built around that road to make the Major Thoroughfare Plan road not
4592 work.
4593
4594 Mrs. Quesinberry - I don't know the answer to your question.
4595
4596 Mr. Householder - I don't think I can answer you either. That's the scenario we're in.
4597 We went back and looked at it, and we're like, we say, "Well, how can this be?" That's my
4598 perception.
4599
4600 Ms. Dwyer - That's my question.
4601
4602 Mr. Vanarsdall - That was her question, "How can this be?"
4603
4604 Mr. Householder - I don't have an answer for that.
4605
4606 Mrs. Wade - Well, do we know who built Windsor, then?
4607
4608 Ms. Dwyer - It seems like, at some point, when we reviewed the subdivision that
4609 this need for a collector road would have been apparent and we have taken that into account
4610 looking at the subdivision?
4611
4612 Mr. Householder - That was actually designated after the subdivision was there, maybe
4613 without thinking through the fact that how would this really function. I don't think it was an issue
4614 when this subdivision was built about it.
4615
4616 Ms. Dwyer - I see. That's good. That's fine. Then, do we still need a collector
4617 road, or is there a process to designate an alternative one?
4618
4619 Mrs. Quesinberry - Well, here's what's going on.
4620
4621 Ms. Dwyer - Okay.
4622
4623 Mrs. Quesinberry - The people in the neighborhood don't want that Reese Road
4624 extended there.
4625
4626 Ms. Dwyer - Right.
4627
4628 Mrs. Quesinberry - They like their neighborhood the way it is. Access on White Oak is
4629 a lot less traffic than access on Elko. And, they certainly don't want people cutting through from
4630 Elko through their neighborhood to get over to White Oak.
4631
4632 Ms. Dwyer - Right.
4633

4634 Mrs. Quesinberry - So, they don't feel a need for it and don't want it. And half of
4635 them never realized it was on the plan to do anyway.

4636
4637 The other side of it is, on the Elko side, we have an opportunity there for a church that's bought
4638 property right there, getting ready to close the deal and move in. It would be a nice neighbor and
4639 a nice development on that piece right across from Malpas. And Reese bisects the property. The
4640 tract they're buying right down the middle. If that stays, they, obviously, can't put their church
4641 right in the middle of a collector road. So, that won't work either.

4642
4643 Ms. Dwyer - Well, actually, they could?

4644
4645 Mrs. Quesinberry - Yes.

4646
4647 Ms. Dwyer - In the Tuckahoe District, we have a business right in the middle of
4648 John Rolfe Parkway.

4649
4650 Mrs. Quesinberry - Okay. Well, that's true.

4651
4652 Mr. Householder - I think the overall purpose of the street was to facilitate access to
4653 the vacant land in the middle.

4654
4655 Ms. Dwyer - Right.

4656
4657 Mr. Householder - What we've seen is there is enough stub streets in place.

4658
4659 Ms. Dwyer - There's a lot of vacant land there between the existing Reese and
4660 Elko and White Oak in that triangle. I also see some creeks. I mean, I don't know what the land
4661 is, but it seems to me if we are removing a road that there is a need for, we should have an
4662 alternative road to replace it to provide access between Elko and White Oak would be designed so
4663 that it wouldn't interfere with the neighborhoods and could be worked around both by the church
4664 and any future subdivisions that were planned. That's my point. Is that true?

4665
4666 Mr. Householder - Well, I would agree with you that there is a need for a connection.
4667 What the appropriate connection is and how we would designate that, I don't know.

4668
4669 Mr. Marlles - The other way of looking at this is, we do update the transportation
4670 element on a regular basis. Whereas, there may not be a need right now, as part of just the
4671 regular update to the Thoroughfare Plan, if there's a need that comes up, it's that opportunity to
4672 add it in the future too.

4673
4674 Ms. Dwyer - But don't we just do that every 10 years?

4675
4676 Mr. Marlles - Every five years.

4677

4678 Ms. Dwyer - Every five? Coming from the "land of big traffic," also, not as big
4679 as Three Chopt, is there a need for a collector road here? And, if there is, then it seems to me
4680 that part of what we do is, make this look justifiable. Let's take this away, but should we put
4681 something else in its stead and do it now, not waiting for another subdivision comes in and then
4682 be negatively affected by a future collector road?
4683

4684 Mr. Householder - I feel like with new subdivisions, we're pretty cognizant of that
4685 fact. If there was a subdivision proposed, I would think that would be a preliminary factor on
4686 where is it going to link up and what it will serve.
4687

4688 Ms. Dwyer - Yes.
4689

4690 Mr. Silber - (Comments unintelligible - not at microphone).
4691

4692 Ms. Dwyer - He could have something like that?
4693

4694 Mrs. Wade - There's some stubs north of Windsor? Some people wouldn't want
4695 those to go through either.
4696

4697 Mr. Householder - Also, something I didn't mention which may help a little. This site
4698 where the church is looking to buy the land, we have a deferred case for a 50-acre subdivision
4699 here.
4700

4701 Ms. Dwyer - On that site?
4702

4703 Mr. Householder - On this site right here. And the church came in and said, "We'd
4704 like to by it instead, and if we get this road deleted. If we don't, then this will come up next
4705 month as a 50-acre subdivision.
4706

4707 Ms. Dwyer - Yes. I think it's a good idea to delete the road. I'm not
4708 questioning that.
4709

4710 Mr. Householder - What do we do?
4711

4712 Ms. Dwyer - I'm just saying, should we replace it with something?
4713

4714 Mrs. Wade - How much land does the church need?
4715

4716 Mr. Householder - Here's an idea. Eric had an idea. Maybe we might be too hasty.
4717 We say we want to delete it for the church. What if the church doesn't develop? I mean someone
4718 does come back for this subdivision and this road is gone. We would want this if it was going to
4719 be a subdivision, there. Maybe not the full length of it, but, at least, some reason to get them to
4720 dedicate some right of way to provide access internally. It might be complicated. I think it is too
4721 much for this hour.

4722
4723 Mr. Lawrence - It seems like, if the Church doesn't build there, you need to leave
4724 the road. Have you lost or gained anything? You've got to sit and think about it. It seems now,
4725 right now, you're thinking, "Let's delete it because the Church wants to build there, and we don't
4726 know if the road's necessary." Well, if somebody builds a subdivision, there's your first segment
4727 to get Reese Drive in place, whether it goes all the way to Windsor or it just goes to Convey.
4728
4729 Ms. Dwyer - So, you're saying it might be premature. Wait until the POD
4730 comes in for the Church and then delete the road?
4731
4732 Mr. Lawrence - That's just my thought.
4733
4734 Mr. Archer - It's a good thought.
4735
4736 Ms. Dwyer - Okay, what are we going to do with this?
4737
4738 Mr. Vanarsdall - Ask Mrs. Quesinberry.
4739
4740 Mr. Householder - One more comment. I agree with that because we've kind of
4741 established that its not appropriate in its current location. So, I believe its needed, but it doesn't
4742 link up properly. It's tough to tell.
4743
4744 Mr. Vanarsdall - You want to shed some light on that for us, Mrs. Quesinberry?
4745
4746 Mrs. Quesinberry - Yes. I'd like to recommend go home, but first go ahead and
4747 approve the deletion of this Reese Drive Extended.
4748
4749 Mrs. Wade - And get staff to consider other alternatives?
4750
4751 Mrs. Quesinberry - Yes. We'll get staff to consider other alternatives in this area.
4752
4753 Ms. Dwyer - How would that work? If staff finds an alternative, would they
4754 come back to the Commission for an amendment to the Major Thoroughfare Plan and to add one?
4755
4756 Mr. Householder - To add something, yes.
4757
4758 Ms. Dwyer - Okay. Do I have a second.
4759
4760 Mr. Vanarsdall - I second.
4761
4762 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.
4763 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
4764 abstained).
4765

4766 Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the July 15, 1999 Rezoning
4767 minutes were approved as corrected:
4768 Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning Commission
4769 adjourned its meeting at 12:30 a.m. on August 13, 1999.

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4779

Elizabeth G. Dwyer, C.P.C., Chairwoman

John R. Marlles, AICP, Secretary