

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. December
4 6, 2012. Display Notice having been published in the Richmond Times-Dispatch
5 on November 19, 2012 and November 26, 2012.
6

Members Present: Mr. Tommy Branin, Chairman (Three Chopt)
Mrs. Bonnie-Leigh Jones, C.P.C., Vice Chairman (Tuckahoe)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Eric Leabough (Varina)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary

Members Absent: Mr. Frank J. Thornton,
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning
Mr. James P. Strauss, CLA, Principal Planner
Mr. Benjamin Sehl, County Planner
Mr. Livingston Lewis, County Planner
Mrs. Lisa T. Blankinship, County Planner
Ms. Kim Vann, Henrico Police
Ms. Sylvia Ray, Recording Secretary

7
8 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains**
9 **on all cases unless otherwise noted.**

10
11 Mr. Branin - Good evening and welcome to the December 6, 2012,
12 Planning Commission Rezoning meeting. If everybody would check their cell
13 phones, please, and make sure that they're either turned off or to vibrate. We
14 have a very short agenda this evening, so we should get everybody home pretty
15 quickly this evening. If everybody would join me in standing for the Pledge of
16 Allegiance.

17
18 I don't believe we have anyone from the news media in the room this evening. So
19 with that, Mr. Secretary, if you'd like to take the floor.

20
21 Mr. Emerson - Thank you, Mr. Chairman. First on your agenda this
22 evening are the requests for withdrawals and deferrals. Those will be presented
23 by Mr. Jim Strauss.

24
25 Mr. Strauss - Thank you, Mr. Secretary. Good evening, members of
26 the Commission. We have two deferrals this evening. The first one is in the
27 Varina District on page one of the agenda, C-28C-12, E. J. Wade Construction.
28 The applicant is requesting a deferral to the January 10, 2013, meeting.

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C-28C-12 **Brian C. Mitchell for E.J. Wade Construction:**
Request to conditionally rezone from A-1 Agricultural District to M-2C General Industrial District (Conditional) Parcel 843-701-2778 containing approximately 24.4 acres located along the south line of Portugee Road approximately 2,300' east of its intersection with Memorial Drive. The applicant proposes a contractor's equipment storage yard, office, and maintenance facility. The uses will be controlled by zoning ordinance regulations and proffered conditions. The 2026 Comprehensive Plan recommends Office and Environmental Protection Area.

Mr. Branin - Is anyone in opposition to the deferral of C-28C-12, Brian C. Mitchell for E.J. Wade Construction? No?

Mr. Leabough - With that, Mr. Chairman, I move that we defer C-28C-12, Brian C. Mitchell for E.J. Wade Construction, to the January 10, 2013, meeting.

Mrs. Jones - Second.

Mr. Branin - Motion by Mr. Leabough, seconded by Mrs. Jones. All in favor say aye. All opposed say no. That motion carries.

Mr. Strauss - The second request for deferral this evening is in the Three Chopt District on page two of the agenda. This is case P-18-12, Innsbrook Foundation. The applicant is requesting a deferral to the January 10, 2013, meeting.

P-18-12 **Brian Menditto for Innsbrook Foundation:**
Request for a Provisional Use Permit under Sections 24-62.2(f), 24-66(a), 24-120 and 24-122.1 of Chapter 24 the County Code in order to continue operation of an outside concert pavilion on part of Parcel 750-768-4593, located at the southeast ramp of I-295 approximately 750' northeast of Nuckols Road. The existing zoning is M-1C Light Industrial District (Conditional). The 2026 Comprehensive Plan recommends Urban Mixed-Use.

Mr. Branin - Is anyone in opposition to the deferral of P-18-12, Brian Menditto for Innsbrook Foundation? No one? Then I'd like to move that P-18-12, Brian Menditto for Innsbrook Foundation, be deferred to the January 10, 2013, meeting per the applicant's request.

Mrs. Jones - Second.

Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in favor say aye. All opposed say no. That motion carries.

74 Mr. Emerson - Mr. Chairman, that completes the requests for
75 withdrawals and deferrals this evening unless the Commission has anything
76 additional to add.

77

78 Mr. Branin - Are there any Commissioner requests for deferrals?
79 None?

80

81 Mr. Emerson - Mr. Chairman, seeing there are no additional items
82 from the Commission regarding withdrawals and deferrals, the next on the
83 agenda are requests for expedited items. Those will be presented by Mr. Jim
84 Strauss.

85

86 Mr. Strauss - We have one case on the expedited agenda this
87 evening. It's in the Varina District on page one of the agenda. It's C-27C-12,
88 Slurry Pavers. Staff is recommending approval in accordance with revised
89 proffers that we've just handed out. Please note that Proffer 3 has been revised
90 to accommodate the additional landscape buffer along the eastern property line.
91 With that, the revised proffer, staff is recommending approval. We are not aware
92 of any opposition this evening.

93

94 **C-27C-12 Randy Hooker for Slurry Pavers, Inc:** Request to conditionally
95 rezone from B-3 Business District to M-2C General Industrial District
96 (Conditional) Parcel 806-722-0882 consisting of 0.244 acres located on the south
97 line of Nine Mile Road (State Route 33) approximately 250' east of its
98 intersection with Echo Avenue. The applicant proposes a contractor's equipment
99 storage yard. The use will be controlled by zoning ordinance regulations and
100 proffered conditions. The 2026 Comprehensive Plan recommends Office. The
101 site is in the Enterprise Zone and is part of the Nine Mile Road Corridor
102 Revitalization/Reinvestment Opportunity Area.

103

104 Mr. Branin - Is anyone in opposition to the approval of C-27C-12,
105 Randy Hooker for Slurry Pavers, Inc.? No one.

106

107 Mr. Leabough - With that, Mr. Chairman, I move that we recommend
108 to the Board of Supervisors for approval C-27C-12, Randy Hooker for Slurry
109 Pavers Incorporated, subject to conditions 1 through 10 dated December 4,
110 2012.

111

112 Mr. Witte - Second.

113

114 Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Witte. All
115 in favor say aye. All opposed say no. That motion carries.

116

117 **REASON:** Acting on a motion by Mr. Leabough, seconded by
118 Mr. Witte, the Planning Commission voted 5-0 (one absent) to recommend the
119 Board of Supervisors grant the request because it would assist in achieving the

120 appropriate development of adjoining property and the proffered conditions will
121 provide appropriate quality assurances not otherwise available.

122

123 Mr. Emerson - Mr. Chairman, that completes the expedited agenda
124 and takes you to page two of your regular agenda to C-29C-12.

125

126 **C-29C-12 James W. Theobald for Cox Road, LLC:** Request
127 to amend proffered conditions accepted with Rezoning Case C-63C-98 on Parcel
128 748-759-3503 located on the east side of Cox Road at its intersection with
129 Westerre Parkway. The applicant proposes to amend Proffer 7 to allow a satellite
130 wagering facility. The existing zoning is B-2C Business District (Conditional). The
131 2026 Comprehensive Plan recommends Urban Mixed-Use. The staff report will
132 be presented by Mrs. Lisa Blankinship.

133

134 Mr. Branin - Is there anyone in opposition to C-29C-12, James W.
135 Theobald for Cox Road, LLC? Two in opposition. Okay. Mr. Secretary, would you
136 please read the rules of opposition?

137

138 Mr. Emerson - Yes sir, Mr. Chairman. The Planning Commission
139 does have rules guiding their public hearings, and they are as follows. The
140 applicant is allowed ten minutes to present the request, and time may be
141 reserved for responses to testimony. The opposition is allowed ten minutes to
142 present its concerns. Commission questions do not count into the time limits. The
143 Commission may waive the time limits for either party at its discretion. Comments
144 must be directly related to the case under consideration.

145

146 Mr. Branin - Thank you.

147

148 Ms. Blankinship - Mr. Chairman, members of the Commission. This is a
149 request to amend proffers accepted with rezoning case C-63C-98 to allow for a
150 satellite wagering facility, also referred to as an off-track betting parlor. Proffer #7
151 prohibits several uses including off-track betting parlors or OTBs.

152

153 The applicant proposes to amend Proffer #7 by deleting off-track betting parlors
154 from the list of prohibited uses. The applicant plans to locate a Colonial Downs
155 off-track betting parlor in the tenant space next to Big Al's Sports Bar & Grill
156 within the Shops at Twin Oaks.

157

158 Colonial Downs Race Track is located in New Kent, Virginia. It is licensed and
159 regulated by the Virginia Racing Commission. As part of the regulations, Colonial
160 Downs is allowed to operate off-track betting facilities throughout the State, which
161 are also licensed and regulated by the Virginia Racing Commission.

162

163 Colonial Downs Race Track operates eight off-track betting centers throughout
164 the state. One is located on the Henrico County/Richmond City line at 4700 West

165 Broad Street. A second site was located at Finn McCool's Irish Pub in the
166 Shoppes at Innsbrook, but the restaurant has recently closed.

167
168 The applicant has submitted Exhibit 1, illustrating the proposed floor plan of the
169 OTB, which would be accessible to the public from the front of the building and
170 from within Big Al's Sports Bar & Grill. The applicant has also submitted a letter
171 from the Virginia Racing Commission stating that the Commission "has not
172 received any crime-related reports, nor complaints, regarding the Colonial
173 Downs' operation of the satellite wagering facility at Finn McCool's Irish Pub."

174
175 Because the former OTB location at Finn McCool's did not create any known
176 concerns or nuisances, and the proposed use is regulated and licensed by the
177 Virginia Racing Commission, the request to delete off-track betting parlors from
178 the list of prohibited uses is not anticipated to adversely affect the intent or
179 implementation of the original proffers. All other proffers accepted with rezoning
180 case C-63C-98 would continue to govern the property. Therefore, staff supports
181 this request.

182
183 This concludes my presentation. I will be happy to try and answer any questions.

184
185 Mr. Branin - Does anybody have any questions for Ms.
186 Blankinship? None? Okay. For the people that are in opposition this evening, we
187 can at it two ways. We can listen to the presentation of the applicant or hear what
188 the opposition is for this case. I prefer to hear the opposition first so we can have
189 the applicant address it when they come up to speak. So opposition, would you
190 please come up. State your name for the record. This is a recorded public
191 hearing which goes into minutes for public record.

192
193 Mr. Huber - Good evening. My name is Hunter Huber with
194 Commonwealth Commercial Partners.

195
196 Mr. Branin - I'm sorry. Repeat that?

197
198 Mr. Huber - Hunter Huber—H-u-b-e-r. We're the property
199 management company for Westerre Commons, which is located at 3701 through
200 3811 Westerre Parkway. I'm here representing the Westerre Commons
201 Association, and the board has asked me to make a very brief statement on their
202 behalf.

203
204 The board has concerns about the proposed zoning change and feels that it's
205 important that this matter be thoroughly discussed with the Westerre Commons
206 condo owners. As such, we cannot support the proposed change at this time.
207 The Westerre Commons Association board is requesting that any decision
208 regarding this hearing is deferred until after our annual owners' meeting, which is
209 on December 20, 2012. This is the only opportunity that all the owners can get

210 together collectively as a group and discuss this. So we think it's appropriate to
211 have at that time an opportunity to get everyone's input.

212
213 Mr. Branin - Mr. Huber, you understand this isn't a zoning change,
214 correct?

215
216 Mr. Huber - I did.

217
218 Mr. Branin - Your statement said zoning change.

219
220 Mr. Huber - I didn't recall saying zoning—oh, I see. Yes, it's
221 amendment to the proffer.

222
223 Mr. Branin - Okay. Just making sure you're clear.

224
225 Mr. Huber - Right, I understand.

226
227 Mr. Branin - And you understand the process is that it comes to
228 the Commission, we make a recommendation to the Board, and then the Board
229 has the final decision. Are you aware of that?

230
231 Mr. Huber - Yes sir.

232
233 Mr. Branin - Okay.

234
235 Mr. Huber - And that's January 22nd?

236
237 Mr. Branin - Yes. Unless they decide to do something different.

238
239 Mr. Emerson - Actually, I believe it would be the 29th. I was just
240 looking at my calendar. The first meeting would be on the 15th. The first Tuesday
241 falls on the 1st.

242
243 Mrs. Jones - No, it's on the 8th.

244
245 Mr. Emerson - It is on the 8th, you're right. It is the 22nd.

246
247 Mrs. Jones - I'm sorry to just jump in there.

248
249 Mr. Huber - The 22nd?

250
251 Mr. Emerson - I believe.

252
253 Mr. Huber - That's all I have.

254

255 Mr. Archer - Mr. Huber, was there any specific complaint that you
256 were asked to speak about when you came or any specific concerns?
257

258 Mr. Huber - Not particularly. The main item was just to defer it
259 until we could get input from all the owners. I think the primary concern is safety
260 and disruption of business.
261

262 Mr. Archer - Okay.
263

264 Mr. Branin - Have you had any issues currently with Big Al's
265 restaurant?
266

267 Mr. Huber - No sir.
268

269 Mr. Branin - Or any of the other restaurants?
270

271 Mr. Huber - Not that I'm aware of. But that's the type of thing we
272 want to talk to all the owners about as a group. There are fifty-some condo
273 owners. So again, this annual meeting is the one time of the year that we have a
274 chance to potentially get everyone in one room.
275

276 Mr. Branin - Okay. Any other questions for Mr. Huber?
277

278 Mrs. Jones - No. I was going to ask what the specific concerns
279 were because I think it's a good time to have those addressed here. How did you
280 find about this hearing tonight?
281

282 Mr. Huber - All the condo owners reported—right. So as the
283 management company we received notice of that.
284

285 Mrs. Jones - I knew that was the answer, but I wanted to make
286 sure that's how you heard. And I would expect that there—I mean if this hearing
287 were taking place in June and the annual meeting's in December, then what
288 would happen?
289

290 Mr. Huber - We would call a special meeting.
291

292 Mrs. Jones - Okay. Thank you.
293

294 Mr. Branin - You didn't find it necessary to call a special meeting in
295 this case?
296

297 Mr. Huber - Well, I wasn't aware of this until Monday. And the
298 annual meeting was coming up anyway. And the chance of getting fifty-some
299 owners together on short notice is slim. And honestly, it's hard enough at the

300 annual meeting to get feedback. But the board just feels it's their responsibility to
301 at least give that opportunity.

302
303 Mr. Branin - Okay, well thank you Mr. Huber.

304
305 Mr. Huber - Thanks.

306
307 Mr. Richter - I'm Steve Richter. I am the owner of the Primrose
308 School at Westerre Commons directly adjacent to—actually behind the Shops at
309 Twin Oaks.

310
311 Mr. Branin - Mr. Richter, I know where the school is and the
312 condos. Are you—

313
314 Mr. Richter - I'm separate.

315
316 Mr. Branin - You are separate?

317
318 Mr. Richter - I'm not part of the condos.

319
320 Mr. Branin - Okay. You're right there.

321
322 Mr. Richter - Yes. I own the two acres next to the condos. I bought
323 that from the Lingerfelts right as the development started.

324
325 Mr. Branin - Okay.

326
327 Mr. Richter - I'm not a polished public speaker, so I have a lot of
328 notes.

329
330 Mr. Branin - Nor am I; I'm terrible at it.

331
332 Mr. Richter - And I'm not a lawyer, so I'm not sure whether I'm
333 using the proper words for all these things. But hopefully I'll get my point across.

334
335 Mr. Branin - I use the wrong ones every meeting.

336
337 Mr. Richter - Okay. We built that school in 2006. I own the school
338 along with my wife. We work in it every day. We have 200 wonderful kids that we
339 prepare for grade school. Most of the kids are between the ages of six weeks
340 and four years old. We also have a thriving after-school program with fifth
341 graders all the way down to kindergarten. I employ thirty teachers and staff.
342 They're all full time, forty hours a week. Great health care benefits, dental—it's a
343 wonderful place to work. I contribute to Henrico County taxes, \$18,000 to
344 \$20,000 a year in real estate taxes, personal property taxes. I'll get to the point.
345 I'm just saying that I'm a contributing member to Henrico County.

346

347 Mr. Branin - All Henrico citizens are, sir.

348

349 Mr. Richter - Okay. We selected this site, and in particular Henrico
350 County, after some extensive due diligence done by the Primrose School
351 franchising company out of Georgia. One of the things they look for are these
352 types of proffers in terms for use to be able to put a school in certain locations.
353 Proffer 7 for this particular conditional rezoning case, which occurred way back in
354 1999, along with the rezoning case for my piece of land, all contained no OTB,
355 no porn, no adult bookstores—a list of undesirable businesses. With that in hand,
356 we decided to go ahead and build the Primrose School on that particular site,
357 knowing that these proffers existed. It wasn't the only reason, but certainly one of
358 the compelling reasons why we did it.

359

360 I've invested probably \$3 million dollars in that site. I understand that maybe
361 none of the OTBs—the one on Broad Street or the one at Finn McCool's—had
362 any type of issues with criminal activity. However, there is a lot of diligence that
363 the Planning Commission and the Board of Supervisors put in in order to ensure
364 that these type of proffers are put into a lot of conditional rezoning cases to
365 include off-track betting. For one reason or another, the County thought enough
366 to put it in those rezoning cases. I find that at this point, after I've already built my
367 school and been in operation for quite some time, that now is the time to relook
368 at that proffer and then put in the ability for at OTB to operate right next to my
369 school.

370

371 Really what I'm asking is if an OTB requested to operate next to any of the
372 elementary schools in the County, would you allow that occur? I have 200 kids.
373 There may not be any issues with—there may not be and I hope there won't be
374 any issues with vandalism or trespassing or drunk driving or anything like that,
375 but I don't want to take that chance. And I also don't want to take the chance of
376 any of my parents making a decision, a different decision about where they enroll
377 their kids because of their perceived understanding of what OTBs are. They have
378 a PR problem and it's an issue. I don't think I should take a hit in terms of my
379 business—that might negatively financially impact me just because they want to
380 put an OTB in Big Al's.

381

382 I eat at Big Al's a lot, by the way; he has great burgers. It's a terrific place to eat. I
383 think Big Al's will do well without the OTB.

384

385 I don't mind the OTB being in the middle of Innsbrook where it was before. A lot
386 of nightlife over there; there's plenty of parking. It's closely watched. It's right on
387 Broad Street. It's closely watched by the police over there. I took the opportunity
388 to go over and talk to the owner of the Sheer Creations Hair Cuttery, which is
389 next to Finn McCool's, and also the manager of Firehouse Subs place, which is
390 next door to that. Neither one of them had anything negative to say about it other
391 than the Sheer Creations owners said there was a lot of drunk people leaving

392 Finn McCool's. Now I don't know if that was related to the OTB or whether that
393 was just related because it was Finn McCool's. That was an anecdotal comment;
394 I don't have any proof of that. But that's what he said to me, which I thought was
395 kind of funny.

396
397 That's pretty much my case. I have a lot of other notes here. If you have any
398 questions for me. I can't point to any problems I've ever had with Big Al's. I like
399 the place a lot. I eat there a lot. I take my director over there; we have lunch
400 there. They have wonderful burgers, like I said. It's just the OTB is not necessary,
401 and I really don't want it next to my school.

402
403 Mr. Branin - Have you—in your operating hours—have you had
404 any issues whatsoever with Big Al's, or Ipanema before that or what was David
405 Du's Restaurant called there?

406
407 Mr. Richter - No, we have never had any issues with any of our
408 friends and neighbors in that area at all. I don't anticipate there would be either. I
409 think they run a tight ship. They run a great operation.

410
411 Mr. Branin - And do you think because the owner of Big Al's
412 Sports Bar and Grill, if he puts in an OTB he's going to allow his restaurant, his
413 name to be run down and they'll be more drunks? Is that what I'm—

414
415 Mr. Richter - Possibly. I don't want to take that risk. Absolutely.
416 Don't want to take the risk. Look, there is only one way in and out of that place,
417 right? There's that access road behind that shopping center. There is no access
418 off of Cox Road at all. All that traffic comes right in front of me. Unfortunately,
419 that's the way it was designed. Crack in access point off of Cox Road and get rid
420 of that traffic in front of mine and I may never see this. That's an option, but I'd
421 rather not have it near me at all. I haven't made this very public. I think that I
422 could probably fill this place with parents, if I choose to, but I haven't made it
423 public simply due to the fact that you're the Planning Commission, and you're
424 making the next recommendation. If I could stop it here without it going to the
425 Board of Supervisors I think that would be the easiest thing for me.

426
427 Mr. Witte - Do you have any idea what kind of hours the OTB
428 operates?

429
430 Mr. Richter - In doing my simple phone calls, I talked to Ms.
431 Blankinship. I think she had indicated that they could stay open as late as
432 midnight, but likely not. I also talked to the president of Colonial Downs, and he
433 said they likely would not operate any later than that.

434
435 Mr. Witte - What time would they start?

436
437 Mr. Richter - I don't know that.

438
439 Mr. Witte - Ms. Blankinship, do you have that?
440
441 Ms. Blankinship - From my research, most of them open around noon
442 and stay open till midnight. Some days they're closed, like Mondays and
443 Tuesdays. I guess it's just up to the individual OTB and their licensing.
444
445 Mr. Witte - What time are the children at your school?
446
447 Mr. Richter - We open up at 7:00 in the morning, and we go to 6:30
448 in the evening.
449
450 Mr. Witte - Okay.
451
452 Mr. Leabough - What are the ages of the kids?
453
454 Mr. Richter - We have kids six weeks all the way through four
455 years old that we service on a day-to-day basis. And then fifth grade all the way
456 down to kindergarten for our after-school program. So we have buses that go
457 and pick up from all the elementary schools in the West End. They come in at
458 about 2:30 in the afternoon.
459
460 Mr. Leabough - So is your concern—it's a sports bar, so they serve
461 alcohol.
462
463 Mr. Richter - Oh sure. It's more of a perception issue of an OTB
464 being next to a preschool. Look, I've got—if you've been a parent, and I don't
465 know—
466
467 Mr. Leabough - Oh yeah.
468
469 Mr. Richter - You make decisions for your kids based on all the
470 information that's available. If I can avoid having one reason for a parent not to
471 make the decision to enroll them in my school, I will try to make sure that that
472 reason doesn't exist. And this OTB is a reason for parents not to enroll in my
473 school. Whether it's valid, warranted, whether it's real or not, the perception is
474 that OTBs are not good. You don't want to live around them, and you certainly
475 don't want a school around them.
476
477 Mrs. Jones - Mr. Richter, there is an article in the paper about this
478 this week. Have you received any calls from parents?
479
480 Mr. Richter - I have not. I did not see it in the paper either. Thank
481 you. Was it favorable?
482

483 Mrs. Jones - No, it was just stating what was happening and the
484 fact that it had come before the Commission today.

485
486 Mr. Richter - No, I really haven't highlighted to my—I don't want to
487 highlight it to my parents.

488
489 Mrs. Jones - I just thought you might have heard from someone if
490 that was a big concern. Okay.

491
492 Mr. Richter - I have a question for you. The OTB—I've read it now.
493 This proffer is in several of the conditional rezoning cases throughout the West
494 End. And I didn't look at any of the cases that were in the East End or any closer
495 to the city. It's in there. OTB is listed consistently in there. What was the reason
496 for the Planning Commission to put it in there in first place? And then what's the
497 reason why now you think it's the right time to pull it given that I've invested a lot
498 of money to put a school there, and it's a school? I do want to ask whether or not
499 you think it's important that you consider that there is a school right next door to
500 the facility.

501
502 Mr. Emerson - Mr. Chairman, I may be able to respond. And I wasn't
503 here when those proffers went in. I will make the assumption that at the time
504 these proffers came through, and other proffers prohibiting OTBs came through,
505 it was a very new industry in the state. People did have a perceived perception of
506 what off-track betting would be and what kind of impacts it would have. I think
507 over time it has proven itself not to be that way. That's the reason you might not
508 see that proffer today unless there was a neighborhood nearby or some sort of
509 objection, which normally they would go in a commercial area similar to this. But
510 that would be why I would make the assumption that—and you do see this
511 proffer; he is correct. You will see this regularly throughout your proffers in the
512 1990s prohibiting OTBs

513
514 Mr. Richter - One of the staff had indicated they supported it
515 because the Virginia Racing Commission has done a good job in regulating this
516 industry. I think that they probably did just as good a job back in nineties as they
517 do today. I don't think that's really an issue.

518
519 Mr. Emerson - Well actually they weren't opened in the nineties.
520 They were just beginning so they didn't have a record of operation. But yes, the
521 State Racing Commission regulates everything that occurs within these. And of
522 course the representatives of Colonial Downs can speak to it more. But they are
523 heavily regulated. I understand that doesn't help you with your issue and the
524 perception that you're concerned about, but they are highly regulated.

525
526 Mr. Richter - I appreciate that. And I appreciate you guys giving me
527 the time.

528

529 Mrs. Jones - Maybe Ms. Blankinship can bring this back up. Would
530 you show us in the zoning map or the aerial or something exactly where you are
531 in relation to Big Al's?

532
533 Mr. Richter - If you see the overhead? Do you have that? This is
534 me right here. I'm the entire block right in here. This is all me. This is the
535 shopping center, and I own this two-acre plot right here. It's a 12,000-square-foot
536 facility with about 40,000 square feet of playground space. I love it. I think it's a
537 great facility.

538
539 Mrs. Jones - If you put the cursor on top of Big Al's.

540
541 Mr. Richter - Yes, Big Al's is right here.

542
543 Mrs. Jones - Right.

544
545 Mr. Leabough - So you see the back of the property?

546
547 Mr. Richter - Yes. As a matter of fact, I see his dumpsters every
548 day. Wish you would close those dumpsters up, Al.

549
550 Mrs. Jones - Thank you.

551
552 Mr. Richter - Thank you very much. I appreciate it.

553
554 Mr. Archer - Mr. Chairman, before you call the applicant up, could
555 we get our police representative up for a second, please?

556
557 Mr. Branin - You would like to hear from Ms. Vann?

558
559 Mr. Archer - I would.

560
561 Mr. Branin - Ms. Vann, would you come down with your hurt arm?

562
563 Mrs. Jones - Oh dear.

564
565 Ms. Vann - Good evening. Kim, Vann, with Henrico Police.

566
567 Mr. Archer - Oh, I'm sorry, Ms. Vann. Ms. Vann, thank you for
568 coming up. I'm thinking about Mr. Richter's remarks, which I think are very salient
569 and well stated. However, is there any extra level of care or special police care
570 that is provided for the current OTBs now?

571
572 Ms. Vann - The one on West Broad Street. It's city. I did check
573 into that. At this point my understanding is the Colonial Downs at West Broad has
574 private security.

575
576 Mr. Archer - And I would assume that this site would be—is that a
577 requirement that we have or is that something that Colonial Downs has to deal
578 with?
579
580 Ms. Vann - I don't think I can speak to that, partly because I think
581 most of the building is in the City of Richmond. The parking lot is what Henrico
582 covers. So if the City has a requirement, I'm not familiar with it.
583
584 Mr. Archer - Okay. Have any idea if there have been any number
585 of calls for service?
586
587 Ms. Vann - We did look. I wasn't sure how long it had been, so
588 we just did five years, so since 2008 at this particular facility. Again, I don't know
589 if it comes up just the parking lot because that's Henrico County. But it really has
590 not gone more than five, and five was this year. And those mostly are accidents,
591 things like that. There was one larceny. I spoke with an off-duty officer that used
592 to coordinate Henrico's staff out there. He said it was run real well because
593 Richmond City Police and Henrico used to work off duty there.
594
595 Mr. Archer - Okay.
596
597 Mrs. Jones - Ms. Vann, the statistics you're giving us are for the
598 West Broad Street near Willow Lawn location?
599
600 Ms. Vann - Yes ma'am.
601
602 Mrs. Jones - What about Finn McCool's?
603
604 Ms. Vann - We also looked at that. The problem with Innsbrook,
605 the whole strip along the front of Broad Street comes up one address, so then
606 you have to look at the suite. So it's about six or seven businesses are one
607 address for that part of Innsbrook, and then it's a suite after that. So pulling
608 those, really it's only been one call in 2010 and two in 2011 and 2012 for that
609 suite.
610
611 Mrs. Jones - For that suite.
612
613 Ms. Vann - Just for Finn McCool's.
614
615 Mrs. Jones - Okay. And we don't know what those are?
616
617 Ms. Vann - One service call in 2010, and then both calls in 2011
618 and 2012 were commercial alarms.
619

620 Mrs. Jones - So what I'm hearing from you is in both of these
621 locations there does not seem to be a correlation between heavier-than-normal
622 calls for service—I don't know what heavier than normal is—but a lot of calls for
623 service with the use that was there.

624
625 Ms. Vann - That would be what the statistics indicate. I did check
626 with the community officer for Finn McCool's area and the Innsbrook area, and
627 he said that he was not aware of any problems out there either. So both
628 perception of the officer working the area and the stats, yes, that would be a true
629 statement.

630
631 Mrs. Jones - Okay. Thank you.

632
633 Mr. Branin - Any other questions for Ms. Vann?

634
635 Ms. Vann - Thank you.

636
637 Mr. Branin - Someone came in late. You're not in opposition. I just
638 wanted to give you your—would the applicant please come down?

639
640 Mr. Theobald - Good evening, Mr. Chairman, ladies and gentleman.
641 I'm Jim Theobald. I'm here this evening on behalf of Cox Road LLC, which is the
642 owner of the shopping center. There are a number of people with me here this
643 evening—the owner of the center, Nathan Shore; Ian Stewart from Colonial
644 Downs; as well as Al Coleman, the owner of Big Al's. They'd be happy to answer
645 any question that you might have.

646
647 You may be aware of the history of this entire site. I think Mr. Emerson was
648 explaining some of it. But as one who participated in the zoning for everything
649 from Deep Run west to Cox Road here, I can tell you that this was a very long
650 history of rezoning. Mr. Archer may remember there were homes up against the
651 interstate. There was a road that went down there. If somebody had to assemble
652 all those properties we would never find the solution to a transition of uses from
653 the office use at Deep Run, which is actually—most of that is M-1, as I recall—to
654 the mini warehouses and what not, transitioning to office, and ultimately to retail.
655 If there's something there that may not be as representative of that transition,
656 one might suggest that it would be the school. But the school is there, and we
657 respect them there. And by all accounts they do a great job. But this is a
658 shopping center that was approved and has a sports bar in it.

659
660 Now, when this was zoned and it was done by our office initially—Mr. Emerson is
661 correct. There is a list of proffers that we usually will put in a B-2 or a B-3 type
662 case. And at that time, off-track betting was pretty new; it had only been
663 approved for a couple of years in Henrico County, and that was just part of the
664 list. It was not based on a specific request, much less a complaint or concern; it
665 was just part of the list.

666 Colonial Downs has successfully operated an off-track betting parlor in Finn
667 McCool's for a number of years. There have not been any problems there. I have
668 given you—and it's in your staff report—a letter from the Virginia Racing
669 Commission. It's not a group that looks the other way. It's a group that highly,
670 highly regulates every aspect of this type of entertainment. There have been no
671 issues. Finn McCool's closed a couple of weeks ago. We knew it was likely to
672 close, and so we began negotiating for an alternate location so that our business
673 could continue without interruption. Unfortunately, that didn't quite happen as
674 neatly as we had hoped. So we now find ourselves trying to in essence become
675 a part of the Big Al's operation.

676
677 For those of you who may not have been in the off-track betting facility, they're
678 not open Mondays and Tuesdays. Their hours will be consistent with Big Al's.
679 Wednesday and Thursday they'll be potentially open between eleven and eleven.
680 Fridays and Saturdays eleven to midnight. And Sundays noon to eleven. This is
681 1,000 square feet. It's not at all like the one on West Broad near Willow Lawn;
682 this really is a small accessory to an existing food and beverage operation. That's
683 why they do so well together. It's going to help Big Al's business and his
684 restaurant. His customers may avail themselves of the opportunities at the OTB
685 facility.

686
687 There seems to be some concern that there will be hoards of disreputable people
688 hanging around these things. I absolutely don't believe that's the case. I'm not
689 sure that if a hundred people walked out the front door of Big Al's or out of the
690 OTB or the hair salon next door or the yoga studio, you know, other than the
691 apparel that you could pick out the person who is coming out of the OTB versus
692 the restaurant. What you may not know is these things don't attract all that many
693 people. They might average thirty folks a day during the week. It's more like
694 fifteen. On Saturdays it might be forty-five. So we're not talking about a big group
695 here.

696
697 This type of facility has been deemed to be a form of entertainment under the
698 ordinance. It's consistent with the Land Use Plan. I suggest to you it's no different
699 than many or all of the other activities occurring around it. Your staff had
700 unequivocally recommended approval. And I would ask that you do the same to
701 the Board of Supervisors. I will note that all the owners in the condo association,
702 if you look in the file, received notice of this hearing when you sent out your
703 adjacent letters. There are scores of letters that went out, and to my knowledge
704 other than Mr. Huber's comments about wanting to have another board meeting,
705 we have not received one phone call, and I'm not aware that staff has either.

706
707 This is a relocation of an existing business, one that's allowed in the County, one
708 that's caused not the least bit of problems, and one that generates revenue for
709 the County. You share in the revenues generated by these facilities. And we
710 would just like to park in a part of Big Al's and continue to operate.

711

712 So with that I'd be happy to answer any questions, as would the folks who are
713 with me this evening.

714
715 Let me just make one more comment; I'm sorry. We get busier after five. While
716 there are some people there in the afternoon reading their racing from, deciding
717 what to do, there's a definite linear curve in terms of when people come. So what
718 I would suggest to you is to the extent that average is exceeded, generally
719 speaking it's after 5:00 as the day care is wrapping up and all the businesses
720 next door in the office condo. Thank you.

721
722 Mr. Branin - Does anyone have any questions for Mr. Theobald?

723
724 Mr. Archer - Mr. Theobald, are you familiar with what type of
725 security might be provided by Colonial Downs?

726
727 Mr. Theobald - I am. These small facilities do not have independent
728 security guards. They do have 24-hour surveillance cameras that monitor the
729 entirety of the site. We have provided you—and is a part of your staff report I
730 believe there's a copy of the security plan that has been drafted for this facility. It
731 can be monitored by Colonial Downs security officers continuously. They also
732 have everything from panic buttons by the tellers' window to a little fob with the
733 folks who circulate around where they have far more security than any retail
734 business short of having a uniform policeman standing there.

735
736 The larger facility down at Willow Lawn, if you remember it was a buffet place
737 that's a full-service food operation and a big facility. And they do have security
738 there. Never had it a Finn McCool's or any of these smaller locations.

739
740 Mr. Archer - I had read it, but I just thought I wanted to get it on the
741 record coming from you.

742
743 Mr. Theobald - Sure.

744
745 Mrs. Jones - I do have a question also. Mr. Theobald, let me make
746 sure I understand this. Monday, Tuesday the operation is closed.

747
748 Mr. Theobald - The OTB is closed.

749
750 Mrs. Jones - The OTB is closed. And Wednesday, Thursday it
751 opens at?

752
753 Mr. Theobald - With Big Al's. Eleven to eleven are his hours.

754
755 Mrs. Jones - Eleven to eleven. And then on the weekends, Friday,
756 Saturday, Sunday?

757

758 Mr. Theobald - Friday, Saturday, eleven to midnight. And you all will
759 correct me if I misstate, please. Okay. And Sunday is noon to eleven.

760
761 Mrs. Jones - So what I'm hearing is that the school will be open
762 here. The OTB will be open here. And the overlap is potentially noon to 6:30, I
763 believe Mr. Richter said his hours were, which is about when I guess people
764 coming home from work would come to the sports bar. I would guess. While
765 there may be some overlapping traffic, I'm thinking these hours actually
766 complement each other to some degree. So thank you for clarifying that.

767
768 Mr. Branin - Any other questions for Mr. Theobald?

769
770 Mr. Witte - I have one. Mr. Theobald, I frequented that shopping
771 center on more than a few occasions. And occasionally it's difficult, especially on
772 the weekends and the evenings, to get a parking spot. I'm also aware that there's
773 no parking on Cox Road or Westerre Parkway. In the event that there is a need
774 for overflow parking, do we have an option?

775
776 Mr. Theobald - Well, I guess there is tons of parking behind Big Al's.
777 Now maybe it's in the office condo spot, and I don't know that they have cross
778 parking. Seems to me that what we're doing is we're not creating new space;
779 we're taking a part of existing space. We're taking part of the Cross Fit Studio
780 next door, as well as part of Big Al's. So I'm not sure whether or not we're just
781 trading bodies. Obviously we hope there are more people frequenting Big Al's
782 and coming here, but if we're talking at the busiest point, you know,
783 approximately forty-five people, I would think that would be good news for the
784 County and retailers in there. It will drive people to the other retail operators as
785 well.

786
787 Mr. Branin - Sir, if you would like to address this you're welcome
788 to. Just please state your name for the record.

789
790 Mr. Shore - Okay. My name is Nathan Shore. I'm the owner of the
791 property. I just want to clarify on the parking. When we built the shopping center,
792 the parking in the County was four and a half spaces per thousand. We have
793 40,000 square feet, give or take. So we actually have five per thousand, which is
794 200 spaces. And then we have two office users. Bank of American has 7200
795 square feet of which they occupy about—or use about a third of it. And then the
796 old Ipanema Grill that you spoke of, sir, is actually used by DuPont as a test
797 kitchen, so there are no people coming and going from a retail. So over a third of
798 the shopping center is actually office users. And then one space is vacant. So it's
799 about 40 percent of the shopping center is not retail. I'm not sure what times you
800 were there. The yoga place—very few people. I wanted to clarify the parking.

801
802 Mr. Branin - Don't go anywhere because I'm glad you're down
803 here.

804

805 Mr. Shore - Okay.

806

807 Mr. Branin - There was a question about an entrance from Cox
808 Road. Have you ever looked into Cox Road having an entrance into this?

809

810 Mr. Shore - I'll let staff deal with that; they rejected it, so. I don't
811 mean to throw the staff under the bus. We requested that at the beginning, and
812 we've requested it multiple times since we built it in 2004. The concern was the
813 traffic exiting the shopping center to Cox Road because there's no median there.
814 We had even proposed a right-in only off of Cox Road. And our engineer was
815 told by staff that people would still try to go out that entrance. I mean we can't
816 stop people from doing stupid things, but we had requested a right-in multiple
817 times because our retailers and our restaurants would love to have an entrance
818 in there. Al could speak to that. Walter at Cupertino's could speak to that. But
819 we've been rejected multiple times for that.

820

821 So the entrances that were put in were the only thing that was approved by the
822 County. And at the time when that stoplight was put in, that was kind of the safety
823 factor, that the stoplight at Westerre Parkway and Cox Road would allow for
824 better access onto Cox Road from that area. Eventually, I think, there is
825 supposed to be a median on Cox Road. So we've requested it multiple times.

826

827 Mr. Branin - Lisa, would you get this gentleman's contact
828 information, name and all of that, and get with Public Works and Traffic, and ask
829 them to give me a call? Any other questions? Okay. Mr. Theobald, I have one
830 more for you. Thank you, sir.

831

832 The door that is—can we pull up Exhibit 1? Here is the floor plan. You see where
833 it says Big Al's expansion and TVs and the door going outside. Wouldn't it be to
834 Big Al's advantage to have all foot traffic, except maybe emergencies, coming
835 through his restaurant?

836

837 Mr. Theobald - Well, that was something that was brought to our
838 attention as we walked in this evening. As you could perhaps tell by our huddle in
839 the back, it was not favorably met. This is Big Al's seating area. This is where
840 people—the bar area is back through here. And apparently there is also outdoor
841 seating you can access different ways. There's designed to be a door—you could
842 enter the OTB through here, and it'll be a separate door through here, and
843 another opening through here. The idea was to at least funnel some of the traffic
844 directly into here as opposed to back and forth among the seated diners. And so
845 in order to achieve all of this we have negotiated sublet space with the Cross Fit
846 people. You're looking in yellow here at this rather unusual configuration that
847 would comprise the OTB.

848

849 Mr. Branin - So I'm understanding you to say that that is a
850 necessity?

851
852 Mr. Theobald - Highly desirable by Big Al. We're trying to balance
853 increasing his business, increasing traffic, at the same—
854

855 Mr. Branin - Well if indeed, Mr. Theobald, that you can only have
856 fifteen people, I would think as a restaurant owner those fifteen people would be
857 preferred to come through the restaurant simply because it would generate more
858 business. That's why he has connectivity, isn't it?
859

860 Mr. Theobald - Well yes, but I'm not sure what the issue is with
861 having a door coming direct. I mean certainly it's something we can look into
862 further between now and the Board, if you like. But I think that given the
863 negotiations and the space planning and everything that's been done, it's
864 something that would need further discussion.
865

866 Mr. Branin - In light of Mr. Richter's concerns about a betting
867 facility being there and Big Al's request for an addition onto his business, in
868 taking into consideration those two factors, having a separate entrance so it is
869 just basically a betting location as opposed to coming in to—because I believe at
870 Finn McCool's there was an entrance that went out into the courtyard, but that
871 entrance was part of the restaurant. So people coming from the courtyard to go
872 into the restaurant were coming through that door. Correct?
873

874 Mr. Theobald - You could access the restaurant and the OTB directly
875 from the courtyard.
876

877 Mr. Branin - Same door.
878

879 Mr. Theobald - Same door.
880

881 Mr. Branin - And so you had two entrances, one from either side of
882 the building. So it wasn't the OTB entrance and the restaurant entrance, it was
883 both direction entrance. Share.
884

885 Mr. Theobald - Mmm-hmm.
886

887 Mr. Branin - That is what I'm looking at in regards to this. I see that
888 another gentleman's come down. If you would like to speak, go ahead. State
889 your name for the record.
890

891 Mr. Coleman - My name is Al Coleman. I'm the owner of Big Al's
892 Sports Bar and Grill. Thank you for letting me just interject right here. As far as
893 the restaurant goes and having people in there, at Colonial Downs we will also
894 have tables and chairs, and we will be serving food and beverage. That's the

895 goal. So it would behoove you to have people come through the restaurant, yes.
896 It is also good to have a separate entrance for them. But we will be serving food
897 and beverage in there with tables, chairs, that type of thing. They'll be supplied
898 by Colonial Downs. So I just wanted to interject that as part of what you were
899 talking about, the different entrance and that type of thing. I wanted to let you
900 know that we will be serving food and beverage.

901

902 Mr. Emerson - Could you describe the type of table you will have in
903 there?

904

905 Mr. Coleman - We haven't gotten to that point yet. But I'm sure
906 tables, four tops, that type of thing. High tops, four tops. That's something that
907 Colonial Downs and I would have—

908

909 Mr. Emerson - A betting table.

910

911 Mr. Coleman - Tables for food and for beverage.

912

913 Mr. Emerson - With sectionalized places where you sit and place
914 your bet so your neighbor can't see what you're doing?

915

916 Mr. Branin - Or actual dining tables?

917

918 Mr. Coleman - No, dining type.

919

920 Mr. Branin - So a pub atmosphere.

921

922 Mr. Coleman - Yes.

923

924 Mr. Branin - Okay.

925

926 Mr. Coleman - Thank you for letting me—I just wanted to clarify the
927 point about the food and beverage there, that we'll be serving that.

928

929 Mr. Branin - Okay. Does anybody have any other questions for Mr.
930 Theobald? I swear I have not forgotten you. I'm just trying to get him off the floor
931 before I bring you back down.

932

933 Mr Richter - I have a question.

934

935 Mr. Branin - You have a question for Mr. Theobald. Okay. Well
936 you need to come up to the microphone because you can't do it from the floor.

937

938 Mr. Richter - First, thanks for addressing the ingress/egress. I think
939 that would go a long way to helping.

940

941 Mr. Branin - I haven't finished addressing it either.
942
943 Mr. Richter - Does Al's Sports Bar currently have panic buttons or
944 24-hour surveillance? No. And so you feel a need to put that in there when you
945 have the OTB in there, right? Why have 24-hour surveillance and panic buttons if
946 you don't have an element that would require 24-hour surveillance and panic
947 buttons? That's my question.
948
949 Mr. Branin - Okay. Thank you, sir.
950
951 Mr. Theobald - Well, the easy answer is it's part of the racing regs. I
952 don't think he's implying he would feel better if they weren't there. But they're
953 required by the Racing Commission, so that's why they're there.
954
955 Mr. Branin - So it's part of Racing Commission's regulations.
956
957 Mr. Theobald - Mmm-hmm.
958
959 Mr. Branin - There's your answer. I didn't know the answer to that
960 either.
961
962 Mr. Witte - Mr. Theobald, because it's connected, will Big Al's
963 have to have the same in his restaurant, surveillance and panic buttons?
964
965 Mr. Theobald - No, I wouldn't think so. It's all being installed by
966 Colonial Downs in the space that will be licensed for the OTB.
967
968 Mr. Witte - Thank you.
969
970 Mr. Leabough - Aren't the spaces one in the same, essentially? I
971 mean I know you have—
972
973 Mr. Theobald - The space in the yellow is the OTB space.
974
975 Mr. Leabough - Yes, but if we're talking about what Mr. Branin is
976 suggesting, then it would essentially be one in the same. You're going to access
977 it from the same entrance.
978
979 Mr. Theobald - You can access it from all of the entrances. But the
980 OTB facility is what's outlined in yellow. This is still Big Al's, and he'll be serving
981 food and drink in here as part of the accessory uses. This is the location of self-
982 serve terminals you can see in the drawing.
983
984 Mr. Leabough - So wouldn't you need the same surveillance in the
985 other space?
986

987 Mr. Theobald - No. This is where the money machines are.
988
989 Mr. Leabough - Something could happen in adjacent space. If
990 somebody took a hostage, God forbid, in Big Al's, there would be nothing there to
991 protect that space, correct?
992
993 Mr. Theobald - There's nothing to protect anybody in any restaurant
994 in the County.
995
996 Mr. Leabough - No, no, no. I'm talking about because of the fact that
997 because it's adjacent to the OTB.
998
999 Mr. Theobald - I'm not sure I follow you, Mr. Leabough.
1000
1001 Mr. Leabough - I'm just saying that there really—for instance, if I
1002 stand at that door you're telling me that there's nothing that's there from a
1003 surveillance perspective that would cover that space.
1004
1005 Mr. Theobald - The surveillance cameras are designed to cover the
1006 OTB space.
1007
1008 Mr. Leabough - So if you're at that new opening that connects to Big
1009 Al's there is no camera there?
1010
1011 Mr. Theobald - Well there might be a camera pointed at the door, and
1012 you might see who comes in and out of there. You wouldn't see who's dining
1013 over here.
1014
1015 Mr. Leabough - No, no, no, that's not what I meant. So there would be
1016 something covering that opening.
1017
1018 Mr. Theobald - Yes, yes. Every square inch is covered by the
1019 cameras.
1020
1021 Mr. Leabough - So if there was only one door, there would be a
1022 camera at that door to catch people coming in.
1023
1024 Mr. Theobald - Yes.
1025
1026 Mr. Branin - Okay.
1027
1028 Mr. Theobald - Yes, yes.
1029
1030 Mr. Witte - One more. It just popped into my head. Will the
1031 people be able to place their bets in the expansion area, and then leave, and go
1032 over and eat? Or does everybody have to stay in the expansion area?

1033 Mr. Theobald - Oh no. You'd be able to come over here and eat.
1034 They'll serve you here, they'll serve you here, and here's where you bet in here.
1035
1036 Mr. Witte - I was just thinking, you know, if somebody couldn't
1037 stand to watch, you know.
1038
1039 Mr. Theobald - I guess that could happen.
1040
1041 Mrs. Jones - Maybe I'm missing something here, but my
1042 assumption all along had been the reason for fobs and for security cameras is
1043 very similar to that of a bank.
1044
1045 Mr. Theobald - Yes, exactly.
1046
1047 Mrs. Jones - It's because there's money involved.
1048
1049 Mr. Theobald - There is a teller.
1050
1051 Mrs. Jones - Not because there's a wild and crazy element that's
1052 any—
1053
1054 Mr. Theobald - No, no, no, you're right.
1055
1056 Mrs. Jones - —different than a—
1057
1058 Mr. Theobald - No. There will be a teller or two back here, potentially,
1059 where you could place your bet.
1060
1061 Mrs. Jones - Sure, sure.
1062
1063 Mr. Theobald - And there's an ATM in here somewhere. But you're
1064 exactly right, the cameras and the security are because there's essentially a
1065 teller like a bank.
1066
1067 Mr. Branin - And if you look at the criteria for the cameras and the
1068 panic buttons at this and compared it to the Diamond Exchange that just went
1069 into West Broad Village, I'm sure you wouldn't see that much of a difference
1070 between the two. Thank you.
1071
1072 To Mr. Huber and Mr. Richter, the Commission here makes a recommendation
1073 for approval or denial, or we can defer. To Mr. Huber, I had seen your e-mail
1074 prior to the meeting. I discussed it with Mr. Kaechele who's the supervisor for the
1075 Three Chopt District. You might want to write that down, Dave Kaechele,
1076 Supervisor, Three Chopt District, Henrico County. He said if the board would like
1077 he and I at that board meeting, we'll be happy to come. Please notify us and we'll
1078 be happy to be there. With that in mind, because this goes from us to them, and

1079 there is a lot of time, and your meeting will actually be in the middle, he had
1080 instructed me that that was not reason enough to defer. And then he wanted me
1081 to work through the case.

1082
1083 Mr. Richter, I hear what you're saying. I think that this case may have a little bit
1084 more work done to it between the Commission and the Board, especially with the
1085 accessory. Is it an accessory or is it a standalone? But it's going to move forward
1086 this evening to the Board.

1087
1088 I would like to make the motion that C-29C-12, James W. Theobald for Cox
1089 Road, LLC, move forward to the Board of Supervisors with a recommendation for
1090 approval.

1091 Mr. Witte - Second.

1092
1093
1094 Mr. Branin - Motion by Mr. Branin, seconded by Mr. Witte. All in
1095 favor say aye. All opposed say no. The ayes have it; the motion passes.

1096
1097 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.
1098 Mr. Witte, the Planning Commission voted 5-0 (one absent) to recommend the
1099 Board of Supervisors **grant** the change does not greatly reduce the original
1100 intended purposes of the proffers and it is not expected to adversely impact
1101 surrounding land uses in the area.

1102
1103 Mr. Emerson - Mr. Chairman, that now takes us to the next item on
1104 your agenda, which would be consideration of the approval of your minutes from
1105 the Planning Commission meeting of November 8, 2012. I do have an errata
1106 sheet for you. These are the corrections that staff received. With that I believe I
1107 have no further comments other than I would just like to remind everyone that
1108 these are verbatim minutes. So sometimes some of the verbiage reflects what
1109 people say versus what possibly they meant to say. I just wanted everybody to
1110 understand that.

1111
1112 Mr. Archer - Mr. Secretary, before we approve these, I would like
1113 to apologize to Ms. Ray. I found a mistake in the minutes, and recited it to her,
1114 and she couldn't find the line nor the word that I was referring to. Today we
1115 discovered I was talking about the POD minutes. I know she can hear me. I just
1116 wanted to let her know I publically apologize to her.

1117
1118 Mr. Branin - Does anyone have any additions to the errata sheet?
1119 None? Okay, I'll entertain a motion.

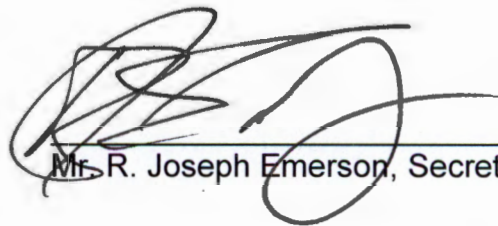
1120
1121 Mrs. Jones - Move we accept the minutes as corrected.

1122
1123 Mr. Archer - Second.

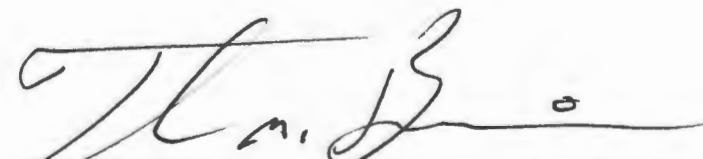
1124

1125 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Archer. All in
1126 favor say aye. All opposed say no. That motion carries.
1127
1128 Any other topics of conversation, business?
1129
1130 Mr. Archer - Other than to say that it appears to me that the
1131 members of this Commission do not frequent OTBs. We don't seem to know
1132 much about them.
1133
1134 Mrs. Jones - But we might start.
1135
1136 Mr. Archer - Yes.
1137
1138 Mr. Emerson - Mr. Chairman, staff has nothing further.
1139
1140 Mrs. Jones - There is a chance that I may not be here next time.
1141
1142 Mr. Leabough - Next week?
1143
1144 Mrs. Jones - Yes.
1145
1146 Mr. Archer - She said chance.
1147
1148 Mrs. Jones - There is a chance.
1149
1150 Mr. Branin - I'll entertain a motion for adjournment.
1151
1152 Mr. Archer - Move for dismissal, Mr. Chairman.
1153
1154 Mr. Witte - Second.
1155
1156 Meeting is adjourned.

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Mr. R. Joseph Emerson, Secretary



Mr. Tommy Branin, Chairman