

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 6:00 p.m., on February 11, 1999, Display Notice having been
4 published in the Richmond Times-Dispatch on Thursday, January 21, 1999, and Thursday,
5 January 28, 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., Chairman, 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 John Merrithew, AICP, Principal Planner
17 Mark Bittner, AICP, County Planner
18 Nancy Gardner, County Planner
19 Jo Ann Hunter, AICP, County Planner
20 Judy Thomas, Recording Secretary
21

22 Ms. Dwyer - The Planning Commission meeting will come to order.
23

24 Mr. Marlles - Madam Chairman, we have a quorum and can conduct business.
25 We have a very short discussion item before we get into requests for deferrals and withdrawals.
26 At your January 26 meeting, staff presented, at a public hearing, a proposed amendment, the
27 definition of outdoor storage, which is part of our zoning ordinance. Mr. Webb has a very short
28 update on that we would like to present to the Commission.
29

30 Ms. Dwyer - Before we get started, I would like to make a statement. The
31 Planning Commission would like to endorse a Resolution commemorating you for your 29
32 years of service. Who moves that Resolution?
33

34 Mrs. Wade - So moved.
35

36 Mr. Archer seconded the motion.
37

38 Ms. Dwyer - All in favor say aye. I am going to come down here so I can
39 stand with you.
40

41 Mr. Webb - Thank you.
42

43 Ms. Dwyer - I guess now we will proceed with the reading of the Resolution.
44 Whereas, Allen D. Webb has served as Acting Secretary to the Henrico County Planning
45 Commission since April 1970, and as Secretary to the Henrico County Board of Zoning
46 Appeals since January 1997, and

February 11, 1999

47
48 Whereas, during his long tenure with the County, Mr. Webb has been dedicated to the work of
49 the Planning Office and its various duties in support of the Planning Commission, Board of
50 Zoning Appeals, and the Board of Supervisors,

51
52 Whereas, Mr. Webb's accomplishments included reviewing and presenting more zoning
53 applications than any other Henrico staff member, serving as the Planning Office's first and
54 only Certified Landscape Architect for many years, supervising the staff in the review and
55 presentations of subdivisions and site development plans, landscape plans, variance and
56 conditional use permit requests, contributing to the preparation of endless amendments of the
57 Zoning Ordinance, including drafting the Proposed Comprehensive New Zoning Ordinance,
58 landscape regulations for site development, outdoor advertising, and the use of public facilities
59 for non-profit organizations,

60
61 Whereas, in addition to his normal duties, Mr. Webb served as Executive Secretary and
62 Treasurer of the Virginia Citizens Planning Association since 1971, and

63
64 Whereas, during his tenure of dedicated public service, Mr. Webb has consistently displayed
65 high personal standards of integrity, understanding, compassion, leadership, and friendliness
66 that are greatly appreciated and will long be remembered by those whom he has served.

67
68 Therefore, Be it Resolved, by the Planning Commission of the County of Henrico, that the
69 Commission adopt this means of recognizing Allen D. Webb and expresses its appreciation to
70 him for his 29 years of dedicated service to the County of Henrico and to the Planning
71 Commission.

72
73 Be It Further Resolved that a suitably embellished copy of this Resolution be attested by the
74 Chairman and the Secretary and transmitted to Mr. Webb.

75
76 Congratulations and thank you so much.

77
78 Mr. Allen D. Webb, Principal Planner - Thank you. I did have some things that I was
79 prepared to say, but I am overwhelmed. Thank you so much. Perhaps, though, that the matter
80 that is before us this evening that I am here for is another ordinance amendment. But in this
81 case, you will recall that back on January 26, the Commission held a hearing on a proposed
82 amendment to Section 24-3 of the County Code to define the term "outside storage." And, if
83 you will recall, there was considerable concern expressed by the Commission and the members
84 on the Commission as well as members of the public and representatives of various businesses.
85 They all seemed to believe that the proposal did not deal effectively and we didn't. We were
86 not able to deal with the appropriate sections of the Code, so that if we went about, as we were
87 seeking to, we may well end up creating more problems than we were trying to solve or
88 prevent. So, after further consideration, and a lot of discussions with the County and the
89 Administration since that time, we have determined that, really, the best way to deal with this
90 matter would be the development of an administrative policy, a policy that could reflect and
91 deal with the enormous variety of special needs and special considerations that a variety of our
92 businesses and individuals have. So, therefore, the request for the proposal be cancelled or

93 withdrawn and the proposed public hearing on March 23 be cancelled. I have distributed a
94 short paper to you before that shows a half a dozen items that we would include in that
95 proposed policy statement, which would be developed over the coming weeks in concert with
96 the Commission and others who would be interested. And so, with that, Madam Chairman,
97 we would like to ask that the matter be withdrawn from further consideration as an Ordinance
98 Amendment, so that we might turn our future thoughts toward development of an appropriate
99 resolution that would deal effectively with this problem without the need and the threat of
100 creating other situations that we do not want. Are there questions that I might elaborate on?

101
102 Ms. Dwyer- Any questions by Commission members? And these are in
103 business areas?

104
105 Mr. Webb - These are in business areas and industrial areas, most
106 particularly, we are concerned with the Office/Service Industrial area.

107
108 Ms. Dwyer - So we would be looking at administrative policies for
109 Office/Service, but other business...

110
111 Mr. Webb - Yes. They could well deal with that, but we are focusing
112 primarily on the problem that we set out to solve, and that was in the Office/Service District,
113 but we, unfortunately, got off in the wrong direction and now we are trying to re-establish our
114 course and get where we would have liked to have been originally.

115
116 Ms. Dwyer - Does staff plan to consult with the industry?

117
118 Mr. Webb - Yes, we propose to keep everyone involved and the Commission
119 involved in the development of the standards that would be adjunct to the Commission's
120 normal activities and the approval of various plans of development.

121
122 Ms. Dwyer - So, staff then would take the lead in developing the guidelines
123 and solicit input from property owners?

124
125 Mr. Webb - Yes. Their input and their reaction to the proposal.

126
127 Ms. Dwyer - Do you need to have more work sessions on this? How would
128 that come about?

129
130 Mr. Webb - I suspect that as we begin to flush these half-dozen points out that
131 the Commission will definitely want to have work sessions to assure that we are, indeed,
132 dealing effectively with the matter, much more effectively than we have been able to do to
133 date. I think we have everyone singing now from the same sheet of music.

134 Mr. Archer - Mr. Webb, in that we were proposing to amend an ordinance, is
135 there anything in the present ordinance that would run counter to what we are trying to do?

136

137 Mr. Webb - Not that I believe we can't deal with. I think we can deal with it
138 effectively. Through this process, there may be suggestions for other appropriate changes that
139 come out of it, but I think we can deal with it effectively, Mr. Archer.
140

141 Ms. Dwyer - So, really, the guidelines would be interpretations of our present
142 ordinance? Is that what you expect?
143

144 Mr. Webb - And a statement of expectations of owners.
145

146 Mr. Vanarsdall - What do you need from us tonight?
147

148 Mr. Webb - Mr. Vanarsdall, I would like to hear a motion to cancel, if you
149 would, the coming hearing that the Commission scheduled at its last hearing and to endorse the
150 proposal to move ahead in this direction, together as a group.
151

152 Mr. Vanarsdall - I would be glad to make the motion, Madam Chairman, but I
153 don't know how to word it.
154

155 Ms. Dwyer - Say what he said, Ernie. Cancel the public hearing and proceed
156 with development of administrative policy.
157

158 Mr. Vanarsdall - I move that we do that.
159

160 Mr. Archer seconded motion.
161

162 Ms. Dwyer - We have a motion by Mr. Vanarsdall and a second by Mr.
163 Archer. All in favor say aye. All opposed say no. The motion passes.
164

165 Mr. Webb - Thank you very much and we will be in touch. There is no doubt
166 about that. And, once again, thank you so much for the expressions.
167

168 Mr. Vanarsdall - Allen, they say everybody can be replaced; all of us, but, it is
169 going to be hard to replace you.
170

171 Mr. Webb - I learned long ago that nobody is replaced but there is always
172 someone to do the work later on, and I appreciate your thoughts.
173

174 Ms. Dwyer - I understand you are going to be with us part-time for a while. Is
175 that true?
176

177 Mr. Webb - That is what they say. There are several things I am not going to
178 be allowed to slip out unless they are done.
179 Ms. Dwyer - We are looking forward to continuing to work closely with you.
180 And we will miss you.
181

182 Mr. Webb - Thank you.

183
184 Mr. Merrithew - This is a case that was deferred in January, C-73C-98.
185

186 **Deferred from the January 14, 1999 Meeting:**

187 **C-73C-98** James W. Theobald for W. A. Robins, et al, Redford 131, L.C.,
188 Edward M. Luck, Gerald A. Crigger: Request to conditionally rezone from A-1 Agricultural
189 District to R-3AC One Family Residence District (Conditional) Parcels 197-A-21A, 21B
190 (part), 21C and 22 (part), Parcels 197-1-1-6 (part), 7 and 7A, and Parcels 197-4-A-1, 2 and 3,
191 containing 58.214 acres, located on the north line of Portugee Road (beginning in the Capes of
192 Portugee subdivision) approximately 280' east of the intersection of Portugee Road and
193 Memorial Drive and on the east line of Memorial Drive (beginning in the Gaulding and Orange
194 subdivision) approximately 1890' north of the intersection of Portugee Road and Memorial
195 Drive. A zero lot line single family residential subdivision is proposed. The applicant has
196 proffered a maximum density of 2.8 units per acre. The Land Use Plan recommends Rural
197 Residential, not exceeding 1.0 unit net density per acre, and Environmental Protection Area.
198 The site is also in the Airport Safety Overlay District.
199

200 Mr. John Merrithew, Principal Planner - They have requested a deferral until April 15.
201

202 Ms. Dwyer - Is there any opposition to the deferral of Case C-73C-98? No
203 opposition to the deferral. I am ready for a motion.
204

205 Ms. Quisenberry - Madam Chairman, I would like to make a motion that this case,
206 C-73C-98, be deferred, by request of the applicant, to April 15, 1999.
207

208 Mr. Vanarsdall seconded the motion.
209

210 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Wade. All
211 those in favor say aye—all those opposed by saying nay. The motion carries.
212

213 Mr. Merrithew - The next case is C-55C-98, James W. Theobald for Roy B.
214 Amason.
215

216 **Deferred from the January 14, 1999 Meeting:**

217 **C-55C-98** James W. Theobald for Roy B. Amason: Request to conditionally
218 rezone from A-1 Agricultural District to B-2C Business District (Conditional), Parcel 260-A-36,
219 containing 3.87 acres, located at the northeast corner of the intersection of New Market Road
220 (Route 5) and Long Bridge Road. A business use is proposed. The use will be controlled by
221 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Prime
222 Agriculture. The site is also in the Airport Safety Overlay District
223

224 Mr. Merrithew - They have requested a deferral to March 11, 1999.
225

226 Ms. Dwyer - Is there any opposition to the deferral of C-55C-98? No
227 opposition. I am ready for a motion.
228

229 Ms. Quisenberry - Madam Chairman, I would like to make a motion that C-55C-98
230 be deferred until the March 11 agenda, by the applicant.

231
232 Mr. Vanarsdall seconded the motion.

233
234 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.
235 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
236 abstained).

237
238 **Deferred from the January 14, 1999 Meeting:**
239 **C-56C-98 James W. Theobald for Roy B. Amason:** Request to conditionally
240 rezone from A-1 Agricultural District to R-1C, R-2AC and R-3AC One Family Residence
241 Districts (Conditional), RTHC Residential Townhouse District (Conditional), R-5C and R-6C
242 General Residence Districts (Conditional), O-2C Office District (Conditional), B-2C Business
243 District (Conditional) and C-1 Conservation District, Parcels 240-A-17, 250-A-48, 49, and
244 51A, and 251-A-4A, and 260-A-28, containing 633.61 acres, generally located along the east
245 line of Turner Road between New Market Road (Route 5) and Camp Holly Drive; along the
246 north line of New Market Road (Route 5) from Turner Road to Camp Hill Road and from
247 Kingsland Road to Long Bridge Road; along the northwest line of Long Bridge Road to its
248 intersection with Yahley Mill Road and along the west side of Yahley Mill to the Virginia
249 Power easement. A mixed-use planned community is proposed. The applicant has proffered a
250 maximum of 1,341 residential units on the property. The uses will be controlled by proffered
251 conditions and zoning ordinance regulations. The Land Use Plan recommends Prime
252 Agriculture and Environmental Protection Area. The site is also in the Airport Safety Overlay
253 District.

254
255 Mr. Merrithew - They have requested a deferral until March 11, 1999.

256
257 Ms. Dwyer - Is there any opposition to Case C-56C-98? No opposition. I am
258 ready for a motion.

259
260 Ms. Quisenberry - I would like to make a motion that Case C-56C-98 be deferred
261 until the March 11, 1999 agenda, at the request of the applicant.

262
263 Mr. Vanarsdall seconded the motion.

264
265 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.
266 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
267 abstained). The motion carries.

268
269 Mr. Merrithew - The final deferral on the 6:00 p.m. agenda is C-83C-98, Lifestyles
270 Homes of Four Mile Run.

271
272 **Deferred from the January 14, 1999 Meeting:**
273 **C-83C-98 Lifestyle Homes of Four Mile Run, L.L.C.:** Request to
274 conditionally rezone from R-2AC One Family Residence District (Conditional) to R-3AC One

275 Family Residence District (Conditional), Parcels 238-2-A-22 to 24, being part of Four Mile
276 Run Subdivision Section A, Parcels 227-5-D-28, 29 and 100; 227-2-E-2 to 5 and 100; 238-2-
277 C-12 to 34; 238-2-D-1 to 27; 238-2-E-1; and 238-2-G-1 to 23, being Four Mile Run
278 Subdivision, Section B; part of Parcel 238-A-31 and Parcel 238-A-38, containing
279 approximately 89.00 acres, located approximately 550' east of the intersection of New Market
280 Road (State Route 5) and Doran Road. A single-family subdivision is proposed. The applicant
281 has proffered the development shall not contain more than 260 dwellings. The Land Use Plan
282 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and Environmental
283 Protection Area. The site is also in the Airport Safety Overlay District.

284

285 Mr. Merrithew - They have requested a deferral until March 11, 1999.

286

287 Ms. Dwyer - Is there any opposition to the deferral of C-83C-98? We have
288 opposition to the deferral.

289

290 Ms. Sedgwick - Thank you, Madam Chair, and members of the Board of Zoning,
291 I am Lillian Sedgwick from Washington, D.C. and this is about the fourth time that I have
292 come down to discuss the Planning Commission that is going on in my immediate family. I
293 cannot understand that I am never told ahead of time that you are going to postpone these
294 meetings until I get here. Just as a matter of information, I called Mr. Stolte this evening and
295 he said to me that he expected me to call him to find out and to know that the meeting had been
296 postponed. His letter does not say that to me. His letter said to me that you were going to
297 meet tonight and that you were going to discuss the agenda in which it has just been asked for
298 deferral. The last time that you did that, and previous times you have done this, by the time
299 we got to the real meeting, you had already made your decisions. It was a matter of just
300 formality that you sent to me, and this is another indication of postponing and that I would get
301 a letter that everything had been taken care of. Well, I assure you, it is not going to be
302 business as usual. Believe me, and this might be the way you do business, but it is clearly not
303 the way I do business because it directly impacts upon me and my family's livelihood, and I
304 want to have some input into the decision that you make, and I want to know it ahead of time,
305 and I don't want Mr. Stolte to call me and ask me, "Why didn't I call him to find out if it had
306 been postponed?" At no time, why should I? He could come and here I am. And, you are
307 asking that it be postponed. And I am saying that I am getting a little tired of coming 100
308 miles to be told this, and I think that the Planning Commission has been derelict in getting in
309 touch with people regarding the changing of their format. They should be told far, far ahead
310 of time, not one-half hour before time, and I think it needs to be addressed.

311

312 Ms. Dwyer - Are you speaking of the request for a deferral, ma'am?

313

314 Ms. Sedgwick - Yes, and I want to know why it has been deferred?

315

316 Ms. Dwyer - It hasn't been deferred yet. Where we are now is the applicant
317 has requested the Commission defer the case?

318

319 Ms. Sedgwick - Are you going to make a determination?

320

321 Ms. Dwyer - We will have to vote on that now.
322

323 Mr. Vanarsdall - Ma'am, I didn't understand who you said was supposed to call.
324 Who are you referring to that didn't call you and wanted you to call them?
325

326 Ms. Sedgwick - The letter I received came from Mr. Stolte, the lawyer for the
327 Planning Commission. Now, I suppose, is he here tonight? Well, when I called him he said,
328 "Why didn't you call me?" Well, now why should I call him, when he has written me this long
329 letter telling me what is going to happen and whatever, and then when I call him, he says to
330 me, "It has been postponed." Well, you all have told me that now three times. I think three
331 times and you struck out.
332

333 Ms. Dwyer - Mr. Stolte is not a representative of the County. He is the
334 representative, I assume, of the applicant, the person who is requesting the deferral of this
335 case. The process is that they file the case. We set it on our agenda, and the County sends out
336 the notices. And then, occasionally, an applicant will want to defer it for a variety of reasons.
337 They request that of the Commission.
338

339 Ms. Sedgwick - If this Mr. Stolte was notified, why were not other people
340 notified, other than Mr. Stolte?
341

342 Ms. Dwyer - Notified of the request for a deferral? I don't believe he was
343 notified. He had requested the referral, I assume, on behalf of the applicant. He is the
344 applicant. He has filed the case and now he wants to defer it for the Commission to review at a
345 later time. The Commission has not...
346

347 Ms. Sedgwick - Mr. Stolte gave me a date and said it was coming up on the 13th
348 of next month, so Mr. Stole certainly knows more about it than you do, if you are saying that
349 you don't know it.
350

351 Ms. Dwyer - It was his request of us to defer.
352

353 Ms. Sedgwick - All right. I will stay and see then.
354

355 Ms. Dwyer - Would the applicant like to come forward and speak to this
356 matter?
357

358 Mr. Scott Stolte - Good evening. I am Scott Stolte, and I think what happened with
359 Ms. Sedgwick is we did not decide to defer this case until, I believe it was after 4:00 p.m.
360 yesterday afternoon, after speaking with Ms. Quisenberry and Mark Bittner. I had sent out, as
361 a courtesy to all of the neighbors, in the neighborhood, a notice that this would be coming up
362 this evening. We didn't know until late yesterday afternoon that the case would be deferred,
363 and it was not possible for me to contact everybody. My letter did say that if you had any
364 questions about procedure on the zoning case, please contact me. My office received only one
365 phone call with respect to that, and we informed that woman yesterday evening that we would
366 be requesting a deferral this evening, but that phone call came in 15 minutes after I got off of

367 the phone with Ms. Quisenberry. I do apologize to Ms. Sedgwick for having to come down
368 here, but I did not know that she was coming and I did not know until late yesterday afternoon
369 that we would be deferring the case, and I spoke to her earlier today. I would be more than
370 happy to meet with her and talk with her on any future proceedings if they were going to be
371 deferred before she traveled down here from Washington. She does come quite a distance and
372 is interested in the matter.

373

374 Mr. Vanarsdall - So, you are willing to notify her if we defer it. You are saying
375 that you are not prepared for us to hear the case tonight.

376

377 Mr. Stolte - Yes, sir. That is correct. We are not prepared to present the case
378 this evening, and I will be more than happy to coordinate with you the future dates and if
379 anything is deferred in the future, to let you know in advance.

380

381 Ms. Quisenberry- Could I ask you, Ms. Sedgwick, to come back to the microphone
382 just for a moment.

383

384 Ms. Sedgwick - Yes.

385

386 Ms. Quisenberry - Since you are here, would you like to make some comments on
387 your position with this case. I would like to hear it if you are you speaking in favor of this case
388 when it comes up, next time, or, are you speaking against this case?

389

390 Ms. Sedgwick - I am against this case.

391

392 Ms. Quisenberry - Did you have some comments that you wanted to share? The
393 applicant is asking to defer the case, but between, if it does get deferred tonight, between now
394 and the time it is heard, any comments that any of the citizens who are interested in this case
395 want to bring forward are always interesting to the Planning Commission, and we are
396 interested in what you have to say, and I don't want you to go away tonight and think that we
397 don't want to hear what you have to say, that we are not interested, because we are.

398

399 Ms. Sedgwick - Well, the reason I am here is because my property is adjacent to
400 the property that you are using, that you're asking for 100 or more homes built. Now, if my
401 property is adjacent to it, and Mr. Nelson, when he first presented his project to you, he was
402 going to get back with me because he said he and I needed to work together because he had a
403 problem that directly involved me. I never heard anymore about it. The next thing I knew,
404 the houses were being built. Now, tonight, I don't know what Mr. Stolte has in mind other
405 than to ask for additional land to be given to build houses.

406

407 Ms. Quisenberry- I think we can get Mr. Stolte back up here.

408

409 Ms. Sedgwick - And the other thing is, traffic that you are getting on Doran
410 Road, you can't even come out. It is strictly a one-car yard. If you are going to do more, and
411 you are going to tell me, after the fact, I want to know about it. Not that I think you are going
412 to do anything about it, but I want to know about it.

413
414 Ms. Quisenberry - I appreciate your comment and I am sorry you came all the way
415 to have the applicant request the deferral. But, I want you to understand that it is not anyone
416 on the Planning Commission asking to postpone this case. We will hear this case tonight if the
417 applicant is ready, but he indicated he is not ready tonight, and that is one of his prerogatives
418 to ask us to give him more time.

419
420 Ms. Sedgwick - Well, how much time should he have given you in order to not be
421 ready for tonight?

422
423 Ms. Quisenberry - He can ask to defer a case anytime he'd like to up until the time
424 the case is going to be heard. That is his prerogative. He can do that. It is his case and he
425 can take the time that he needs to prepare his case.

426
427 Ms. Sedgwick - All right. I don't have any problems with that. If he is going to
428 ask for more time, then all of the persons that are involved in this, certainly they should know
429 it is going to be deferred.

430
431 Ms. Quisenberry- You are absolutely correct, and I think he is going to make an
432 effort to make sure that you are informed as this case comes up. But you keep in mind, if the
433 case is deferred tonight, and is put on the agenda for the next meeting, the applicant can come
434 back and request a deferral if he is not ready, and he can do that right up until the time that the
435 case is going to be heard. So, a word of warning, it might behoove you to call right before the
436 day of, if necessary, to make sure that the case is ready to be heard.

437
438 Ms. Sedgwick - Is there a limit on how many times you can ask for a deferral?

439
440 Ms. Quisenberry - Not for the applicant. He can ask as many times as he would like
441 to. One of the other things you need to understand about this case, this property has already
442 been zoned. What it is coming back for is to make some changes, not to increase the number
443 of houses. He has already got it zoned for that. That case is already taken care of and gone.
444 He is building a subdivision and that is not going away. What he is coming in for, with this
445 case, is to look at the size of those lots and make some changes in the size of lots. That is it.
446 What you need to understand, I am just telling you this because I want you to understand that
447 you are making a long trip and I want you to understand what he is asking for. He is asking
448 for changes in the size of the lots in that subdivision, not anything else about where he will
449 build houses or if he will build houses. That has already been decided. He already has that
450 property zoned and will build that subdivision. So this case is really only interested in what
451 sizes those lots will be. I think that is the best way I can explain it. Mr. Stolte, if you find an
452 error in that...

453
454 Ms. Dwyer - Before we get involved in the merits of the case, I think it would
455 be most productive if Mr. Stolte and Ms. Sedgwick got together in the hallway and...

456
457 Mr. Stolte - That was going to be my suggestion. Then I could show her in
458 detail what we are trying to accomplish.

459
460 Ms. Dwyer - You can explain, as you said, in more detail what the case is
461 about, and rather than hear the case tonight, because you are not prepared, and I think it would
462 be more useful to hear the merits of the case when the case is put on the agenda.
463
464 Mr. Stolte - Thank you, Madam Chair.
465
466 Mr. Vanarsdall - He has promised to contact you from here on.
467
468 Ms. Dwyer - All right. Do we have a motion on the deferral request for Case
469 C-83C-98?
470
471 Ms. Quisenberry - I make a motion that Case C-83C-98 be deferred until March 11,
472 1999, at the request of the applicant.
473
474 Mr. Vanarsdall seconded the motion.
475
476 Mrs. Wade - Is there some reason for the deferral other than the applicant is
477 not prepared?
478
479 Ms. Quisenberry - Actually, staff is looking into some other options. We are trying
480 to resolve some of the issues with this particular subdivision. They do want to do some
481 changes for block sizes that are not in accordance with the zoning they have, and we are just
482 looking to see if we can facilitate that and give staff a little more time to look at a couple more
483 options.
484
485 Mrs. Wade - Thank you.
486
487 Mr. Merrithew - That is all of the deferrals on the 6:00 agenda. Would you like
488 for me to list the 7:00 p.m. and 8:00 p.m. deferrals?
489
490 Ms. Dwyer - Yes, please.

491 **FAIRFIELD:**
492 **C-13C-99** **Ralph L. Axselle for Wilton Development Corp.:** Request to
493 conditionally rezone from A-1 Agricultural District and C-1 Conservation District to R-2AC
494 One Family Residence District (Conditional) and C-1 Conservation District, Parcel 74-A-20,
495 containing approximately 162 acres, located at the northeast intersection of Diane Lane, Old
496 Sellers Way and Wilkinson Road. A single-family residential development is proposed. The
497 applicant has proffered a maximum density of 2.5 units per acre. The Land Use Plan
498 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

499
500 All testimony heard under P-4-99.

501
502 **P-4-99** **Ralph L. Axselle for Wilton Development Corp:** Request for
503 approval of a provisional use permit in accordance with Sections 24-12.1, 24-95 and 24-122.1
504 of Chapter 24 of the County Code in order to allow a controlled density subdivision in
505 conjunction with rezoning Case C-13C-99 on Parcel 74-A-20, containing approximately 162
506 acres, located at the northeast intersection of Diane Lane, Old Sellers Way and Wilkinson
507 Road. The site is zoned A-1 Agricultural District and C-1 Conservation District.

508
509 Mr. Merrithew - I have a last minute request for a deferral on the 7:00 p.m.
510 agenda. That is a request for RTH Zoning at Magnolia Ridge, and they have requested a
511 deferral until March 11, and then, still in the Fairfield District, C-13C-99, Ralph L. Axselle
512 for Wilton Development Corporation. That is a request to go from A-1 Agricultural and C-1
513 Conservation District to R-2AC One-Family Residence District, down off of Diane Lane and
514 Old Sellers Way. They have requested a deferral to March 11 and an associated case, P-4-99,
515 Ralph L. Axselle for Wilton Development Corporation, a provisional use permit for a
516 controlled density subdivision in the same location on Diane Lane, requested the same deferral,
517 March 11, and, also in the Three Chopt District:

518
519 **Deferred from the January 14, 1999 Meeting:**
520 **P-23-98** **Gloria Freye for Triton PCS, Inc.:** Request for approval of a
521 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the
522 County Code in order to construct, operate and maintain a communication tower up to 199' high
523 and related equipment and improvements, on part of Parcel 47-A-59, containing 2,500 sq. ft.,
524 east of Interstate 64 between Cox Road and Old Cox Road (3600 Old Cox Road). The site is
525 zoned A-1 Agricultural District.

526
527 Mr. Merrithew - On the 8:00 p.m. agenda, P-23-98, a provisional use permit
528 request for a communications tower at Cox Road and Old Cox Road, they have requested
529 another deferral until March 11, 1999, and that would be all of my deferrals.

530
531 Mr. Vanarsdall - The first one you said was C-40C-98? Correct?

532
533 Mr. Merrithew - That is correct. It is not marked on your agenda. It was a
534 request made this evening.

535

536 Ms. Dwyer - Thank you, Mr. Merrithew. We have completed the requests for
537 deferrals and withdrawals and are ready to proceed with the next case.

538

539 **Deferred from the January 14, 1999 Meeting:**

540 **C-70C-98** James W. Theobald for Payne 13, L.C. and Redford 131, L.C.:

541 Request to conditionally rezone from A-1 Agricultural District to M-1C Light Industrial
542 District (Conditional) and M-2C General Industrial District (Conditional), part of Parcels 186-
543 A-23 and 24 and part of Parcel 197-A-22, described as follows:

544

545 M-1C Parcel

546 Beginning at a point on the southern right-of-way line of Technology Boulevard, which point is
547 0.25± miles east of the centerline of Memorial Drive and is the True Point of Beginning;
548 thence along the southern right-of-way line of Technology Boulevard S 44°15'31" E 377.05'
549 to a point; thence leaving the southern right-of-way line of Technology Boulevard S 50°07'00''
550 W 782.39' to a point; thence along a curve to the left having a radius of 670.00' for a length of
551 732.86' to a point; thence S 71°15'56" W 581.88' to a point; thence N 33°05'37" W 290.00'
552 to a point; thence N 05°32'30" E 359.73' to a point; thence N 00°12'18" E 322.94' to a point;
553 thence N 04°38'22" E 180.86' to a point; thence N 20°53'08" W 205.94' to a point; thence N
554 11°52'38" W 197.92' to a point; thence N 82°11'15" E 360.97' to a point; thence N
555 84°18'16" E 799.10' to a point; thence S 89°54'35" E 181.84' to the True Point of
556 Beginning, containing 3.882 acres.

557

558 M-2C Parcel

559 Beginning at a point on the southern right-of-way line of Technology Boulevard, which point is
560 0.25± miles east of the centerline of Memorial Drive; thence along the southern right-of-way
561 line of Technology Boulevard S 44°15'31" E 377.05' to a point, which is the True Point of
562 Beginning; thence S 44°15'30" E 634.68' to a point; thence along a curve to the left having a
563 radius of 2,050.00' for a length of 242.58' to a point; thence leaving the southern right-of-way
564 line of Technology Boulevard S 22°05'03" W 100.43' to a point; thence S 27°24'48" W
565 187.02' to a point; thence S 27°18'18" W 468.92' to a point; thence S 15°42'42" W 352.42'
566 to a point; thence S 25°25'58" W 282.51' to a point; thence S 19°29'06" W 283.55' to a
567 point; thence S 23°22'32" W 924.06' to a point; thence S 18°23'14" W 134.98' to a point;
568 thence N 77°27'22" W 632.11' to a point in the centerline of an unnamed creek; thence along
569 the meandering of the unnamed creek in a northerly direction a distance of 826.7'± to a point;
570 thence N 33°05'37" W 1,111.33" to a point; thence N 71°15'56" E 581.88' to a point; thence
571 along a curve to the right having a radius of 670.00' for a length of 732.86' to a point; thence
572 N 50°07'00" E 782.39' to the True Point of Beginning, containing 69.92 acres.

573

574 All testimony heard under C-72C-98.

575

576 **Deferred from the January 14, 1999 Meeting:**

577 **C-71C-98** James W. Theobald for Payne 13, L.C. and Redford 131, L.C.:

578 Request to conditionally rezone from A-1 Agricultural District to M-1C Light Industrial District
579 (Conditional), part of Parcels 186-A-22, 23 and 24, described as follows:

580

581 Beginning at a point on the northeastern right-of-way line of Technology Boulevard, which

582 point is the southern-most point of Tax Parcel No. 186-A-24 north of Technology Boulevard
583 and the southwestern-most point of Tax Parcel No. 186-A-25 north of Technology Boulevard,
584 said point being the True Point of Beginning; thence along a curve to the right on the
585 northeastern right-of way line of Technology Boulevard having a radius of 1,950.00' for a
586 length of 200.22' to a point; thence N 38°45'46" W 2,151.87' to a point; thence leaving the
587 northeastern right-of-way line of Technology Boulevard S 83°01'03" E 1.33' to a point; thence
588 S 84°45'03" E 243.54~ to a point; thence N 87°07'25" E 282.00' to a point; thence S
589 06°57'19" W 418.02' to a point; thence S 88°36'47" E 1,389.40' to a point; thence S
590 27°06'12" W 593.63' to a point; thence S 02°18'07" W 678.15' to a point; thence S
591 27°34'47" W 185.38' to the True Point of Beginning, containing 26.104 acres.

592

593 All testimony heard under C-72C-98.

594

595 **Deferred from the January 14, 1999 Meeting:**

596 **C-72C-98** James W. Theobald for Bradley T. Marshall, et al: Request to
597 conditionally rezone from A-1 Agricultural District to M-1C Light Industrial District
598 (Conditional) part of Parcel 186-A-22, described as follows:

599

600 Beginning at a point on southwestern right-of-way line of Technology Boulevard, which point
601 is the northeastern-most point of Tax Parcel 186-A-22 south of Technology Boulevard and the
602 southeastern-most point of Tax Parcel No. 186-A-22N, said point being the True Point of
603 Beginning; thence along the southwestern right-of-way line of Technology Boulevard S
604 38°45'46" E 1,242.68' to a point; thence leaving the southwestern right-of-way line of
605 Technology Boulevard N 84°26'22" W 182.58' to a point; thence S 89°04'38" W 798.84' to a
606 point; thence S 87°41'49" W 361.02' to a point; thence N 00°03'04" E 635.21' to a point on
607 the southern right-of-way line of Poplar Spring Road; thence along the southern right-of-way
608 line of Poplar Spring Road N 51°14'14" E 378.73' to a point; thence N 58°04'48" E 100.72'
609 to a point; thence N 51°14'14" E 89.92' to a point; thence leaving the southern right-of way
610 line of Poplar Spring Road S 83°01'03" E 112.60' to the True Point of Beginning, containing
611 19.173 acres.

612

613 Mr. Marlles - The first case, Madam Chairman, was deferred from the January
614 14, 1999 meeting. John Merrithew will be giving the staff report.

615

616 Mr. Merrithew - Madam Chairman, this application is linked to applications C-
617 71C-98 and C-72C-98. They are all industrial cases on properties that adjoin this particular
618 site. I am prepared to make a presentation on all three of those cases at one time if you would
619 like to do that, or if you'd like me to do them individually.

620

621 Ms Quisenberry - I'd like to make a motion that we hear all of these cases together
622 with separate motions on each case.

623

624 Ms. Dwyer - We will do that. Is there any opposition to any of these cases, C-
625 70C-98, C-71C-98, or C-72C-98? There is opposition. Thank you. We will call on you later.
626 Okay. Mr. Merrithew.

627
628 Mr. Merrithew - Thank you. C-70C-98, C-71C-98 and C-72C-98, there are new
629 proffers being handed out on each of these cases. The proffers for C-72C-98 will require that
630 you waive the time limits in order to address them, and I wanted to say that before I forgot and
631 got into the presentation. The applicant has proffered concept plans for Cases C-70C-98 and
632 C-71C-98. They had also previously proffered a concept plan for C-72C-98, but that has been
633 withdrawn because of other changes made to the application and the new proffers. This is the
634 overall concept plan for the property. C-70C-98, is right here (referring to slide). C-71C-98
635 is on the north side of Technology Boulevard and C-72C-98, up until today, was proposed as a
636 commercial retail development, although it was being requested for M-1 or Light Industrial
637 rezoning. These are the concept plans for C-70C-98 and C-71C-98 that continue to be
638 proffered by the applicant. C-72C-98 I will leave here, because I haven't got a revised
639 document to show you.

640
641 Case C-70C-98 proposes light industrial zoning in M-2, General Industrial Zoning, on
642 approximately 104 acres of property. The three requests together, C-70C-98, C-71C-98 and
643 C-72C-98 represent approximately 150 acres of property located on the east side of Memorial
644 Drive between Portugee and Technology Boulevard. You can see on this drawing, Memorial
645 is essentially here, Portugee to the south, and then Technology, you can see clearly on the
646 drawing on the north side of the property. The surrounding development consists of White
647 Oak Semiconductor, immediately to the east. And then the rest of Elko Tract, Hewlett-
648 Packard is a little bit further to the east, and then the remainder of the property to the north,
649 south and west is generally rural residential. There is a cemetery along Memorial, but the rest
650 of it is predominantly rural residential development. The proposal is to rezone from A-1 to M-
651 1 and M-2, Industrial Districts. The applicant has not specified users for the property, so this
652 request is for speculative purposes. I would point out, that the difference from the M-1 Light
653 Industrial District, and M-2 District is primarily the uses that are permitted. There is a much
654 wider range of industrial uses, and I would call them "smoke stack uses;" heavy industrial uses
655 permitted in the M-2, and there are fewer standards regarding the design of M-2 uses. There
656 is no limitation or standards on outside storage or that sort of thing. M-2 is intended for more
657 manufacturing and fabrication uses without limits on outside storage or associated activities.
658 M-1 is more of a warehousing district, has fewer permitted uses, and it does have some design
659 standards, such as a limitation on outside storage. Staff has estimated that the development
660 potential of the three industrial cases may be up to about 1.4 million square feet of floor area.
661 That should be considered in conjunction with 111-acre property, which is generally in this
662 area, which was rezoned in 1997. If you recall, Case C-60C-97, I think it was White Oak 110
663 Limited Corporation, rezoned about 110 or 111 acres of property to M-2. It was approved by
664 the Board, subject to conditions. Combined with this property, we are looking at a
665 development potential of approximately 2 to 2.5 million feet of floor area. And even with the
666 limitations on the retail uses, which I will get into later, we are looking at a potential of of
667 about 10 percent, theoretically, could be retail space, 250,000 square feet.

668
669 Ms. Dwyer - Mr. Merrithew, is the earlier case a commitment to combine this
670 development with the earlier case? It appears to be a coordinated road system here.
671

672 Mr. Merrithew - That is right. I guess the concept plan you would consider the
673 commitment to combine. They have shown a concept plan, which is proffered, which shows
674 them linking both the approved M-2 and this C-70C proposal together. We think that is a key
675 point in this project in what that it does. And the applicant can speak to it in terms of why
676 they have to do it now. But I think it provides for a better industrial park design or industrial
677 complex design opportunity for him here. That is one of the reasons why they are adding to
678 that and why they are coordinating the two.

679
680 I would to like discuss briefly two areas of staff's focus on this case. The first issue is one of
681 County policy. Currently, the area is planned for rural residential development and this
682 proposal for light industrial and general industry obviously does not apply with that rural
683 residential designation in the plan. However, the Board's decision in 1997 to rezone adjoining
684 property M-2, and that did come with staff's recommendation and support, reflected an
685 understanding that the development of White Oak Semiconductor and now the Hewlett-Packard
686 project would change the highest and best use of the property surrounding the site. We think,
687 with the extension of utilities, the major road improvements that have been made here, that a
688 higher density or higher intensity development and an employment development may be
689 appropriate next to the Elko Tract and White Oak Semiconductor. However, the County is
690 currently re-examining the Land Use Plan. We are doing the right thing and we have seen the
691 difference in what is going on out here. And now we want to address it through new policies
692 in our Land Use Plan. We are undertaking, as you know, the Williamsburg Road-Technology
693 Boulevard Corridor Study. That Study will be presented to you towards the end of this month.
694 It should be in its final stages and ready for consideration within the next two or three months,
695 and staff's position, in our staff report, and continues to be that we feel we are being
696 premature in dealing with these cases while that Study is underway, and before a decision has
697 been made on any changes in our Land Use Plan and design standards and other requirements
698 that might apply to this area in the future. These applications could also be considered
699 premature, under County policies, that recommend that you not rezone property if land
700 similarly zoned is available in the area. That is the case here with 111 acres of M-2 property
701 already zoned. Why should we expand the vacant industrially zoned property around it?
702 Given that there is no user and that this is a speculative rezoning, staff questions the need to
703 expand it. Staff also suggests that there is an inherent risk in expanding industrial land without
704 users, and that it dilutes the value of what you have already got zoned and planned for industry
705 by creating a surplus of unused property. A particular concern, in this regard, is the proposal
706 to develop industrial property north of Technology Boulevard, and notwithstanding that the
707 maps, north should be up, this is the north parcel that I am looking at.

708
709 Ms. Dwyer - Shall we stand on our heads? Just turn it around.

710
711 Mr. Merrithew - You don't want me to try to turn it around, because I think I
712 might lose it.

713
714 Mrs. Wade - There is a copy of it in the back of these proffers.

715
716 Ms. Dwyer - Is there? Let me see the proffers for two seconds.

717

718 Mr. Merrithew - Yes, the new proffers have the concept plan attached to them.
719 Although it can be argued that the rezoning industrial land south of Technology Boulevard may
720 help the applicant create a better designed industrial park, given that his proffered concept plan
721 coordinates what is already zoned plus what he is proposing tonight, the same cannot be said of
722 the property north of Technology Boulevard. In fact, the size and shape of this property
723 suggests that it would be better designed if it could be incorporated with additional land, and
724 that rezoning it by itself, is indeed premature and may lead to a less than desirable design on
725 the property, or appearance on the property.

726
727 The second focus or the second thing that staff wanted to look at was establishing a standard of
728 development quality for new development that is equivalent to the standard of development
729 being built on the Elko Tract.

730
731 If you recall back in 1997, with the original M-2 zoning, what we looked at, as comparison,
732 were the protective covenants that were being applied to White Oak. We used them as a
733 standard and we drew from them several conditions, and they were proffered at that time,
734 dealing with uses that cause vibration, setbacks from Technology Boulevard, lighting standards
735 and so on.

736
737 In 1997, that case pretty well paralleled the protective covenants that applied to White Oak. In
738 this particular case for C-70C-98, again the applicant has, through the proffered conditions,
739 incorporated the development standards for White Oak and/or paralleled the proffers with Case
740 C-60C-97. There are two exceptions, and I am presenting them as points of information, not
741 as what, I believe, are serious issues, but I leave that to you to judge.

742
743 The applicant in this case, C-70C-98, has introduced metal wall panels as a permitted finish
744 material on buildings that are more than 600 feet from Technology Boulevard.

745
746 Secondly, in the previous case, all landscaped areas in the industrial park were to be irrigated,
747 and, in this case, the applicant has said that only the landscaped areas adjacent to Technology
748 Boulevard would be irrigated. Staff is not pressing those points, but I bring those up just so
749 you know the difference in those proffers. In general, by adding area to the existing M-2
750 property, C-70C-98, lends itself to creating a campus-style industrial park with a significant
751 amount of open space. I think if you read our staff report, we were concerned about the
752 amount of open space. The new proffers increase the open space from 30percent to 40percent,
753 so that has been an improvement made since the first staff report was written. With significant
754 open space, separation of uses, similar to the County's plans for the Elko Tract, as proffered,
755 staff feels that the case matches the quality of the previously approved case in key areas, with
756 the two exceptions that I have noted. Staff is also comfortable that the land surrounding White
757 Oak is best used for light industrial development. Therefore, staff feels that, regarding the M-
758 1 and M-2 zoning on C-70C-98 we can recommend approval. I should point out, I didn't
759 mention it, but the Williamsburg Road Corridor Study is in its final draft stages, and they have
760 proposed three alternative land use patterns and recommend a land use pattern, all of which
761 show industrial development surrounding the Elko Tract. So, we feel, even though we are in a
762 draft stage in this particular area, industrial development is appropriate and would be, continue
763 to be, consistent in what we are looking at in terms of land use policy.

764

765 The Case C-71C-98, again, the piece on the northern side of Technology Boulevard, the
766 proffers are similar to C-70C-98. The exception is that, in this case, the metal wall panels are
767 prohibited which is better for us, I believe, and the amount of open space is lower. It is not 40
768 percent, but in this case is down to 30 percent, which, for us, is a little bit worse. However,
769 staff is concerned that the size of C-71C-98 does not lend itself to the campus-style industrial
770 park. I might be able to blow it up a little bit. You can see that, on the little piece that does
771 have a sketch plan showing buildings, that it is very tight. It is compact.

772

773 You would expect the same thing to happen on the Payne Tract right here. It just doesn't lend
774 itself to the campus-style industrial park that we are envisioning along this corridor. A better
775 approach would be to consolidate this site with property to the east and create a larger site.
776 Staff also feels that, in the Case C-71C-98 that it is premature and that it is not being added to
777 existing industrial. It can't be incorporated into the other side of the road. And with all of the
778 land on the other side of the road potentially being industrial, better than 200 acres, there is
779 really no need to proceed with the piece on the northern side of Technology Boulevard. And,
780 as yet, we don't have a user, which makes it even less desirable to proceed at this point.
781 Therefore, in the case of C-71C-98, staff cannot support the application.

782

783 In Case C-72C-98, again the proffers parallel those previously approved. The differences are,
784 again, that there is no longer a concept plan for the corner piece of property. C-72C-98 is this
785 piece of property right here. The concept plan you see here was what was originally proffered
786 when it was proposed to be a retail site. Staff had significant concerns about it developing as a
787 retail operation because, essentially, immediately across the road, to the northwest, is a very
788 large area of the County that is designated commercial concentration in our current Land Use
789 Plan. It is a tract that is becoming more and more desirable to the development community. It
790 fronts on I-295. It fronts on Route 60. It has high exposure, and is probably more desirable
791 from the development community's perspective as well as our own as a commercial retail
792 center. That said, again, this site less desirable because, if this site were to go commercial, it
793 would dilute the value of what we were planning or are planning, for commercial retail. So,
794 staff has opposed the retail development on this corner. The applicant, just this week, brought
795 you these new proffers which makes this corner an industrial proposal parallel to the other two
796 cases. So this concept that you see illustrated here no longer applies. But, at this point, we do
797 not have a concept plan to show you of how that site would develop as an industrial park.
798 Staff's concern, or desire, in that case, would be that, now, that it is going to be like the rest of
799 the property south of Technology Boulevard, which means it is all going industrial. It should
800 be incorporated into that industrial park. It should have access through that industrial park.
801 There is no need for access on Memorial. There may be no need for access from this property
802 directly onto Technology Boulevard. It could access through the larger park area. Those are
803 issues that haven't been addressed because of the lateness of the proffers. We think they
804 should be looked at.

805

806 If the applicant were to agree that it be incorporated into C-70C-98, as part of that industrial
807 park campus, we feel that it would be appropriate to approve the rezoning as they have
808 currently proffered it. Having said that, I would be glad to try to answer specific questions on
809 the proffers, or go through them if you wish in more specific detail.

810
811 Mr. Vanarsdall - So, Mr. Merrithew, you are supporting all three of these?
812
813 Mr. Merrithew - Mr. Vanarsdall, I am supporting the two cases, C-70C-98 and C-
814 72-98, which are on the south side of Technology Boulevard. I am not supporting the case on
815 the north side of Technology Boulevard.
816
817 Mr. Vanarsdall - You have not changed that since the first report?
818
819 Mr. Merrithew - That is right. Site specific, the proffers, in all of the cases, are
820 very close. But the key issue is just how much vacant industrial property do we want to have
821 zoned out there. I can see trying to create a nice campus-style park on the south side, but the
822 piece on the north side just does not fit that pattern at this point. It should be consolidated with
823 some other additional property.
824
825 Mr. Vanarsdall - Thank you.
826
827 Mrs. Wade - You think this is premature given that the Williamsburg Corridor
828 Study is still underway? (Unintelligible)
829
830 Mr. Merrithew - The Williamsburg Corridor Study is close, but still not quite
831 done. And I think, prudently, we should wait until it is done and we have the new policies in
832 place. There is nothing to say that the new studies will not present new design standards that
833 these proposals aren't reaching anymore. Having said that, I think the land use is appropriate
834 because I think the study is headed toward industrial development, or at least on the east side
835 of Memorial Drive and south of Technology Boulevard.
836
837 Ms. Dwyer - Mr. Merrithew, it looks like Case C-72C-98, which I believe was
838 originally planned for retail and now is no longer being planned for retail, doesn't include the 40
839 percent open space as does...
840
841 Mr. Merrithew - That is correct. Yes. The smaller project has 30 percent.
842
843 Ms. Dwyer - But you are suggesting, now, that they have moved now from
844 retail to a more industrial development for both parcels south of Technology that, are you
845 suggesting that the proffers then should be more aligned?
846
847 Mr. Merrithew- Yes, I would. You raised a good point that I overlooked. The
848 proffers for C-70C-98 combined the 40 percent open space. It looked at both C-70C-98 and the
849 already approved M-2 area. This could easily be incorporated in that same proffer language.
850
851 Ms. Dwyer - And I don't see in C-72C-98, again, I have just gotten these
852 proffers tonight, so I am trying to piece it all together. But there is no reference to any kind of
853 conceptual site plan for C-72C-98. There is reference in C-70C-98, but that reference does not
854 seem to be very firm.
855

856 Mr. Merrithew - I took the Case C-70C-98 to be a proffered conceptual plan. Are
857 you suggesting that it is not?
858

859 Ms. Dwyer - It says, "...unless otherwise requested at time of POD." And, I
860 guess I question whether it is still viable in light of the fact that Case C-72C-98 has now been
861 changed from retail to a similar industrial, so maybe they would need to make drastic changes to
862 the conceptual plan.
863

864 Mr. Merrithew - I think the problem is that they made the decision to go from retail
865 to industrial in a matter of hours, just hours ago, and they haven't had time to work on the
866 concept plan at this point. I think it is valid to ask the applicant about that statement in the
867 concept plan proffer that can be changed at POD. That is worth asking him.
868

869 Mr. Archer - Mr. Merrithew, on page 2 of C-70C-98, you indicated in your
870 staff report that a traffic impact study had been requested. You may have mentioned that and I
871 may have missed it.
872

873 Mr. Merrithew - No. I am sorry. I did not. Thank you. The Traffic Impact
874 analysis was completed and examined by the Traffic Engineer and they are satisfied with the
875 conditions and the situation out there with this development. The Traffic Engineer had suggested
876 that there would be about 14,000 trips per day. That is a very high number and would be
877 reduced by the fact that No. 1, they have eliminated the major retail component, but I don't think
878 the Traffic Engineer understood the restriction on the retail and the M-1 and M-2 Districts as
879 well. But they have gone through that with the traffic analysis and are happy with it.
880

881 Ms. Quisenberry - Mr. Merrithew, would you give us some idea of what kind of
882 retail would be allowed in this area?
883

884 Mr. Merrithew - Retail services in the O/S District can be restaurants, can be
885 basically any sort of retail. It cannot be freestanding. It must be within an office or an industrial
886 building, and because of the proffers as presented here, it cannot be more than 10 percent of the
887 floor area of the specific industrial office building. I'd have to pull the Ordinance to see if there
888 were any specifics, but, as I recall, I think that it is generally open to any sort of retail service,
889 but, it has that limitation of location.
890

891 Mrs. Wade - There is no billboard potential in these circumstances?

892 Mr. Merrithew - I don't believe there is, but that is not an issue that I have
893 examined. I would have to look at that.
894

895 Mr. Donati - What was the question; Billboards?
896

897 Mrs. Wade - I was questioning whether there was any billboard potential here.
898

899 Mr. Donati - Under the new ordinance, I don't think that it is allowed.
900

901 Mrs. Wade - You could only move, if you had so many feet; 500 feet.

902
903 Ms. Quisenberry - Mr. Merrithew, for those of us that are in the middle of this mire,
904 talking about cases C-72C-98 and C-70C-98, in looking at C-72C-99, if we incorporate that into
905 the same proffers, same case as C-70C-98, then the land use would be consistent across this
906 parcel. Correct? Same zoning. Same use. Same industrial type park. What we don't have on
907 C-72C-98 right now is we don't have a conceptual plan.
908
909 Mr. Merrithew - Correct. I am not suggesting that it be rolled into one application,
910 but I am saying the concept plan is the key thing, that it functions for the larger project. Yes.
911
912 Ms. Dwyer - What does the staff review for the Technology Boulevard area,
913 what does it suggest the property north of Technology Boulevard...
914
915 Mr. Merrithew - And the Williamsburg Road Corridor Study. At this point, it is a
916 combination of office use and mixed development, which is a residential. Further to the west,
917 you are looking at a residential mixed-use pattern. I can't say for sure whether it falls north of
918 Technology Boulevard or just west of Technology, but I do know that north of Technology in
919 this area, that office is being proposed, and further to the west it becomes more of a mixed use.
920
921 Ms. Dwyer - You are not looking for industrial uses north of Technology
922 Boulevard?
923
924 Mr. Merrithew - Not at this point. No.
925
926 Mr. Vanarsdall - Madam Chairman, do we have any opposition to this case?
927
928 Ms. Dwyer - Yes, we do.
929
930 Mr. Merrithew - Madam Chairman, if I could take a second to respond to the
931 request for retail services. In the O/S District, ..."retail services including, but not limited to,
932 barber shops, beauty parlors, dining rooms, newsstands, restaurants, cocktail lounges, retail
933 stores for wearing apparel, sporting goods, etc. It is a wide range of uses. The restriction is on
934 the percentage of the area that can be dedicated to it and the fact that it would have to be in an
935 office building or an industrial building.
936
937 Ms. Quisenberry - This would be 10 percent of the entire complex, maximum?
938
939 Mr. Merrithew - Potentially, yes.
940
941 Ms. Quisenberry - Potentially, inside of the building?
942
943 Mr. Merrithew - Ten percent of any of the industrial buildings that might locate out
944 there could be retail space.
945
946 Ms. Quisenberry - Is that 10 percent of the whole complex or 10 percent of a
947 particular building?

948
949 Mr. Merrithew - I believe the way the proffer is worded it is 10 percent of each
950 building in which they are located. So, it would be broken up.
951
952 Mrs. Wade - In the O/S, they don't have outside entrances, do they, other than
953 to the building? Also, judging by those that you read and memory, generally, they are
954 businesses related to the employees, people who are working there.
955
956 Mr. Merrithew - Convenience type uses for people working there. I don't see
957 anything that relates to the entrance, but I won't question your experience with this.
958
959 Mrs. Wade - I think I remember this, from the O/S.
960
961 Mr. Merrithew - I would point out that, in the O/S District, the retail is limited. It
962 would have to be in a building that is at least 50,000 square feet and you will note on the proffer
963 that the building can be less than 50,000 square feet as well. I don't see anything about the
964 entrance.
965
966 Ms. Quisenberry - Mr. Merrithew, you also talk about access on Case C-72C-98.
967 Since we don't have a conceptual plan, with the new proffers, we don't have anything that talks
968 to access only on Technology only versus no access on Memorial. So that is something that
969 would have to be addressed.
970
971 Mr. Merrithew - Yes, ma'am. I think a concept plan would be a good way to
972 address that and see how it coordinates. But right as it stands now, we don't have anything.
973
974 Ms. Dwyer - Does anyone have any questions of Mr. Merrithew?
975
976 Mr. Donati - Yes, Mr. Merrithew. You were speaking of design standards and
977 those that were in the covenant with the White Oak Tract and they were a lot less than in the
978 White Oak Tract covenant.
979
980 Mr. Merrithew - The proffers here, as opposed to the White Oak Tract; no. The
981 standards that we looked at in the White Oak Tract, they pretty well matched. The lighting
982 height, they are 30 feet and so on, and those proffers reflect the protective covenants of White
983 Oak. From that point of view, they are not far off of what we have at White Oak. The things I
984 did mention, the metal wall panels, and there were a couple of items that were different, and the
985 open space, where on the smaller property they say 30 percent, while White Oak is calling for
986 40 percent, and that has been a difference. But, there are a couple of things that they do fall
987 short on. Overall, I would say that they are close.
988
989 Ms. Dwyer - Are there any other questions of Mr. Merrithew by Commission
990 members? Don't go far. Would the applicant like to come forward?
991
992 Mr. Jim Theobald - I am not sure whether I should start with my rebuttal or my
993 presentation. But, I would like to reserve...

994
995 Ms. Dwyer - Excuse me. Would you like 20 minutes, we are hearing three
996 cases as one, so.

997
998 Mr. Theobald - I don't think I need it, but probably 8 or 9 minutes to present my
999 case and then I will reserve a few for rebuttal, since we do have opposition, but they are pretty
1000 similarly situated issues. Madam Chairman and ladies and gentlemen, my name is Jim
1001 Theobald, and I am here this evening on behalf of Rick Hood and the Marshall family to request
1002 rezoning of approximately 150 acres of land from A-1 to a combination of M-1 and M-2 with
1003 substantial proffered conditions, generally, adjacent to almost 2,000 acres of unconditional M-2,
1004 now known as the White Oak Technology Park. The County has really mobilized all of its
1005 resources to promote White Oak Semiconductor Facility and I think it was very wisely reserving
1006 its additional land in the Technology Park for large anchor type users, such as Hewlett-Packard.

1007
1008 Approximately a year and a half ago, this Commission unanimously approved an M-2 rezoning
1009 for Mr. Hood adjacent to White Oak, and the requests before you this evening are just an
1010 extension of that development.

1011
1012 As you may know, by June of this year, White Oak Technology Park is expected to have some
1013 1,300 employees at the White Oak Semiconductor, with an additional 700 employees expected to
1014 be working at the new Hewlett-Packard plant, totalling some 2,000 people working in the White
1015 Oak area on a daily basis. The County, itself, has predicted that there may be some 7,500 daily
1016 employees in White Oak within the next five years. That, of course, does not include the work
1017 force of various area vendor support groups that will support these large manufacturing facilities.
1018 So, I suggest that a need for a full range of neighborhood-type businesses, professional offices
1019 and, perhaps, housing is even evident in that area. So, really, in anticipation of that need,
1020 Henrico County very wisely provided the necessary infrastructure, constructed Technology
1021 Boulevard in order to accommodate the jewel in the crown that you perceive in White Oak. And
1022 while White Oak really represents development on a much larger scale, we have set about to be
1023 generally consistent, nonetheless, with the development standards set for in the White Oak
1024 Technology Park and their restrictive covenants. Like our prior rezoning, we prohibited any
1025 retail uses other than what would be permitted and is regulated in the Office/Service District.
1026 And while the Office/Service standards would permit up to 20 percent retail per building, as you
1027 have heard, we have cut it to 10 percent in an effort to better define our intentions that this retail
1028 is truly oriented to the light industrial users serving this property.

1029
1030 All industrial uses have to be conducted so as not to create any danger to the health, safety and
1031 welfare of the surrounding areas and we have regulated excessive noise, vibration, smoke, heat
1032 or glare, beyond the boundaries of the property.

1033
1034 We have proffered a landscaped natural buffer area of a minimum of 50 feet in width along the
1035 right-of-way line of Technology Boulevard and we have agreed to set our building a minimum of
1036 100 feet from the right of way line of Technology Boulevard.

1037
1038 To the extent of building, if we exceed two stories in height that setback moves back to 150 feet
1039 from Technology Boulevard, setbacks for parking areas and drive aisles have to be at least 50

1040 feet from Technology Boulevard. All utilities have to be underground, public water and sewer
1041 systems have to be supplied. No building can be constructed within 100 feet of any residentially
1042 zoned or used property.

1043
1044 We have limited the building materials, and we have agreed, for any building within 200 feet of
1045 Technology Boulevard or facing Technology Boulevard, must be brick or stone. Parking lot
1046 lighting has been reduced to 30 feet in height and must be from a concealed source and those
1047 lighting standards are all consistent with White Oak. We have significantly limited both our
1048 detached and unattached signage.

1049
1050 We have prohibited certain vibration causing activities from being conducted. That was a prior
1051 approval of White Oak. This is something that is very important in our meeting with them early
1052 on. We have prohibited on-site burning of stumps, limbs, trees, etc. because it can interfere
1053 with their operation, and we have agreed to provide median plantings in Technology Boulevard
1054 complementary with the County's plans; therefore, which we have agreed to maintain.

1055
1056 The land that is owned by the Marshall family south of Technology Boulevard, which is the
1057 subject of Case C-72C-98, continues to seek M-1 zoning as it was originally filed, but after
1058 discussions with Ms. Quisenberry last evening, we have, as of this morning, basically amended
1059 that case to take out the major retail components that had been planned. So, the conditions there
1060 are now consistent with the companion cases, I think, with the exception of the open space
1061 condition being 30 percent, and, of course, because we revised this today, the conceptual plan
1062 doesn't work any longer.

1063
1064 I am also aware that there has been some question about the timing of Case C-71C-98 north of
1065 Technology Boulevard. But I submit to you that this is really the exact time we ought to be
1066 master planning and zoning that 26 acres. It is buffered from residential development north of
1067 Old Cannon Estates by a very significant set of wetlands, and so its shape will never become any
1068 more regular.

1069
1070 To the east is a single large parcel that is owned by an estate, beneficiaries of which, I am told,
1071 cannot seem to agree on its disposition. The master planning and zoning in advance along
1072 Technology Boulevard near White Oak doesn't really seem to be much of a leap of faith. I don't
1073 think that the County built a four-lane divided highway which severed these properties, which is
1074 why we have property on the north side of Technology, and I don't think they built that road
1075 with the intent of only permitting development on one side of it. This is where the County, I
1076 think, threw its actions and investment of taxpayer's money, as indicated, and industrial
1077 development ought to occur. So, zoning now really allows the same owner to master plan and
1078 incorporate into their plan the extension of infrastructure, plan for that that infrastructure, and
1079 provide it up front, thus letting everybody know where development is headed in that area.

1080
1081 We have consulted with the development staff at White Oak, apprised them of our additional
1082 rezonings. We have deferred one of our companion cases earlier this evening. That was owned
1083 by the Robins family on which residential development was requested until we have an
1084 opportunity to personally meet with those neighbors and better explain our concept.

1085

1086 I have spoken with Mr. Crigger, who is somewhat of a spokesman for that group, and I,
1087 tentatively, rescheduled a meeting for later this month to talk about that residential component. I
1088 am pleased we were able to get the word out far enough in advance, but I am sure that there
1089 would have been a lot of people here, so I think we succeeded in doing that, and we intend to
1090 work with that group to see what uses are appropriate and perhaps better plan our concepts on
1091 the Robins' case.

1092
1093 We have worked very diligently, I think, with staff, trying to define the conditions, and I believe
1094 that this request, as Mr. Merrithew has stated, particularly south of the road, is generally
1095 consistent with the various alternate Land Use Plan on which they are working. I think that
1096 Study builds upon the good work the County has already done at White Oak, and I suggest uses
1097 ranging from industrial to mixed uses to provide for the larger users that you have, hopefully,
1098 relegated to the White Oak Technology Park, but importantly providing some additional services
1099 to the people who do work in this area, so they don't have to get back in their cars and
1100 necessarily drive up to Route 60.

1101
1102 I think this request is also very consistent with various goals, objectives and policies of your
1103 existing Land Use Plan by providing an increase in employment opportunities, certainly an
1104 increase in your tax base, without providing an additional burden on the County for
1105 infrastructure, by promoting balanced growth with a transition of uses. I think the users who are
1106 going to support these large manufacturers at White Oak are not going to wait for a site to be
1107 zoned and they are not going to wait for infrastructure to be extended. You only have to ask Mr.
1108 Agostino in your Economic Development Office as to why these kind of users and support
1109 vendors are looking for. It is critically important to provide the necessary vendor support in
1110 advance of the County's vision for fulfillment of White Oak, and accordingly, I believe that this
1111 really is a very important economic development initiative and I would, respectfully, request that
1112 you recommend approval of the case to the Board of Supervisors. I would be more than happy
1113 to answer any questions that you might have.

1114
1115 Ms. Dwyer - Are there any questions of Mr. Theobald by Commission
1116 members?

1117 Ms. Quisenberry - Mr. Theobald, could you speak to the irrigation issue as it applies
1118 to landscaping? Tell us very, succinctly, if you can, what will be irrigated, what is going to be
1119 landscaped, or what is going to be landscaped and irrigated.

1120
1121 Mr. Theobald - Okay. The distinction is that we committed by proffer to
1122 absolutely irrigate the landscape buffer area along Technology Boulevard. That does not mean
1123 we are not going to irrigate other landscaping. What it does do, at this point, preclude any
1124 misconception by the POD review team as to whether or not I should have to irrigate the
1125 transitional buffer, or as we have suffered in the past, in some cases, the notion of having to
1126 extend irrigation lines to every tree in a parking lot where it might occur. And so, it is not our
1127 intention not to irrigate a great deal of what we do. Obviously, it is in our interest to create that
1128 appeal, but we have had such differing interpretations in what a blanket proffer of all landscape
1129 buffer areas might be that I am just a little gun shy of a couple of hundred acres of having to
1130 extend a water line to every plant or shrub. So, I think you will find that with someone with this
1131 kind of investment in this piece of property that the curb appeal is extremely important. That is

1132 why we spent so much time with Mr. Zehler and Mr. Donati in our past case making sure that
1133 the curb appeal of Technology Boulevard, with its setbacks and materials on the front, its
1134 landscaping and it is irrigated. I am not here to tell you that we are trying to get out of doing
1135 irrigation. I am here really to tell you that I am sure we will do a lot more irrigating. I would
1136 just like to make sure that it is being interpreted at the time we do it in a way that we can all live
1137 with it. That is it, pure and simple.

1138
1139 Ms. Quisenberry - On C-70C-98, we have proffers that concern the metal panel wall
1140 being only used on buildings that are bigger than 600 feet from Technology.

1141
1142 Mr. Theobald - That is if you have been out to see White Oak Semiconductor
1143 Building, it would be the same materials that are on that building.

1144
1145 Ms. Quisenberry - You don't have that on C-72C-98.

1146
1147 Mr. Theobald - We do not.

1148
1149 Ms. Quisenberry - Is that something we could consider?

1150
1151 Mr. Theobald - Yes, I think it is.

1152
1153 Ms. Quisenberry - And likewise the building would have a brick front?

1154
1155 Mr. Theobald - No. Only the buildings within 200 feet would have brick or stone.

1156
1157 Ms. Quisenberry - Right.

1158
1159 Mr. Theobald - Yes. That is consistent with a prior case and that is a commitment
1160 in this case, as well.

1161
1162 Ms. Quisenberry - Okay. I just wanted to make sure.

1163
1164 Mr. Theobald - That is above the standards at White Oak, by the way.

1165
1166 Ms. Dwyer - Any other questions by Commission members? Is there any reason
1167 that the open space was not increased to 40 percent in C-71C-98 and C-72C-98?

1168
1169 Mr. Theobald - Yes. We proffered a 40 percent open space on the first case. We
1170 had significant wetlands on that piece. We had open space to burn. We proffered it at 40
1171 percent because we were able to deliver 40 percent. Forty percent of open space on an industrial
1172 project is the highest of any industrial site or office site that I am aware of. It is higher than
1173 Innsbrook, and what we did, reluctantly, we decided to blend in Mr. Hood's second piece; 103-
1174 acre piece with the original piece so we would guarantee 40 percent overall and we have done
1175 that. The difficulty on this smaller piece is, I do not have the ability to blend the calculations
1176 with the rest of this because I have separate property owners. And, while they will undoubtedly
1177 develop in a coordinated fashion, I have no way of necessarily binding the property owner of the

1178 smaller piece with the other one as to who gets how much of the 40 or 30 or when, and being a
1179 smaller piece and being, thankfully, fairly free of wetlands, 30 percent seemed very appropriate
1180 there.

1181
1182 Ms. Dwyer - Is it your intent to coordinate the development now of C-72C-98
1183 and C-70C-98?

1184
1185 Mr. Theobald - Well, I think that would go, frankly, without saying. But let me
1186 also caution you in the sense that with separate property owners, for instance, we have a lot of
1187 issues that we have been working on here with the joint proposal. But, for instance, the access
1188 issue that was raised here, the applicant's representative on this piece has met extensively with
1189 Mr. Foster who has approved an additional median break in Technology Boulevard at this
1190 location. So, there in the Transportation Department's mind there is an additional median break
1191 warranted there, but understand the scale. You are looking at hundreds of acres of land here,
1192 and these are thousands of feet apart. This is not a lot on Broad Street where you are two or
1193 three feet apart. So, there will be, clearly, some coordination. They are subject to the exact
1194 same proffers but for the ones that we have mentioned, and, perhaps, between now and the
1195 Board, we can come back with a conceptual plan just to show you how that all might be
1196 accomplished so we can get rid of the retail stuff. Obviously, we didn't have a chance to do that
1197 today.

1198
1199 Ms. Quisenberry - Would you agree to come back with that before the Board?

1200
1201 Mr. Theobald - Sure. No problem.

1202
1203 Ms. Quisenberry - My concern that I have had with the conceptual plan there was
1204 with some of the access issues and we might end up with some access on Memorial Drive that
1205 we didn't want.

1206
1207 Mr. Theobald - Yes. That is a good point. We have had extensive discussions
1208 with Mr. Foster, and I don't think it will be hard to demonstrate for you that the same conceptual
1209 level that we have the piece up here. We had some very definitive ideas of what might occur
1210 down here were to be approved for retail, and so a conceptual plan is not a problem at all.

1211
1212 Ms. Dwyer - Mr. Theobald, given the speculative nature of this development
1213 and the language in Proffer #17 for Case C-70C-98, it seems that this master plan is not very
1214 firm. Can you..

1215
1216 Mr. Theobald - I really disagree with that, Ms. Dwyer, and I know that that was,
1217 staff didn't give you a lot of comfort on that. But this is our master plan, and we believe that
1218 language, which has been the subject of some debate over the last year or so, and it is frankly a
1219 tool. We view that as a tool for the Planning Commission to entertain a better idea, rather than
1220 our ability to just throw out the old one and bring you something that you don't like. There is
1221 nothing more frustrating than if I change this road alignment for a good idea, because I find out I
1222 have got one I didn't know about, to have to refile my case and go back to rezoning to amend a
1223 proffer. So, believe me, when we do that, it is so we don't have to go back through the whole

1224 process. You are in complete control through POD as to whether or not these variations occur.
1225 I am happy to state that for the record and that is an issue I think on many cases would be good
1226 to get behind us.

1227
1228 Ms. Dwyer - On Case C-71C-98, on the parcel that is north of Technology
1229 Boulevard, I understood Mr. Merrithew to say that the study staff is doing has slated this area
1230 for Office and Mixed Use. Would not office work on this parcel as well as the M-1? You
1231 mention that we have the infrastructure. We have the roads. But that could serve an office
1232 development as well.

1233
1234 Mr. Theobald - Well, it might serve, if not the M-1, then the new O/S 2. I think
1235 that is a possibility. If Ms. Quisenberry thought that that was appropriate, I would certainly
1236 defer the cases north of Technology to look at that. In our discussions last night, it was
1237 something we discussed very candidly and did not seem to me with favor, but if that is
1238 something you all would like to explore, it might be something that we could explore.

1239
1240 Ms. Dwyer - Any other questions of Mr. Theobald by Commission members?

1241
1242 Mr. Donati - I just have one. Mr. Theobald, have you proffered out any M-2
1243 uses other than just saying it is smoke, dust...

1244
1245 Mr. Theobald - No, sir. Totally consistent with, but understand that the M-2 line,
1246 this doesn't really show it. Maybe the prior screen did. But what we have done, that M-2 line is
1247 somewhere in here, Mr. Donati, so that you come from the unrestricted M-2 in White Oak in
1248 this direction and then we transitioned it with M-1, and then we knocked out the smoke,
1249 vibration, etc. that would be associated with the kinds of smoke stack uses that Mr. Merrithew
1250 referenced.

1251
1252 Ms. Quisenberry - And so that kind of makes the question about the M-2 use, is that
1253 just for more flexibility?

1254
1255 Mr. Theobald - Yes. Sure, and what we find, and what I think Mr. Donati will
1256 maybe comment on, when you all were doing White Oak, what we all find is the new high tech
1257 industry doesn't always fit into our zoning ordinance, and sometimes you find what you are
1258 doing doesn't seem very high tech, and we had this problem I think with Wella Balsam, or
1259 somebody who had a big press off near Wella Balsam, and you needed M-2 there because it
1260 didn't fit. It is for those kinds of reasons that I think that the County rezoned White Oak
1261 unrestricted M-2 and why we have done the same, while trying to really proffer out the kinds of
1262 things that both hamper White Oak's very sensitive development and, yet, allow the kind of
1263 support. I mean, you all created this area to accomplish just what you are saying, Hewlett-
1264 Packard, and we would like to support it with some vendor support.

1265
1266 Ms. Dwyer - The buffer along the residential area is the standard 50 feet
1267 required in the ordinance?

1268

1269 Mr. Theobald - Right, and what is on the other side of that line it's the Robins case
1270 that is being deferred tonight and, if you are interested, I can show you a plan that shows
1271 significant wetlands along most of that boundary in there, and the parties agreed as to who would
1272 bear what portion of what buffer along the site, and the rest of that is, I think, up against the pet
1273 cemetery and there may be another lot or two up there.

1274
1275 Ms. Dwyer - So C-70C-98 and C-71C-98 do not adjoin residential?

1276
1277 Ms. Quisenberry - I guess we are not sure what, if that is the pet cemetery there, or if
1278 that is a residence? It is hard to tell.

1279
1280 Mr. Theobald - This was the Robins' piece; this R-5A, that was converted to an R-
1281 3A request, and I believe the pet cemetery is at least of these lots in here. It is my
1282 understanding.

1283
1284 Ms. Quisenberry - And what is right there?

1285
1286 Mr. Theobald - I am not sure if there is a house on that lot or not. We provided
1287 100 foot building setback and the, basically you have a 50 foot transitional buffer, by ordinance.
1288 These are five-acre lots, by the way. These are not normal subdivision lots. These are 3 to 5-
1289 acre lots in there, and pretty good size.

1290
1291 Ms. Dwyer - Any other questions of Mr. Theobald? We will hear from the
1292 opposition.

1293
1294 Ms. Marilyn Paskey - Good evening. My name is Marilyn Paskey and I am President of
1295 Varina Environmental Protection Group. Our group is opposed to the rezoning of all three of
1296 the cases that you are considering now. This action is premature. There is not a great need, and
1297 I don't think it has been demonstrated, for the development that has been proposed at this time.
1298 I don't think that it is supported by the community, and I don't think that we should change
1299 zoning unless there is a demonstrated need to do so, unless it is supported wholeheartedly by the
1300 community that it is being zoned in.

1301
1302 Mr. Theobald just said something about the 5 acres. Well, when these people move to this
1303 acres, they expected to live in a rural area for a long time, and I think we need to consider their
1304 feelings in this case. This type of development will disrupt and change the immediate
1305 neighborhood. I would hope that their concerns and wishes would be a primary consideration in
1306 your decision. We should not rezone when it differs from the Comprehensive Plan.

1307
1308 Now, I am rather confused, and I do know that there is a study going on, so we may have
1309 different usage, but right now it would differ from the Comprehensive Plan. So, I think that it is
1310 not the time to rezone this area. If it needs more study, nothing seems to be very definite; we
1311 are still discussing changes tonight, here. I would ask that you say no to all three of these.

1312

1313 Ms. Dwyer - Any questions of Ms. Paskey by Commission members? Thank
1314 you. Is there anyone else to speak in opposition to this case? There is no other opposition. Mr.
1315 Theobald?

1316
1317 Ms. Quisenberry - Is it time for a motion? Okay. We have heard enough about these
1318 three cases, I think, and want to move on. I would like to make a separate motion on each case.
1319 Let me start with Case C-71C-98. That is irregular shaped piece that is north of Technology
1320 Boulevard. I would like to make a motion to recommend denial of this case. I do think that this
1321 development north of Technology is a little premature. I think we have heard some staff's
1322 concerns about that and we are looking for some guidance from the wings for road study and
1323 other issues that, I don't see a pressing need, to move north of Technology Boulevard at this
1324 time and I don't really have any additional comments to make about that.

1325
1326 Ms. Dwyer - We have a motion by Ms. Quisenberry. Is there a second?

1327
1328 Mrs. Wade seconded the motion.

1329
1330 Ms. Dwyer - Motion made by Mrs. Quesinberry , seconded by Mrs. Wade.
1331 All those in favor say aye—all those opposed by saying nay to recommend denial of C-71C-98
1332 to the Board of Supervisos. Mr. Donati abstained. The motion for denial was carried.

1333
1334 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mrs. Wade, the Planning
1335 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the
1336 request because the case is premature; and the applicant failed to meet his burden to show that
1337 the requested changes are in the best interests of the welfare and future of the community.

1338
1339 Ms. Quisenberry - I would like to move to Case C-70C-98. This is the large tract, 103
1340 acres that would be incorporated into the previously zoned adjacent piece, making more than 200
1341 acres or so for the industrial park for which we have a proffered conceptual plan. On that case, I
1342 would like to recommend approval. I think that considering all sides of this, it is a large tract,
1343 but it gives us an opportunity to have a nice conceptual plan in an area that will most likely be
1344 developed in this manner, and I would like to recommend approval at this time.

1345
1346 Ms. Dwyer - We are talking about C-70C-98?

1347
1348 Ms. Quisenberry- That is the large tract where a piece of it is M-1C and a piece of it
1349 is M-2C, and it totals 103 acres.

1350
1351 Mr. Vanarsdall seconded the motion.

1352
1353 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.
1354 All those in favor say aye—all those opposed by saying nay to recommend approval of C-71C-
1355 98 to the Board of Supervisors. Mr. Donati abstained. The motion for approval was carried.

1356
1357 Ms. Quisenberry - Now, I would like to look at C-72C-98, and this is the small piece;
1358 the 19 acre piece that is on the southeast corner of Technology Boulevard, and it is actually at

1359 the corner of Technology and Memorial. It kind of is right on top of the piece that we looked at.
1360 This is the piece that we did not have a conceptual plan for. This is one that offered the new
1361 proffers tonight that we have all been flipping through madly, here.
1362

1363 On this piece, this one Mr. Theobald has said that he will provide a conceptual plan prior to the
1364 Board. This is one that the proffers are, essentially, with some minor differences, are essentially
1365 equal to the proffers of the Case for C-70C-98, and I think it also allows for some continuous
1366 planning for an industrial park in this area and offers us that advantage, and I would like to
1367 recommend approval of this piece.
1368

1369 Ms. Dwyer - Ms. Quisenberry, if we could first make a motion to waive the
1370 time limit for the proffers. They were not presented within our required time.
1371

1372 Ms. Quisenberry - I would like to make a motion that we accept the proffers that were
1373 presented tonight for Case C-72C-98 and waive the time limit.
1374

1375 Mr. Vanarsdall seconded the motion.
1376

1377 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mrs. Wade. All
1378 those in favor say aye—all those opposed by saying nay, Mr. Donati abstained to accept the
1379 proffers and waive the time limit for Case C-72C-98.
1380

1381 Ms. Quisenberry - I make a motion that we recommend approval of Case C-72C-98.
1382

1383 Mr. Vanarsdall seconded the motion.
1384

1385 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.
1386 All those in favor say aye—all those opposed by saying nay, Mr. Donati abstained. The
1387 motion is carried to recommend approval.
1388

1389 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Vanarsdall, the
1390 Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors
1391 accept the proffered conditions and grant the request because it would not be expected to
1392 adversely affect the pattern of zoning and land use in the area; the employment use(s) support the
1393 County's economic development policies; and the proffered conditions will provide appropriate
1394 quality assurances not otherwise available.
1395

1396 Ms. Dwyer - I think we can go to the motions for deferrals and withdrawals for
1397 the 7:00 p.m. agenda.
1398

1399 **Deferred from the January 14, 1999 Meeting:**

1400 **C-40C-98** Robert M. Atack for Atack Properties, Inc.: Request to
1401 conditionally rezone from R-2C and R-2AC One Family Residence Districts (Conditional) to
1402 RTH Residential Townhouse District (Conditional), part of Parcels 23-A-72A and 32-A-94,
1403 containing 18.08 acres, located adjacent to the western terminus of proposed J.E.B. Stuart
1404 Parkway and north of the terminus of Proposed Magnolia Ridge Drive. Townhomes or

1405 condominiums for sale are proposed. The RTH District permits densities up to 9.0 units gross
1406 density per acre. The Land Use Plan recommends Suburban Residential 1 development, 1.0 to
1407 2.4 units net density per acre and Suburban Residential 2, 2.4 to 3.4 units net density per acre.
1408

1409 Mr. Merrithew - The first case on the 7:00 p.m. agenda that I have for deferral is
1410 C-40C-98, Page 4. The applicant has requested a deferral until March 11, 1999.
1411

1412 Ms. Dwyer - Is there any opposition to the deferral of Case C-40C-98, Robert
1413 M. Attack for Attack Properties?
1414

1415 Mr. Merrithew - I believe the applicant would like to address this.
1416

1417 Mr. James W. Theobald - Ladies and gentlemen, again for the record, my name is Jim
1418 Theobald and I am here on behalf of Robert M. Attack for Attack Properties, and I would like
1419 to request a 30-day deferral of this case; always in search of providing additional
1420 enlightenment on these cases. We find we have an annual meeting for the homeowners
1421 association for Magnolia Ridge, which has indicated its support of this case through its Board,
1422 but they have their annual meeting on March 3 and we were hoping we could ask Mr. Archer
1423 and Mr. Thornton to that meeting to, perhaps, hear more directly a few additional individuals
1424 and their feelings on this case. And so I would respectfully request your consideration of a 30-
1425 day deferral?
1426

1427 Ms. Dwyer - Thank you, Mr. Theobald. Any questions of Mr. Theobald?
1428

1429 Mr. Archer - I don't have a question, but Mr. Theobald was kind enough to
1430 call me this afternoon and tell me he would be making this request tonight. We have deferred
1431 this case seven times, I believe, since it was first initiated, and we had a meeting with the
1432 applicant and Mr. Theobald last week and he has indicated to me that he is prepared to present
1433 the case, and since we have deferred it so many times, I prefer we go ahead and hear it tonight
1434 if we could.
1435

1436 Ms. Dwyer - So, shall we act on the request for deferral?
1437

1438 Mr. Archer - I move that the request for deferral be denied.
1439

1440 Mr. Vanarsdall seconded the motion.
1441

1442 Ms. Dwyer - We have a motion by Mr. Archer and a second by Mr.
1443 Vanarsdall that the request for deferral be denied. All in favor say aye. All opposed say no.
1444 Mr. Donati abstained. The case will not be deferred.
1445

1446 Mr. Merrithew - The next case that has been requested for deferral is C-13C-99.
1447 They have requested a deferral to March 11, 1999.
1448

1449 C-13C-99 Ralph L. Axselle for Wilton Development Corp.: Request to
1450 conditionally rezone from A-1 Agricultural District and C-1 Conservation District to R-2AC

1451 One Family Residence District (Conditional) and C-1 Conservation District, Parcel 74-A-20,
1452 containing approximately 162 acres, located at the northeast intersection of Diane Lane, Old
1453 Sellers Way and Wilkinson Road. A single-family residential development is proposed. The
1454 applicant has proffered a maximum density of 2.5 units per acre. The Land Use Plan
1455 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.
1456

1457 Ms. Dwyer - Is there any opposition to deferral of Case C-13C-99? No
1458 opposition to the deferral.

1459
1460 Mr. Archer - I move deferral of Case C-13C-99 to the March 11, 1999 meeting
1461 at the applicant's request.

1462
1463 Mr. Vanarsdall seconded the motion.

1464 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall.. All
1465 those in favor say aye—all those opposed by saying nay. (Mr. Donati abstained)..
1466

1467 **P-4-99 Ralph L. Axselle for Wilton Development Corp:** Request for
1468 approval of a provisional use permit in accordance with Sections 24-12.1, 24-95 and 24-122.1
1469 of Chapter 24 of the County Code in order to allow a controlled density subdivision in
1470 conjunction with rezoning Case C-13C-99 on Parcel 74-A-20, containing approximately 162
1471 acres, located at the northeast intersection of Diane Lane, Old Sellers Way and Wilkinson
1472 Road. The site is zoned A-1 Agricultural District and C-1 Conservation District.
1473

1474 Mr. Merrithew - The next case is associated with C-13C-99, P-4-99. They have
1475 requested a deferral to March 11, 1999.

1476
1477 Ms. Dwyer - Is there any opposition to the deferral of Case P-4-99? No
1478 opposition. I am ready for a motion.

1479
1480 Mr. Archer - I move for deferral of P-4-99 until March 11, 1999, at the
1481 applicant's request.

1482
1483 Mr. Vanarsdall seconded the motion.

1484
1485 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall.. All
1486 those in favor say aye—all those opposed by saying nay. (Mr. Donati abstained). The motion
1487 carries.
1488

1489 Mr. Merrithew - That is all the deferrals I have for the 7:00 p.m. agenda and I
1490 have one deferral for the 8:00 p.m. agenda which is Gloria Freye for Triton, P.C.S., P-23-98.
1491

1492 **Deferred from the January 14, 1999 Meeting:**

1493 **P-31-98 Approval of Obstruction Lighting Gloria L. Freye for AAT Communications**
1494 **Corporation:** Request for approval of lighting of a communication tower pursuant to the
1495 approved conditions of Provisional Use Permit P-31-98. This is a 159-foot communication
1496 tower located at the southwest corner of Route 5 and I-295 at the end of Fordson Farm Lane,

1497 on part of parcel 249-A-32. The tower was approved to a height of 199' on September 9,
1498 1998 with no obstruction marking or lighting. The applicant has now requested the tower be
1499 lighted per the requirements of the Federal Aviation Administration. This action requires
1500 approval by the Henrico County Planning Commission.

1501
1502 Mr. Marlles - Mr. Hunter will give the staff report.

1503
1504 Ms. Dwyer - Is there anyone in the audience in opposition to P-31-98? There is
1505 opposition. Thank you. We will call on you later. Ms. Hunter.

1506
1507 Ms. Hunter - The 199-foot lattice tower was approved for this property in
1508 September, 1998. As part of that approval, there was a condition that stated that the applicant
1509 shall obtain approval from the Planning Commission should the FAA require lighting or painting
1510 of the tower.

1511
1512 Following that approval, the FAA has indicated that the tower could be constructed to a
1513 maximum height of 159 feet and would need to be lighted. That request was heard at the last
1514 Planning Commission meeting and was deferred in order for the applicant to get determination
1515 from the FAA of what would be the maximum height of the tower with the lighting required.

1516 The applicant has indicated that the FAA has since determined that the tower could be
1517 constructed to a maximum height of 149 feet with no lighting. The staff believes that the tower
1518 height of 149 feet would allow for collocation opportunities and does not support the lighting
1519 request in order to construct a tower an additional 10 feet. While the applicant has proposed to
1520 use fresnel-style lenses for the lighting, which is designed to reduce impact. Any lighting of the
1521 tower would still have additional impact. The proposed lighting is a 95 watt white strobe light
1522 during the day and a 125-watt red set steady burn light at night. If the lighting request is denied,
1523 the applicant will still be able to construct the tower to 149 feet with no lighting. Staff does not
1524 support the request to light the 159-foot tower.

1525
1526 Ms. Dwyer - Thank you. Are there any questions by Commission members?
1527 No questions. Would the applicant come forward.

1528
1529 Ms. Gloria Freye - Good evening, Madam Chair and members of the Planning
1530 Commission. My name is Gloria Freye and I am an attorney here on behalf of AAT
1531 Communications Corporation. Paul Peckins with AAT is also here with me this evening, as well
1532 as representatives from Triton and from All-Tel. Triton and Altel are the two phone carriers that
1533 have committed to locate on this tower and particularly that commitment would be very strong if
1534 they can go with the 159 feet height, knowing that that would need to have the lighting
1535 requirement.

1536
1537 Their commitment to co-locate on the tower is going to be compromised if we cannot get the 159
1538 feet. It will allow All-tel to go forward. It may permit Triton to locate an antenna on the lower
1539 one, but it will probably mean that Triton will need to seek an additional tower in the area. We
1540 recognize that it is one of the County's principal goals in dealing with the communications
1541 towers is to have a non-proliferation of towers. We feel that, in this situation, a best way to

1542 promote collocation is to maximize the use of this tower; let it be at 159 feet. If there is a tower
1543 to be lighted in this area, this is a good location for it.

1544
1545 It is at the corner of a bean field, it is agriculturally zoned land that is planned for future office
1546 development. It is next to the interstate. It is over 1,400 feet from New Market Road and
1547 Buffin Road. It does have some trees and screening along the Highway and from New Market
1548 Road.

1549
1550 With the fresnel lenses that are being proposed, the newest technology in these type of lights, I
1551 think that some people, I don't know if everyone on the Commission has had an opportunity to
1552 view those lights, but the consensus of the people I have talked to who have viewed them have
1553 said that they are much softer than what you normally see. This is an opportunity to provide the
1554 service with phone service that is needed. This is an area is looking at more and more
1555 development, and the issue really comes down to promoting the County's non-proliferation goal.
1556 We recognize that it will be more obtrusive than not lighting it, but in this case, we feel that
1557 lighting it is reasonable, considering the collocation opportunities that will be there, and it will be
1558 less of an impact on the area than a proliferation of other towers that are not lighted than we
1559 think are very likely to come. We appreciate your consideration. We will be glad to answer any
1560 questions you have.

1561
1562 Ms. Dwyer - Are there any questions for Ms. Freye? Thank you. We do have
1563 opposition.

1564 Mr. Ed Moseley - Madam Chairman and ladies and gentlemen, my name is Ed
1565 Moseley. I live directly across Route 5 from where this tower was proposed. My wife of 49
1566 years was raised right there. We have lived there since 1950. The property that we own right
1567 on Sunday Drive, which is Old Route 5, when you go out the front door you are going to see
1568 this light.

1569
1570 I spoke at your last meeting. I was concerned about the lighting. Ms. Freye called me. I went
1571 at 5:00 a.m. to Mechanicsville and looked at the red light there. I can't say that it is lesser or
1572 more. It is a red light, and then I understand that there is a white light during the day. Since the
1573 last meeting, I have been in touch with FAA and have gotten quite a bit of reading material. I
1574 understand why they would like to have the tower lit above 150 feet for emergency planes and
1575 what have you, and I have no problem with that. But, when I find that we can, or the FAA can
1576 live with 150 feet without lighting it, and it my understanding that there are many more carriers
1577 that need to come into this area, this one tower lighted or not lighted is not going to be all of the
1578 towers that we will have. So, I oppose the lighting of the tower.

1579
1580 I did not speak against the tower when it was proposed in September, but I am adamantly
1581 opposed to the lighting and if there is any way that you come up with an arrangement that
1582 carriers can be served. And I realize that they need to be served, but I would like for you to
1583 consider what is now a residential neighborhood. And, in the future, this property is going to be
1584 developed to a great degree, and how well it will be developed is going to depend on where we
1585 start. And, I don't think we need to start with lighted towers. Thank you.

1586

1587 Ms. Dwyer - Thank you. Are there any questions for Mr. Moseley by
1588 Commission members?

1589
1590 Mr. Vanarsdall - Mr. Moseley, you don't object to the tower, but why do you object
1591 to the lighting? Does it shine in your window?

1592
1593 Mr. Moseley - It is just the lighting. I have visited other areas, Mr. Vanarsdall,
1594 and seen the lights, and I have talked to people who have lived adjacent to them. I just think our
1595 neighborhood can't become accustomed to lights as well as they can a structure standing
1596 dormant, if you will.

1597
1598 Mr. Vanarsdall - Thank you.

1599
1600 Ms. Dwyer - Are there any other questions? Thank you.

1601
1602 Mr. Broadnax Haskins - Madam Chairman and ladies and gentlemen, thank you for letting
1603 me speak a minute. My wife lives in a house that is 600 feet from this tower.

1604
1605 Mr. Vanarsdall - Did you state your name?

1606
1607 Mr. Haskins - I'm sorry. My name is Broadnax Haskins and I own the land right
1608 there; that 16 acres. And if that 16 acres is developed for 16 or 20 houses, or if it is suitable for
1609 that at this time, who would want to buy a piece of property to put a house on with a thing like
1610 that blinking at night? I was told this thing had nothing to do with the airport. That it was only
1611 a marker, that it would be in the way of or obstruct emergency aircraft from coming down I-295,
1612 which would be used as a navigational aid. I think you, or somebody could stand this tower
1613 there, that doesn't make any noise and is not off-color, but that lighting would prevent, I submit
1614 to you for your mature consideration, anybody from wanting to come in there and build a house,
1615 and I just think that it is too obtrusive for where it is. Thank you.

1616
1617 Ms. Dwyer - Thank you. Any questions from Mr. Haskins by Commission
1618 members? No questions. Thank you very much. I am ready for a motion.

1619
1620 Ms. Quisenberry - This has been a difficult time. I don't know if there are any easy
1621 tower cases. You all have done a lot more tower cases than I have done. This one has been
1622 really difficult. The applicant has worked very hard. The citizens have been very concerned. I
1623 think everybody is sensitive to making sure that service is provided to people who need phone
1624 service, but this presents a lot of problems, I think. It is a bad case and it could be a worse case.
1625 The lighting, although improved, is still intrusive. I think most people in the area agree to that,
1626 and although we don't want you to get rid of the newer technology lighting, Ms. Freye, at this
1627 time I would like to recommend that this case be denied.

1628
1629 Mr. Vanarsdall seconded the motion.

1630
1631 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.
1632 All those in favor say aye—all those opposed by saying nay. for denial of P-31-98 approval of

1633 obstruction lighting. All in favor say aye. All opposed say no. (Mr. Donati abstained) The
1634 motion for denial carries.

1635
1636 **P-23-98** **Gloria Freye for Triton PCS, Inc.:** Request for approval of a
1637 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the
1638 County Code in order to construct, operate and maintain a communication tower up to 199' high
1639 and related equipment and improvements, on part of Parcel 47-A-59, containing 2,500 sq. ft.,
1640 east of Interstate 64 between Cox Road and Old Cox Road (3600 Old Cox Road). The site is
1641 zoned A-1 Agricultural District.

1642
1643 Ms. Dwyer - Is there any opposition in the audience to the deferral of Case P-
1644 23-98, Triton, PCS? No opposition.

1645
1646 Mrs. Wade - I assume they are still working with the County on the possibility
1647 of doubling up with the water tower.

1648
1649 Mr. Merrithew - That's right.

1650
1651 Mrs. Wade - All right, if there is no opposition, I move that Case P-23-98 be
1652 deferred until March 11, 1999, at the applicant's request.

1653
1654 Mr. Vanarsdall seconded the motion.

1655
1656 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall All
1657 those in favor say aye—all those opposed by saying nay. The motion for deferral carries.

1658
1659 **C-11-99** **The McGurn Co., Inc.:** Request to rezone from B-2C Business
1660 District (Conditional) to C-1 Conservation District, part of Parcel 31-A-11D, described as
1661 follows:

1662
1663 BEGINNING at a point on the east line of John Cussons Drive +- 555 feet north of the
1664 intersection of the east line of John Cussons Drive and the north line of Mountain Road; thence
1665 with the east line of John Cussons Drive along a curve to the right with a radius of 325.00 feet
1666 and a length of +- 25 feet to a point; thence leaving John Cussons Drive and following the
1667 centerline of a creek as it meanders +- 490 feet to a point; thence leaving said creek
1668 S07°33'55"W, +- 200 feet to a point on the limits of the 100 year flood plain; thence
1669 following the limits of the 100 year flood plain as it meanders +- 550 feet to the POINT OF
1670 BEGINNING and containing +- 1.2 acres of land.

1671
1672 Mr. Marlles - Mr. Merrithew will be giving the staff report.

1673
1674 Ms. Dwyer - Is there any opposition to Case C-11-99, The McGurn Company,
1675 Inc.? No opposition. Mr. Merrithew.

1676
1677 Mr. Merrithew - Madam Chairman, this request for rezoning comes about as a
1678 result of proffered conditions associated with the B-2C property. In order to receive final

1679 approval of the plan of development, the applicant had to submit the application for C-1. I
1680 would point out that the applicant had run a plan of development by the Planning Commission,
1681 gotten their approval, but the POD had run, the time had expired on the POD, so they will be
1682 coming back to you with a new plan of development for the property. However, they have
1683 submitted this application for C-1. It is consistent with County policy to try to get C-1 zoning
1684 along the flood plain portions of property, and in this particular case, we have C-1 on the
1685 residential side of the flood plain all the way across to the south of Deer Springs, and by adding
1686 this C-1 to that, we just provide better protection of the flood plain and, in effect, increase the
1687 buffer for the residential neighborhood, separating it from the commercial business. With that, I
1688 will be glad to answer any questions.

1689
1690 Ms. Dwyer - Are there questions for Mr. Merrithew by Commission members?

1691
1692 Mr. Vanarsdall - I have a question, John. I have a letter from a citizen who lives in
1693 Deer Springs, and I discussed this with you on the phone, but I just wanted you to address this so
1694 he would know that we did consider it. He wanted to know about 11C. It is just across the road
1695 from John Cussons and what he says is "Could Raintree Commons be responsible for
1696 implementing some kind of a buffer?"

1697
1698 Mr. Merrithew - Well, 11C is zoned B-2C, same as this property. The proffers
1699 require, before a final POD is approved on that property, that they also come in and get C-1 on
1700 the flood plain on their side. And there is, in addition to the C-1, in both case, there is a 10 foot
1701 buffer outside of the flood plain that will provide it in any event.

1702
1703 Mr. Vanarsdall - Okay. Thank you. I have no more questions.

1704
1705 Ms. Dwyer - Is there any opposition to Case C-11-99? I'm ready for a motion.

1706
1707 Mr. Vanarsdall - I don't need to hear from the applicant. I know he is glad of that.
1708 I move that C-11-99 be recommended to the Board of Supervisors for approval.

1709
1710 Mr. Archer seconded the motion.

1711
1712 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer. All
1713 those in favor say aye—all those opposed by saying nay to recommend approval to the Board
1714 of Supervisors. The vote is passed.

1715
1716 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the Planning
1717 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the
1718 request because it conforms with the objectives and intent of the County's Comprehensive Plan;
1719 and it will benefit adjoining residences.

1720
1721 C-12C-99 Robert M. Atack: Request to conditionally rezone from A-1C
1722 Agricultural District (Conditional), O/SC Office/Service District (Conditional), M-1C Light
1723 Industrial District (Conditional) and R-2C One Family Residence District (Conditional) to R-

1724 1AC One Family Residence District (Conditional), Parcels 13-A-25, 26 and 33, 14-A-60B and
1725 61, 22-A-1, 2, 10 and 11B and part of Parcels 13-A-31A and 32A, described as follows:

1726

1727 Beginning at a point on the west line of CSX railroad right of way intersected with the North
1728 line of Interstate 295; Thence along the North line of 1-295, North 70 degrees 26 minutes 35
1729 seconds West for a distance of 3444.34' to a point; Thence along a curve to the left having a
1730 radius of 11609.16', an arc length of 498.90' to a point; Thence North 36 degrees 05 minutes
1731 11 seconds West for a distance of 124.11' to a point; Thence North 35 degrees 56 minutes 30
1732 seconds West for a distance of 1163.99' to a point; Thence North 66 degrees 18 minutes 09
1733 seconds East for a distance of 459.98' to a point; Thence South 22 degrees 13 minutes 18
1734 seconds East for a distance of 307.71' to a point; Thence South 78 degrees 12 minutes 40
1735 seconds East for a distance of 300.74' to a point; Thence North 13 degrees 05 minutes 30
1736 seconds East for a distance of 333.56' to a point; Thence North 83 degrees 39 minutes 30
1737 seconds East for a distance of 467.26' to a point; Thence South 01 degrees 47 minutes 00
1738 seconds East for a distance of 91.12' to a point; Thence South 24 degrees 47 minutes 00
1739 seconds East for a distance of 139.88' to a point; Thence North 86 degrees 24 minutes 28
1740 seconds East for a distance of 587.55' to a point; Thence South 84 degrees 45 minutes 50
1741 seconds East for a distance of 960.77' to a point; Thence North 01 degrees 03 minutes 27
1742 seconds East for a distance of 503.70' to a point; Thence South 89 degrees 01 minutes 48
1743 seconds East for a distance of 687.53' to a point; Thence South 87 degrees 09 minutes 37
1744 seconds East for a distance of 363.52' to a point; Thence North 00 degrees 52 minutes 07
1745 seconds West for a distance of 553.50' to a point; Thence along a curve to the right having a
1746 radius of 1885.0' an arc length of 64.08' to a point; Thence South 00 degrees 52 minutes 07
1747 seconds East for a distance of 579.94' to a point; Thence North 89 degrees 41 minutes 20
1748 seconds East for a distance of 193.19' to a point; Thence South 03 degrees 40 minutes 40
1749 seconds West for a distance of 436.00' to a point; Thence South 89 degrees 50 minutes 50
1750 seconds East for a distance of 478.18' to a point; Thence South 06 degrees 27 minutes 31
1751 seconds West for a distance of 2349.21' to a point; Together with and subject to covenants,
1752 easements, and restrictions of record, containing 176.5 acres more or less.

1753

1754 Mr. Marlles - Mr. Merrithew will present the case.

1755

1756 Ms. Dwyer - Is there anyone in the audience in opposition to Case C-12C-99?
1757 There is opposition. Thank you, sir. We get to the opposition in a few minutes. Mr.
1758 Merrithew.

1759

1760 Mr. Merrithew - Thank you, Madam Chairman. Mr. Atack has requested a
1761 rezoning of 176 acres of property on the east side of Mill Road, known as the Hunt Tract. The
1762 property abuts Mill Road, as Mr. Marlles has mentioned, to the east and abuts Interstate 95 to
1763 the south. The property lies behind or to the south of a number of homes along Mill Road or
1764 Bekah Lane, and you can see on the map the property is fronting Mill Road directly that are
1765 not included in this project. The site is currently zoned for Office/Service Conditional and M-
1766 1C. It is predominantly M-1C, Light Industrial. There is a little bit of R-2C and A-1C. All
1767 of those zoning classifications came about in 1990 when the property was rezoned as part of a
1768 larger industrial project, and this industrial project included this property on the east side of
1769 Mill Road, as well as a similar piece of property on the west side of Mill Road. The rezoning,

1770 this evening, is only for the property to the east of Mill Road, and should, based on our review
1771 of the existing proffers that apply to the employment uses, not impact, at all, the development
1772 potential on the other side of Mill Road. The surrounding development is predominantly
1773 residential with a combination of subdivision properties as well as rural residential
1774 development. The applicant is proposing to rezone the site to R-1A, and has proffered a limit
1775 of 177 lots or one unit per acre on the property.

1776
1777 New proffers were received on Tuesday and you do not have to waive the time limit, and I will
1778 go through those in just a second. The proffers provide for a limitation on clearing, adoption
1779 of covenants to address a number of design issues, and, as I said, a limitation on the total
1780 number of units. The applicant has proffered a minimum house size, a finished floor area of
1781 2,100 square feet.

1782
1783 I included in your staff report a set of protective covenants which were distributed by the
1784 applicant at a community meeting to illustrate the kind of architectural design standards that
1785 would be applied to housing in that development. Those particular covenants, and I hope the
1786 applicant speaks to that, I believe, are the ones they intend to apply on this property, but they
1787 are not a proffer. They are there for your information.

1788 He has proffered to adopt protective covenants that will address certain design issues, and that
1789 proffer is something we see quite regularly with residential cases. The covenants that I put in
1790 the staff report, at this point, are for information purposes only.

1791
1792 I should point out also that Schools are looking at this site as a potential middle school
1793 location. The applicant has been in discussion with Schools regarding selling a portion of the
1794 property adjacent to the rail line for the school site. He has proffered that in the event a
1795 portion of the property is used for schools or a school site that the maximum number of units
1796 will drop down to 165 units. So, he is not intending to sell the school site and then squeeze the
1797 same number of those units on the property. He intends to cut the number of units based on
1798 the loss of the school site property.

1799
1800 The R-1A District requires a minimum lot size of 21,500 square feet, provides 30 to 50 feet
1801 between buildings, and 45 foot front yards. Generally, these standards are consistent with the
1802 Board's effort to reduce residential damage and increase residential design standards. It is
1803 very rare that we get an R-1A rezoning application, so generally, it addresses the residential
1804 design concerns that we usually raise during this type of rezoning. Staff is supporting this
1805 application.

1806
1807 Current zoning for the area is M-1 and O/S, have a significant impact on the existing
1808 residential neighborhood. You will note, from the map, that there is no direct access to
1809 Interstate 295. And, since the last rezoning, it has been determined that access to I-295 will
1810 not be granted. At the last rezoning for O/S and M-1, one of the options of accessing the
1811 property would have been access directly to 295. That was going to be researched. It has
1812 been researched and it is not going to happen. That reduces the viability of this property for
1813 industrial development. It reduces the viability, and increases the potential impact if it ever
1814 were to develop industrially. Without the access to 295, this site is less desirable for industrial
1815 uses.

1816
1817 The application will not impact the remainder of the industrial project on the west side of Mill
1818 Road. That project will access directly to Staples Mill essentially at the interchange with 295,
1819 and, therefore, is much more desirable as industry, and will continue, I believe. There has
1820 been some work on that site now. A subdivision for the Hunton Parkway Road has been
1821 approved on a portion of the road and other work is continuing.
1822 Finally, the residential density that would be provided by an R-1A zone sets an excellent
1823 precedent for other residential development in and around this area. Therefore, despite the
1824 current industrial zoning, staff is supporting a residential R-1A zoning on the property. I will
1825 be glad to answer any questions or go through the proffers in more detail.

1826
1827 Ms. Dwyer - Is there a potential school site that has been designated?

1828
1829 Mr. Merrithew - I wouldn't say designated, but the applicant can probably speak to
1830 that. I do know that Schools is looking at a piece of property along the eastern edge of the
1831 site, which would serve to serve the residential neighborhood from the rail lines.

1832
1833 Mrs. Wade - And how many acres do they usually get for a middle school? I
1834 forget.

1835
1836 Mr. Merrithew - For a middle school, I was going to say 25 or 30 acres. That
1837 discussion has gone on outside of the rezoning, so the applicant may speak to it.

1838
1839 Mrs. Wade - So you take away 30 acres and 12 houses?

1840
1841 Ms. Dwyer - Are there any questions of Mr. Merrithew by Commission
1842 members? No questions. Thank you. Would the applicant to present his case. We do have
1843 opposition, so we will institute our 10-minute rule. Would you like to reserve some time.

1844
1845 Mr. Bob Attack - Yes, ma'am. If you would reserve seven minutes for rebuttal.
1846 Madam Chairman and members of the Planning Commission, my name is Bob Attack and I am
1847 the applicant of the property before you. As you will note, the property is approximately 177
1848 acres, and is currently zoned primarily for O/S C and M-1C use. Our proposed R-1A request,
1849 if approved by you and the Board of Supervisors, will allow for one of the lowest density
1850 developments in our County in many years. The density would be equivalent to just over one
1851 lot per acre. I will reiterate what Mr. Merrithew said with regard to the requirement. The
1852 minimum lot size is 21,500 square feet with a minimum of 125 feet of frontage. In addition,
1853 we have thoroughly committed to the quality of this project by the addition of 17 proffered
1854 conditions. The Planning staff, after reviewing this request, has found favor with our proposal
1855 and reflects their recommendation in their report dated January 22, 1999. I would request
1856 your approval of this R-1A request and will be glad to answer any questions you may have.
1857 Thank you.

1858
1859 Ms. Dwyer - Any questions of Mr. Attack by Commission members?

1860

1861 Mrs. Wade - Are the foundations going to be dryvit or stucco if the house is
1862 dryvit or stucco?
1863
1864 Mr. Atack - That is correct, Mrs. Wade.
1865
1866 Ms. Dwyer - Mr. Atack, the protective covenants that were a part of the staff
1867 report were standard is that what they are called. Is this what you intend to use?
1868
1869 Mr. Atack - Yes, ma'am. I am sorry. I should have reiterated that, which
1870 Mr. Merrithew asked, "Were they the restrictive covenants that we would use?" And, the ones
1871 you have in front of you are the actual ones we would use.
1872
1873 Ms. Dwyer- Is that something that you could reference in the proffer?
1874
1875 Mr. Atack - Sure. Yes, ma'am.
1876
1877 Mrs. Wade - I didn't know exactly what you meant by the second sentence in
1878 that proffer 2 about the protective covenants. I mean the last sentence..."homeowners
1879 association, which will govern and approve, among other things, the disturbances in the buffer
1880 area".
1881
1882 Mr. Atack - Well, this property will have minor, that is a good question, Mrs.
1883 Wade. This property will have - it has quite a bit of flood plain - and in previous requests or
1884 attempts at rezoning, there have been a number of discussions regarding R-2 and R-2A, taking
1885 the flood plain that existed and making it common area.
1886
1887 Now, as a response to the residents, you can see the plat in front of you, in the middle, we
1888 have actually drawn lot lines through all of the property, and, therefore, the common areas
1889 which this is sort of alluding to, Mrs. Wade, really evaporates, with the exception of only one
1890 area and that would be to the plat in front of you, to the far right. And that is entrance which
1891 will be the only common area which will be irrigated, lit, and maintained on a perpetual basis.
1892 The homeowners' association will have a very minimal need for the upkeep of that entrance.
1893
1894 Ms. Dwyer - Will there be two access points on Mill Road?
1895
1896 Mr. Atack - Yes, ma'am.
1897
1898 Ms. Dwyer - You have an easement through other property?
1899
1900 Mr. Atack - Yes. We own an access, if you can see that further up. Yes,
1901 ma'am.
1902
1903 Ms. Dwyer - Where would the school site be if the County decides to place a
1904 school there?
1905
1906 Mr. Atack - Approximately where Mr. Merrithew indicated.

1907
1908 Ms. Dwyer - And how many acres would that be?
1909
1910 Mr. Atack - Approximately 30 acres.
1911 Ms. Dwyer - Is the School Board interested in that particular site?
1912
1913 Mr. Atack - Yes, ma'am. I apologize. I have learned a lot about school sites
1914 in the past year. What I realized is, the County chooses it's real estate acquisitions through the
1915 Real Property Department, and what they do is, they make the recommendation to the School
1916 Board and the School Board then makes a decision. So, my dialogue is not then with the
1917 School Board but with the Real Property Department.
1918
1919 Mr. Vanarsdall - And the School Board, Mr. Atack, has been interested in that, I
1920 am told, for the last three years; last three to four years, they have been interested in that site.
1921 They are going to put a school out there somewhere and they think this is very appealing, this
1922 one. I might add that if the School doesn't go through, there will be 12 more houses.
1923
1924 Ms. Dwyer - And this property would be sold to the County or given to the
1925 County?
1926
1927 Mr. Atack - That would be sold.
1928
1929 Mr. Vanarsdall - Sold at a low price. He will feel like they are stealing it.
1930
1931 Ms. Dwyer - I am looking at Proffer No. 10, "Street Improvements." It says,
1932 "Streets will be constructed of asphalt" and I assume that would be the County standard.
1933
1934 Mr. Atack - That is correct.
1935
1936 Ms. Dwyer - And I have had the issue of pit burning from other developments.
1937 Could you describe the method of burning that might be used, or is authorized by this proffer?
1938
1939 Mr. Atack - Yes, ma'am. I think it is a safe way to identify another important
1940 fact. We have had multiple meetings with the residents, and some of these specific issues
1941 relate to responding directly to some of the residents' concerns and that is one of the items.
1942 What we are proffering and what we are warranting is that we will not have open burning.
1943 That the pit burning that we would have is more, and we use pit burning and trench burning
1944 because we use power fans that are much more efficient. They have a lot less residue to them,
1945 and they are a lot cleaner than a typical open burning, but it seems like you could see it with a
1946 satellite, these big types of open pits.
1947
1948 Ms. Dwyer - My understanding of pit burning is that the fire in the pit has to
1949 stay hot at all times so that there is burning, 24 hours a day, 7 days a week.
1950

1951 Mr. Atack - Well, it depends on how long you want the burning, but the
1952 requirement actually is as there is a fire in that pit, it has to be physically maintained as well.
1953 Someone has to be physically on the premises.
1954

1955 Mr. Vanarsdall - It doesn't make as much smoke, does it?
1956

1957 Mr. Atack - No. It is a lot cleaner because you don't have an open area
1958 where things are just getting piled and a lot of smoke is billowing up.
1959

1960 Ms. Dwyer - I guess my experience, in the past, indicated that the fire had to
1961 be kept going at all times, and that if you shut it down on Friday afternoon and started it back
1962 on Monday there would be smoke associated with the closing down and the re-lighting of the
1963 pit, so I didn't know if there was a plan to keep it going. You know, for seven days a week
1964 until...
1965

1966 Mr. Atack - Actually, this clearing here, if developed under its original plan,
1967 as originally zoned, we would have had extensive clearing and that would have probably had
1968 24-hour, 7-day, maybe even longer burning. Since this clearing, and this goes along also with
1969 some questions the residents' have. The first thing we do is we will timber road areas only.
1970 The trees will actually be taken out. What will be burned will be the stumps. And in the area
1971 of the residual of the trees, that usually ends up getting put on the trucks and have mud going
1972 out on them as it goes out onto the road, so it is a lot more efficient. So we won't have
1973 extended periods of burning that you might be associating it with.
1974

1975 Ms. Dwyer - Have you consulted with the Fire Department?
1976

1977 Mr. Atack - Yes, ma'am.
1978

1979 Ms. Dwyer - And how they will monitor this? They will monitor this?
1980

1981 Mr. Atack - Henrico County, and we do work in all of the metropolitan
1982 municipalities, is much more sensitive as we get more populated with burning and how it
1983 affects neighbors and the residual smoke and dust and ash, so the County has some specific
1984 guidelines now, and it also monitored by the Fire Department.
1985

1986 Mrs. Wade - Where do you anticipate the construction entrance will be, Mr.
1987 Atack?
1988

1989 Mr. Atack - The first entrance, Mrs. Wade, will be, as you look at the middle
1990 plat, the closest entrance, if I may step aside from the podium, (walks away from microphone
1991 to discuss with Mrs. Wade).
1992

1993 Ms. Dwyer - Are there any more questions of Mr. Atack by Commission
1994 members? Thank you. There was opposition. If the opposition would come forward, please.
1995

1996 Mr. Bill Cooke - Madam Chair, my name is Bill Cooke, and I am a resident of the
1997 little triangle indicated along Bekah Lane and I believe, to compliment Mr. Attack, this is a
1998 wonderful proposal. I am not so much opposition as I would like some clarification on a few
1999 points. One is, that the matter of zoning that was sent to us in the mail reads much differently
2000 than as it reads on your agenda this evening. This alludes to an R-2C and what we understand
2001 is an R-1AC. I just wanted to clarify that it was R-1AC what we are speaking of here.
2002 Mr. Vanarsdall - Madam Chairman, may I speak about that? I think we should
2003 have Mr. Merrithew verify what I am saying, but when Mr. Attack first filed the case it was R-
2004 2, and then he decided to go with R-1A and give it bigger lots and so forth, so he had to, Mr.
2005 Merrithew, can you explain that to...
2006
2007 Mr. Merrithew - Mr. Attack submitted a new application with R-1A, so the
2008 application is in fact R-1AC, conditional. We did make changes to our newspaper ad and
2009 attempted to make all of the other changes that would be necessary. We, obviously, missed
2010 the change. Now, because it is going downward in density from R-2 to R-1A, we are not
2011 required to make any changes. We did attempt to, but of course, we did miss this one. But it
2012 is, technically, it is R-1A.
2013
2014 Mr. Cooke - Thank you. That resolves one concern. That was dated the 19th
2015 and this is dated tonight, so it is actually backwards. Secondly, we can't see this from the
2016 drawing, as I see it here, but our exit from Bekah Lane to Mill Road, we can only turn one-
2017 way out of there and that is to go right. To get out on Staples Mill, we have to make a U-turn
2018 directly in front of the proposed development, which puts us in jeopardy with the amount of
2019 traffic that would begin to flow here. We've got this major problem. We can't egress right.
2020 And, I wondered what we could do to resolve that, obviously that safety issue before...
2021
2022 Mr. Vanarsdall - I believe that came up the other night at the community meeting,
2023 didn't it?
2024
2025 Mr. Cooke - I was at one. Monday night I was out of town and couldn't make
2026 that.
2027
2028 Mr. Vanarsdall - I believe Mr. Attack, when his turn comes, he can address that.
2029
2030 Mr. Cooke - Those were my major concerns. One was egress and then, of
2031 course, what the zoning is. Thank you.
2032
2033 Ms. Dwyer - Is there anyone else that would like to speak in opposition to this
2034 case? No one. Mr. Attack.
2035
2036 Mr. Attack - Thank you, Ms. Dwyer. I probably won't need the seven
2037 minutes, and I think there are a number of residents who came here this evening who have
2038 been very active in the zoning at all times and also going back to 1989. This property has
2039 quite a bit of history to it, and I might like to defer to any of those who would like to speak,
2040 but with regard to the gentleman's last questions with regard to his having to make a right turn
2041 and then a U-turn back, that was discussed at our last meeting, and Mr. Glover had addressed

2042 it. It had been brought to his attention and he said he will be attempting to get some resolve
2043 and relief to the residents who live on Bekah Lane and they will be able to go out and make a
2044 left-hand turn. That was my understanding, Mr. Vanarsdall. Would you concur?
2045

2046 Mr. Vanarsdall - Yes.
2047

2048 Mr. Attack - So, if there are no other questions, I think there is someone who
2049 would like to speak.
2050

2051 Mr. Vanarsdall - When was the, did the 330 houses come up last year or the year
2052 before?
2053

2054 Mr. Attack - Yes, sir. It came up about 12 months ago. It might have been
2055 1997; it might have been in late 1997.

2056 Mrs. Wade - Is Bekah Lane, are all of the lots developed on Bekah Lane?
2057

2058 Mr. Attack - Yes, ma'am. If I may, I would defer to this gentleman.
2059

2060 Mr. Harris - My name is Talmadge Harris and I live at 11531 Mill Road
2061 directly in front of the proposed Hunton Estates development. My property is one of the most
2062 highly impacted by this development. With the proposed layout, I will have seven new
2063 neighbors bordering me. My wife and I moved here 13 years ago because we fell in love with
2064 an old house and its setting. With almost six acres, we were insulated from the industrial land
2065 behind us. RF&P Railroad, the owner at that time, promised us a high-quality office park with
2066 no impact to our property or Mill Road. Then, a new owner, Harper and Associates,
2067 purchased the land and offered two undesirable choices; industrial warehouses or high-density
2068 housing of 330 units. That has been brought up earlier. The residents voted for the industrial
2069 option. My wife and I realized the possibility that, over time, our side of the road could
2070 become all industrial with the other side residential. Although many of us would like to see
2071 the land unchanged, that is not realistic. Now, Mr. Attack owns the property, proposes low
2072 density, high quality homes, and the possibility of a new middle school, which is sorely needed
2073 for this area. For this reason, I support changing the zoning from M-1 Industrial to R-1 as the
2074 developer requests. In my opinion, this proposal was in the best interest of the area and the
2075 best use of this land. Thank you.
2076

2077 Ms. Dwyer - Are there any questions of Mr. Harris? Thank you.
2078

2079 Mr. Vanarsdall - I thank you for calling me, Mr. Harris. Just a formal thank you.
2080

2081 Ms. Dwyer - Is there anyone else who would like to speak for the case? No
2082 one. Mr. Vanarsdall.
2083

2084 Mr. Vanarsdall - The other night, this past Monday night after the community
2085 meeting, I had at least three people ask me if I would like for them to come and speak in favor
2086 of the case, and then one person called me on the phone because they could not be here, and
2087 then Mr. Harris called me, and then someone else said that he had something planned tonight,

2088 but if I really needed him he would postpone that. I really appreciate that. I will start by
2089 saying that this case really goes back all the way to 1990, as Mr. Atack mentioned, and it was
2090 the whole Hunton area involved, 425 acres, or 400 plus acres, and mixed uses, and this portion
2091 of it was originally, as Mr. Merrithew said, for industrial. And, then, it seems like a year
2092 ago, but maybe it was late 1997, another developer came up with the idea of residential on this
2093 property. And, you would have thought everyone would have jumped at the opportunity to
2094 have residential rather than industrial, and through a tremendous turnout of people and a
2095 tremendous vote, they voted down the residential. The reason for that was it was 330 homes
2096 versus 165. The traffic was one of the big problems. There was no school offered, and it was
2097 not this kind of zoning. Now, Mr. Atack has come back with 165 homes, with the school, and
2098 177 homes without the school.

2099
2100 Mr. (unintelligible), who is the Brookland District elected School Board official, was at the
2101 meeting Monday night, and he told us that while there has been no contract signed on the
2102 school and no surveying done, that the School Board has been interested in that area for three
2103 to four years, and that that was one of the best sites they could think of, and it would certainly
2104 help this development, and this development would certainly compliment the school. So, it is
2105 almost a “win-win” situation.

2106
2107 Mr. Atack has done a good job in talking to the neighbors. He has talked to the Steering
2108 Committee a couple of times. He has talked to the neighbors, he has had two meetings; the
2109 last one was last Monday night, and everybody aired their differences. And while I am sure
2110 there are some people that would be opposed, like Mr. Harris said, and would like to leave it
2111 like it is, I never saw an overwhelming majority of people in favor of a case. And, besides,
2112 there being no opposition here tonight, it certainly proves that. So, I think I can’t remember
2113 since I have been on the Commission any better zoning category, and I know we have never
2114 had one that good in Glen Allen, although we have maintained R-2 and so forth, which is good
2115 zoning out there, too. So, with that, I recommend wholeheartedly to the Board of Supervisors
2116 to approve Case C-12C-99.

2117
2118 Mr. Archer seconded the motion.

2119
2120 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer. All
2121 those in favor say aye—all those opposed by saying nay (Mr. Donati abstained) to recommend
2122 approval.

2123
2124 Ms. Dwyer - I would mention for the record that our agenda indicates this is to
2125 be rezoned to R-2C instead of the R-1AC. You might want to note that correction.

2126
2127 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the Planning
2128 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the
2129 proffered conditions and grant the request because it is appropriate residential zoning at this
2130 location; it would not adversely affect the adjoining area if properly developed as proposed; and
2131 it represents a logical continuation of the one-family residential development which exists in the
2132 area.

2133

2134 Deferred from the January 14, 1999 Meeting:
2135 C-40C-98 Robert M. Atack for Atack Properties, Inc.: Request to
2136 conditionally rezone from R-2C and R-2AC One Family Residence Districts (Conditional) to
2137 RTH Residential Townhouse District (Conditional), part of Parcels 23-A-72A and 32-A-94,
2138 described as follows:

2139
2140 Beginning at a point on the southwest right-of-way line of future "Jeb Stuart Parkway;" thence
2141 S. 46° 47' 58" E., 73.08' to a point; thence S. 44° 45' 01" E., 1005.34' to a point; thence N.
2142 15° 15' 26" E., 859.10' to a point; thence N. 55° 30' 00" W., 267.53' to a point; thence N.
2143 44° 45' 00" W., 373.12' to a point; thence N. 38° 12' 00" E., 2.03' to a point; thence N. 51°
2144 48' 00" W., 44.00' to a point; thence along a curve to the right having a radius of 1397.00';
2145 13.50' to a point; thence N. 47° 56' 00" W., 120.70' to a point; thence N. 87° 19' 00" W.,
2146 149.79' to a point; thence continuing along the northwest line of Magnolia Ridge Section 1
2147 Common Area S. 44° 16' 00" W., 582.71' to a point; thence continuing along a strip of
2148 Magnolia Ridge Section 1 Common Area running parallel with the right-of-way line of future
2149 Jeb Stuart Parkway S. 46° 47' 58" E., 281.61' to a point; thence along a curve to the right
2150 with a radius of 30.00', 50.82' to the point of beginning, containing 18.08 acres.

2151
2152 Mr. Marlles - Ms. Gardner will present the staff report.

2153
2154 Ms. Dwyer - Is there anyone in opposition to Case C-40C-98? We have
2155 opposition. Ms. Gardner.

2156
2157 Ms. Gardner - Good evening. This is a proposal to rezone 17 acres from R-2C
2158 and R-2AC to the RTHC District – Townhouses. This would allow 96 attached units for
2159 density of 5.7 dwelling units per acre. This would be an extension of the Villa at Virginia
2160 Center Commons project.

2161
2162 There are primarily three arguments against this case. First, it deviates from the concept of
2163 Magnolia Ridge approved in 1994. That concept provided for higher density along Route 1
2164 and a reduction in density as we move away from Route 1. This would disrupt that pattern.

2165
2166 Secondly, this would add to the overall density of the area. We have had numerous requests in
2167 this vicinity for increased intensification of uses. This is yet another example.

2168
2169 And finally, of course, this is not consistent with the Suburban Residential 1 Designation of the
2170 plan. The plans are for 1 to 2.4 units per acre or 40 single-family detached homes, and again,
2171 this is a proposal for attached homes.

2172
2173 The applicant has submitted proffers to offset the impact of the project on the immediate
2174 vicinity. I won't get into any detail on those. I had nothing further to propose to offset the
2175 impact.

2176
2177 And, one point that came up during the review process was the construction of two roads, JEB
2178 Stuart Parkway and Magnolia Ridge Parkway along both sides of the project. That would be

2179 along here and along here. The Traffic Engineer has confirmed that the applicant would have
2180 to construct both of those roadways along the proximity of their project at the time the project
2181 would be built. Again, the density is excessive and the use type is inappropriate and staff
2182 recommends denial. I'd be happy to take any questions.

2183
2184 Ms. Dwyer - Any questions for Ms. Gardner by Commission members?

2185
2186 Mr. Vanarsdall - Ms. Gardner, you do not support the request?

2187
2188 Ms. Gardner - No.

2189
2190 Mrs. Wade - Weren't the transportation issues deferred?

2191
2192 Ms. Gardner - I believe the applicant, at one point, was not enthusiastic about
2193 having to build these roads, but the Traffic Engineer confirmed that they would, in fact, have
2194 to build those roads.

2195
2196 Ms. Dwyer - Ms. Gardner, you say in your staff report that 40 detached single-
2197 family homes could be built on the property as currently zoned. Is that correct?

2198
2199 Ms. Gardner - Yes. That is correct.

2200
2201 Ms. Dwyer - And I understood that there was an overall cap for Magnolia
2202 Ridge of 500 homes and, possibly, the increase in density here would not push the overall
2203 subdivision over that. How do you respond to that in terms of the concept of Magnolia Ridge
2204 as a whole and whether that is a problem?

2205
2206 Ms. Gardner - That is very true, and if this case were approved as proffered, it
2207 would not exceed that 500-unit cap for Magnolia Ridge as whole. However, it is likely that
2208 500 was an excessive cap to begin with and not realistic and that was really a limitation to
2209 begin with. As we can see, there is a pretty substantial jump in density on this acreage and it
2210 still leaves them within the cap, so that was not a very effective cap, in my view.

2211
2212 Ms. Dwyer - So, in your view, when the original Magnolia Ridge was
2213 rezoned, perhaps, the Board relied more on the zoning classification than the overall cap as a
2214 control of density and type of housing?

2215
2216 Ms. Gardner - Yes. I think that is fair, and certainly again, that pattern of
2217 density, the more intense uses up on Brook Road, up on Route 1, and the gradually decreasing
2218 density, as we get away from Route 1.

2219
2220 Mrs. Wade - Do you know how many acres there were in Magnolia Ridge in
2221 the case originally?

2222
2223 Ms. Gardner - I don't. I am sorry. I can look it up.

2224

2225 Ms. Dwyer - Are there any more questions of Ms. Gardner by Commission
2226 members? Thank you, Ms. Gardner. Mr. Theobald, would you like to reserve some time for
2227 rebuttal?
2228

2229 Mr. Theobald - Yes. Perhaps two minutes, please. Madam Chairman and ladies
2230 and gentleman, for the record my name is Jim Theobald and I here this evening on behalf of
2231 Atack Properties and Tascon Group with a request to rezone approximately 17 acres of land in
2232 Magnolia Ridge from R-2 and R-2A to RTH in order to construct an additional phase of the
2233 Villas at Virginia Center. This permits the expansion of the upscale condominiums for empty-
2234 nesters at Virginia Center resulting in significantly less of an impact on this area and County
2235 infrastructure than will occur under the current zoning, while remaining under the original
2236 density cap approved by the Board of Supervisors by Magnolia Ridge. I must take some
2237 exception to the comment that the Board didn't really intend to provide a 500 unit cap that they
2238 were thinking something else.
2239

2240 Ms. Gardner was not here to witness that. I was, and I think that is just an erroneous
2241 statement. This is really a rare case where we can demonstrate exactly what our product is.
2242 What it is going to look like? How it is going to function? And what the impact will be.
2243

2244 The second phase is really just a mirror image of the original development. I, respectfully,
2245 suggest that staff's position in this case, while having certain philosophical merit, greatly
2246 elevates form over substance, which is going to require you to choose between the two.
2247

2248 Tascon is a local developer, which has obtained a license for a proven empty-nester product
2249 that has been developed in many parts of the country with some 5,000 units already in
2250 existence. The design, amenities and marketing approach have been tried and tested with great
2251 success. The initial phase of The Villas of Virginia Center consisted of 64 units; 58 of which
2252 were presold, demonstrating the demand for this empty-nester product.
2253

2254 You must look at what that product really is. They are ranch-style owner-occupied
2255 condominiums in a village like setting with no exterior maintenance obligations on the owners.
2256 They are developed in clusters of four; each side of the residential structure basically looking
2257 as you see in the proffered elevation above, as a single-family home. These units have two or
2258 three bedrooms, and all of the units have attached garages and fireplaces. Clubhouse areas
2259 provide, (Could we put up the clubhouse?), the clubhouse area provides community meeting
2260 space, exercise room, a heated pool, a putting green and shuffle board. You have also
2261 proffered the construction of that recreational facility with our very first phase of development.
2262 These units will range from 1,250 square feet to 1,750 square feet, with prices somewhere in
2263 the range of between \$120,000 and \$170,000.
2264

2265 Condominium Association dues guarantee a carefree lifestyle, including the maintenance of all
2266 exteriors, landscaping, snow removal right to your front door, trash removal, and water and
2267 sewer charges. These are the kind of amenities that respond to the wants and the needs of our
2268 target group, which is the empty nesters, and these statistics are important. Eighty percent of
2269 the buyers of The Villas, as well as our sister communities across the country, are over 55

2270 years of age. Over 60percent of the residents are retired with an additional 9percent being
2271 semi-retired.

2272
2273 Nearly 70percent of our residents only have one car, resulting in far less traffic than would be
2274 generated by the 60 some single-family lots already approved for these 17 acres. There are
2275 no, I repeat, there are no school-age children in our initial phase. A full one-third of the units
2276 only have one occupant residing in them.

2277
2278 We have proffered buffer areas along JEB Stuart and against any adjacent single-family
2279 residential building lots. We have provided a 50 foot building setback from JEB Stuart. We
2280 have proffered our site plan and we have proffered our elevation. We have committed that no
2281 more than 92 units, that is what the proffer says, not 96, no more than 92 units will be built on
2282 the property. We have also committed to submit this project to the provisions of the Virginia
2283 Condominium Act so as to assure the form of ownership and a maintenance-free environment.
2284 We have limited the height of street lighting to no more 10 feet in height and we have
2285 prevented any direct access to JEB Stuart Parkway or Magnolia Ridge Drive. When staff
2286 suggests that this request is inconsistent with the Land Use Plan designation and so results in
2287 unacceptable transition of density that was the key element in the overall plan for Magnolia
2288 Ridge, yet it is 100 yards away from the existing RTH and catty-cornered to the rear of the
2289 proposed Ukrops.

2290
2291 The original rezoning of Magnolia Ridge had a density cap of 500 units, and I think that was
2292 meaningful in the original case. Mr. Attack was expected to extend infrastructure, dedicate
2293 roads, build roads, extend water and sewer based on the infrastructure that could include up to
2294 500 units, not some other theoretical number, and, presumably, the Board, with their approval
2295 of that density cap, took into account their Capital Improvements Program planning that fact
2296 that you could have 500 units in Magnolia Ridge.

2297
2298 With the approval of this request, Magnolia Ridge will still only develop at the level of 454
2299 units, almost 10percent under the approved cap. So, in understanding the comments about
2300 density and transition, understand that, within the microcosms of Magnolia Ridge, we are not
2301 increasing density beyond that, which was approved previously by the Board of Supervisors.
2302 But, you just can't say the word, "density" without looking at the elements of it as though that
2303 were the end of the discussion. You really have to look at the attributes of density that cause
2304 that term to be viewed positively or negatively.

2305
2306 The existing zoning and approved tentative plats would permit some 60 single-family detached
2307 homes to be built on the 17 acres by the County's own standards, which you see day in and
2308 day out, in your staff reports, that could produce over 120 to 140 school age children.

2309
2310 Your Staff has already suggested on page 4 that there is little capacity to lower schools in that
2311 area and there is significant concern with regard to secondary schools. So, if approved, this
2312 rezoning will result in almost no school age children. So, with regard to schools, does our
2313 density result in a better or worse impact on the County schools?

2314

2315 Let's look at traffic. Sixty some single-family homes by County standards will produce ten
2316 trips a day. That is some 600 trips a day; 10 trips per household. You have heard the
2317 demographics about car ownership and the retirement status of our residents, and we have got
2318 some actual traffic counts from some sister projects, which were taken in another part of the
2319 country that we can show you here. This really demonstrates that, on Wednesdays between
2320 7:00 a.m. and 9:00 a.m., there are a total of nine cars entering the project and 38 cars exiting.
2321 On Saturday morning between 10:00 a.m. and noon there were a total of 31 cars entering, and
2322 37 cars exiting. The numbers were similar on Friday morning. Based on the County's own
2323 data and as confirmed by Mr. Foster, does the density of my request or the density of the
2324 existing zoning have a greater or worse impact on traffic?
2325

2326 Let's look at new road construction. Existing R-2 and R-2A zoning does not require any
2327 construction or contribution for the extension of JEB Stuart Parkway. The existing zoning
2328 requires not to build that at all. Right of way for JEB Stuart is already generously donated by
2329 Mr. Atack, and contrary to Ms. Gardner's comments, we have agreed with Public Works, and
2330 I talked to Bob Thompson again, as recently as 4:00 p.m. this afternoon that, based on a
2331 commitment to contribute \$150,000 for the extension of JEB Stuart Parkway, he will not
2332 require any further road construction based on the prior history road construction of Magnolia
2333 Ridge and the impact of this on the area. So, does the density of my request have a positive or
2334 negative impact on your ability to extend roads in the area? You get \$150,000 with this
2335 request. You get nothing and no road without it. Let's look at recreation facilities. Tascon has
2336 committed to provide its own with its first phase of development. There are going to be sixty-
2337 some few families using the proposed Magnolia Ridge facility and potential County facilities as
2338 well. I should add that Tascon has agreed to an on-going financial contribution to the
2339 Magnolia Ridge Homeowners Association so that they will continue to receive the same
2340 revenue stream, had those families, in fact, been using those facilities. So, again, does my
2341 density, suggested by this request, have a positive or a negative impact on Magnolia Ridge's
2342 recreational facilities and the County's facilities? Look at road maintenance. The approved
2343 tentative shows extension of various public roads in the subdivision. Roads within our
2344 proposed phase of The Villas are private roads. They are maintained by the condominium
2345 homeowner's association. So, again, does this density have a positive or a negative impact on
2346 the County's obligations to provide for road maintenance and snow removal in Magnolia
2347 Ridge? How about property taxes? It is quite a scorecard. The average price of a home in
2348 Magnolia Ridge is \$150,000, resulting in real estate taxes of some \$94,000 per year for the 60
2349 some approved homes, which amount, however, would be spread out over however long it
2350 takes for Magnolia Ridge to develop out. Real estate taxes generated by our proposal would
2351 equal some \$131,000, almost \$37,000 a year more, which will be received and on a much
2352 faster time table. So, again, does the proposed density of The Villa have a positive or negative
2353 impact on the County's tax coffer?. I think that this dramatically demonstrates that the result
2354 of this request, when it impacts the density, not just the word, the impact to density is
2355 scrutinized, the result is higher tax revenue, less traffic, radically fewer school-aged children,
2356 a significant contribution towards JEB Stuart Parkway, fewer maintenance obligations on the
2357 County and few demands on recreational facilities.
2358

2359 Well, that is the substance of this case. There is a demonstrated critical need for this type of
2360 housing in Henrico County. This is a very desirable group of residents for our County. In

2361 fact, the vast majority of folks that move into The Villas were already residents of Henrico
2362 County looking for an alternate lifestyle. Even your staff suggests that this is consistent with
2363 one of your more important goals, objectives and policies of the Land Use Plan.
2364

2365 We have met on a number of occasions with the Board of the Magnolia Ridge Homeowner's
2366 Association, who, in turn, had notified every single resident in Magnolia Ridge, of this
2367 pending proposal. I am pleased that the Association has voted to support this request. I didn't
2368 see anybody here from Magnolia Ridge raise their hand in opposition to this case this evening.
2369 I think these alternatives are very, very clear. They are not academic. They are not
2370 philosophical. Whatever your choice, whatever your vote, at least you know the results to the
2371 County. This is an instance where a choice of lower density is not necessarily the best
2372 planning, given the alternative. And, I would strongly urge you to choose substance over
2373 form. I'd be very happy to answer any questions.
2374

2375 Mr. Archer - Mr. Theobald, you have indicated several times that the number
2376 of single-family residences that could be built is 60? The plan indicates 40...
2377

2378 Mr. Theobald - That is the reference under the SR-1 Land Use Plan Proposal.
2379 The reference in the staff report is the Suburban Residential 1 designation of the property
2380 would support no more than 2.4 dwellings per acre for 40 single-family detached dwellings.
2381 This is R-2A and R-2 Controlled Density.
2382

2383 Mr. Archer - Well, I needed a clarification of that. The Staff report said 40,
2384 and you are saying 60.
2385

2386 Mr. Theobald - I think that Ms. Gardner clarified that based on a question from
2387 Ms. Dwyer in her presentation.
2388

2389 Ms. Dwyer - It was 40.
2390

2391 Mr. Theobald - Oh. I am sorry. I thought she said 60 in her presentation.
2392

2393 Mrs. Wade - How does the density of this project compare with the current
2394 condominiums?
2395

2396 Mr. Theobald - There are about 64 units in the current phase and 92 in the second
2397 phase.
2398

2399 Mrs. Wade - How much per acre? How many acres are in it?
2400

2401 Mr. Theobald - In the first phase, the same acreage. The same density, lower
2402 acreage than the first phase. It is the same density per acre.
2403

2404 Mrs. Wade - Per acre? So the amount of green space is similar than in this
2405 plan? I have seen the others, but I didn't go in there looking at all of these places. I know
2406 they sold like hotcakes.

2407
2408 Mr. Theobald - It was a very popular project, and there is one under construction
2409 in Chesterfield County on Buckingham Road and they've got a unit out of the ground under
2410 roof and they have sold 28. There is a tremendous demand for this product in the market with
2411 people.
2412
2413 Mrs. Wade - The only problem before, I gathered, was they over-extended
2414 themselves.
2415
2416 Mr. Theobald - The problem with Phase 1 is they were taken by surprise by the
2417 popularity of the units. We couldn't finish them fast enough.
2418
2419 Ms. Dwyer - The previous paper that you had on the board here, does that say
2420 the maximum number of housing units that was possible in Magnolia Ridge under current
2421 zoning was 417? Is that what that figure was?
2422
2423 Mr. Theobald - I am sorry. I have the wrong page up there. We didn't have the
2424 traffic one up there. We had the density one up there. That is right. It shows the original
2425 zoning allowed 500 units; the approved tentative is for 417, with expected final total
2426 somewhere in the neighborhood of 454.
2427
2428 Ms. Dwyer - So, is it 454 without any changes in zoning? That is the
2429 maximum number of units?
2430
2431 Mr. Theobald - No. That would include, 454 would be inclusive of this request.
2432
2433 Ms. Dwyer - But 417 is without it? Is that correct?
2434
2435 Mr. Theobald - Approximately, right.
2436
2437 Ms. Dwyer - So, under the zoning for the original Magnolia Ridge, 417 units
2438 were possible but it was proffered that there would be no more than 500.
2439
2440 Mr. Theobald - Yes, 417 represents current engineering layout of plats. Five
2441 hundred was before engineering was contemplated.
2442
2443 Ms. Dwyer - Are there any other questions of Mr. Theobald by Commission
2444 members?
2445
2446 Mr. Donati - Mr. Theobald, what is the average square footage?
2447
2448 Mr. Theobald - They range between 1,250 square feet and 1,750 square feet,
2449 single-story.
2450
2451 Mrs. Wade - Is this 92 or 90?
2452

2453 Mr. Theobald - It is 92 by proffer.
2454
2455 Mrs. Wade - Well, maybe there are some new proffers on it.
2456
2457 Mr. Theobald - No, they are not new proffers. They are not too new. They are
2458 dated January 28, "Second amended and restated, proffer No.7". I believe the proffers were
2459 probably submitted as the staff reports were being mailed out, so what is attached to your staff
2460 report does not reflect those filed on the 28th of January.
2461
2462 Ms. Dwyer - What other changes were made?
2463
2464 Mr. Theobald - The density, the labeling on the plan was changed because we
2465 revised our site plan for the 92 units.
2466
2467 Mrs. Wade - So the latest proffers are dated what, then?
2468
2469 Mr. Theobald - January 28, 1999. You should have all gotten copies of those.
2470
2471 Ms. Dwyer - Do you have those, Mrs. Wade?
2472
2473 Mrs. Wade - No. I don't.
2474
2475 Ms. Dwyer - Which unit have you omitted; one unit?
2476
2477 Mr. Theobald - One building was omitted based on the need for an on-site BMP.
2478
2479 Ms. Dwyer - Which one was omitted?
2480
2481 Mr. Theobald - It was at the back. If you look at the plan, I believe we lost one
2482 along the back row here. Is that right, Steve? On the northwest corner.
2483
2484 Ms. Dwyer - Building 14 maybe in our original. Are there any other questions
2485 for Mr. Theobald?
2486
2487 Mr. Theobald - Thank you.
2488
2489 Ms. Dwyer - Would the opposition come forward please.
2490
2491 Mr. Dick Kiefer - Ladies and gentlemen, my name is Dick Kiefer and I represent
2492 Virginia Center. In the past I have been involved in the zoning of all of the property on the
2493 west side of U.S. Route 1 going back several years prior to Mr. Atack's buying additional
2494 property and subdividing Magnolia Ridge.
2495
2496 I have two points to make before the Commission here this evening. On the density issue, I
2497 agree with Mr. Theobald. I think the use of this particular tract of land being kitty-cornered, if
2498 you will, from the office and commercial property of Ukrop's and Target parcel is consistent

2499 with the discussions that I had with staff many years ago about a transition from Route 1 retail;
2500 more intense residential leading back to low (Gap in tape) Magnolia Ridge single family,
2501 because I'm not aware of that. The other reason that I'm here this evening is the JEB Stuart
2502 Corridor. Virginia Center has worked with the County for a considerable period of time to
2503 create a corridor from U.S. Route 1 to the woefully underutilized interchange at I-295. To
2504 that end, Virginia Center has dedicated 2.5 to 3 acres of right of way and constructed about
2505 1,300 lineal feet of that divided roadway, including a signal light at the intersection of U.S.
2506 Route 1 and JEB Stuart Parkway in conjunction with the first phase of this project. We
2507 completed the four laning of that road next to the current villas leading up to its present
2508 terminus at this property, or just on the east side of the ditch that leads to this property, if you
2509 will.

2510
2511 So, our main point before the Commission this evening, is we feel that there should be a
2512 commitment to construct a minimum of two lanes along the frontage of this property. We feel
2513 this is consistent with County policy. We feel that it will avoid circumstances such as you
2514 have on the west end with John Rolf Parkway, with development occurring before adequate
2515 infrastructure has been put in place, and future opposition to that infrastructure. And, we just
2516 think its in the best interests of the County and the Fairfield District to be sure that this road is
2517 constructed, and the cash offer does not go far enough, in our opinion, to achieving the
2518 construction of this major thoroughfare. With that, I'll be glad to answer any questions.

2519
2520 Ms. Dwyer - Any questions for Mr. Kiefer by Commission members?

2521
2522 Mrs. Wade - Will there be sidewalks along there, Mr. Kiefer?

2523
2524 Mr. Kiefer - There are currently sidewalks along what would be the
2525 northeasterly edge of the Phase 1 of the Villas, yes, on JEB Stuart Parkway.

2526
2527 Mrs. Wade - So, people would be able to walk from here to the shopping
2528 center?

2529
2530 Mr. Kiefer - We had proffers in our zoning to provide sidewalks on our retail;
2531 our B-2 and our B-3 property, as well as the RTH that this first phase was constructed on this
2532 same product.

2533
2534 Ms. Dwyer - Any other questions? Thank you. Is there any one else to speak
2535 in opposition? No one. Mr. Theobald.

2536
2537 Mr. Theobald - Can I have the zoning map back up, Harvey? Thank you. I
2538 appreciate Mr. Kiefer's comments both on the use and on traffic. And I will just point out a
2539 couple of things to you for your consideration. Number 1 is this piece was not a part of the
2540 original Figgie property. Mr. Attack bought this from another source. But in order to help the
2541 County with the future alignment of Woodman Road, which has been so problematical over the
2542 property that is the Fletcher Azalea Farm over here, Mr. Attack has dedicated the right of way
2543 along the boundary of this proposed piece to the County without charge. He did not have a
2544 commitment to build that section of the road.

2545
2546 In my discussions with Mr. Thompson, he confirmed, today, that he did have a commitment
2547 from Ukrops to extend Granville all the way to JEB Stuart Parkway. We will be extending
2548 Magnolia Ridge Drive along this boundary (referring to slide) that will hook up and permit the
2549 extension of Granville and traffic to ultimately get back to Route 1. But I guess where I
2550 respectfully take an issue with Mr. Kiefer is, if the zoning isn't approved, you get no
2551 construction and no money. If this request is approved, he and everyone else are at least
2552 \$150,000 further down the road. And, again, this was a discussion between Mr. Weinberg
2553 and Mr. Thompson of a few weeks ago when they reviewed the history of commitments
2554 regarding this road system and Magnolia Ridge. And, Mr. Thompson was comfortable with
2555 this contribution in lieu of the building obligation. I'm only sorry that he didn't apparently
2556 relay that to the Planning Staff.

2557
2558 Ms. Dwyer - Any questions of Mr. Theobald? Ready for a motion?

2559
2560 Mr. Archer - I think so, Madam Chairman. We've had quite a bit of
2561 discussion regarding this, and Mr. Atack and Mr. Theobald have been very cordial with us in
2562 our meetings. And, Mr. Theobald, I might mention also, regarding your letter from the
2563 Board, tonight, Mr. Thornton has had some fairly major surgery and I'm not sure he would be
2564 sufficiently recovered in time to meet with them by March 3rd. He may, but it would be
2565 somewhat of a miracle I believe.

2566
2567 The product proposed by this applicant is certainly of good quality if anybody has been out
2568 there and seen it. We've had meetings with Mr. Atack and the gentleman from the Tascon
2569 Group. I don't think anybody has any problem at all with the product that's proposed.

2570
2571 Contrary to what we hear, there are residents, there are single family residents who constantly
2572 complain about the density in Magnolia Ridge. I'm not sure all of it is your fault, but the other
2573 day when we met, by the time I got back to my office, I had received a call from somebody
2574 who wanted us to put four way stop signs at all the intersections of Magnolia Ridge.
2575 The staff's position in this case is similar to my own. Even though we talk about density as
2576 being an issue that might be something real or unreal, we have been consistent in our position
2577 that, as we move away from Brook Road in a westerly direction, the density would transition
2578 down to a lesser intensity.

2579
2580 Fairfield has a very disproportionate share of SR-1 zoning or anything in the R-2 classification
2581 and R-2A. Mr. Theobald's argument, I think, is a good one, but I don't know that it is
2582 compelling enough to go away from what the Land Use Plan has been and what our
2583 recommendations have been to this point for development in and adjacent to Magnolia Ridge.
2584 And you'll have another opportunity, the opportunity exists to present this argument again
2585 before the Board and they may see it differently. But, as for now, I concur with the Staff's
2586 recommendation and it is my motion to recommend denial.

2587
2588 Ms. Dwyer - Motion by Mr. Archer. Is there a second?

2589
2590 Mr. Vanarsdall seconded the motion.

2591 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All
2592 those in favor say aye—all those opposed by saying nay. The motion to recommend denial to
2593 the Board is carried.

2594
2595 REASON: Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
2596 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the
2597 request because it would likely set an adverse zoning and land use precedent for the area; it
2598 would have a detrimental impact on the adjoining residential neighborhood; and does not
2599 conform to the recommendation of the Land Use Plan nor the Plan's goals, objectives and
2600 policies.

2601
2602 **C-3-99 Windsor Enterprises, L. L. C.:** Request to rezone from R-4 One
2603 Family Residence District and C-1 Conservation District to R-4 One Family Residence District
2604 and C-1 Conservation District, part of Parcel 73-A-18, described as follows:

2605
2606 C-1 area to be rezoned R-4

2607 COMMENCING at a point, said point being the southwestern most corner of Lot 21, Lakeside
2608 Terrace, Block 24, Section 2, in the County of Henrico, Virginia; THENCE 31 feet south
2609 along the western boundary of the unrecorded Chamberlayne Hills Subdivision as shown on
2610 Sheets 5 and 5B of the plans for Route 95 State Highway Project 0095-043-101 C1, referenced
2611 in Deed Book 946, page 122, to the point of BEGINNING; THENCE approximately 582 feet
2612 south along the western boundary of the unrecorded Chamberlayne Hills Subdivision to a
2613 point; THENCE S 60° 29' 31" W 205.96 feet to a point; THENCE N 19° 58' 23' W 348.59
2614 feet to a point; THENCE N 29° 27' 5' E 394.20 feet to said point of Beginning, containing
2615 2.5 acres more or less.

2616
2617 R-4 area to be rezoned C-1

2618 COMMENCING at a point, said point being the southwestern most corner of Lot 21, Lakeside
2619 Terrace, Block 24, Section 2, in the County of Henrico, Virginia; THENCE 613 feet south
2620 along the western boundary of the unrecorded Chamberlayne Hills Subdivision as shown on
2621 Sheets 5 and 5B of the plans for Route 95 State Highway Project 0095-043-101 C1, referenced
2622 in Deed Book 946, page 122, to the point of BEGINNING; THENCE south approximately 314
2623 feet along the western boundary of the unrecorded Chamberlayne Hills Subdivision to a point;
2624 THENCE east approximately 347 feet along the southern boundary of the unrecorded
2625 Chamberlayne Hills Subdivision to a point; THENCE north approximately 275 feet along the
2626 Interstate 95 right-of-way to a point, THENCE S 33° 01' 01" W 194.86 feet to a point;
2627 THENCE N 08° 15' 30' W 199.58'; THENCE N 79° 08' 47' W 199.97 feet to said point of
2628 Beginning, containing 2.0 acres more or less.

2629
2630 Mr. Marlles - The staff presentation will be by Ms. Gardner.

2631
2632 Ms. Dwyer - Is there any one here in opposition to Case C-3-99 Windsor
2633 Enterprises? No opposition. Ms. Gardner.

2634

2635 Ms. Gardner - Following the January hearing on this case, the applicant met with
2636 some of the residents of the vicinity, as well as with me and Chris Archer and other County
2637 staff. The concern that they voiced at the January hearing was that they did not want to see the
2638 level of the water behind their houses rise as a result of this project.

2639
2640 We met with Sam Amos who is the County expert on stormwater management. And he felt
2641 reasonably confident that this would not substantially increase the water level in this vicinity.
2642 That is, if this project were approved, the water would not substantially increase. I believe that,
2643 as a result of that meeting, that the concerns of the citizens were addressed. And, since there's
2644 no opposition here tonight, I think that that concern has been addressed. So, staff continues to
2645 recommend approval and I can answer any other questions.

2646
2647 Ms. Dwyer - Are there any questions of Ms. Gardner?

2648
2649 Mr. Archer - I don't think it's necessary. The applicant has also, I'm not sure
2650 the rest of the Commission is aware of this, but there are certain standards of construction that he
2651 has agreed to adhere to in this case, and Mr. Gardner has a copy of that letter, I believe. We did
2652 have, what I thought, was a very fruitful meeting with the residents in that area. A couple of
2653 things that came out of it was some other problems that existed that we may be able to do
2654 something about by virtue of the fact we had that meeting.

2655
2656 This case is kind of tough in terms of the development of it, but I think it can be done. I think
2657 it's reasonable that it can be done. It might also serve to delete something that is somewhat of,
2658 it's hard to call it "an attractive nuisance." But it is a nuisance. So, we decided we would hear
2659 it tonight for Decision Only and my motion is to recommend approval of this case to the Board.
2660 Mr. Vanarsdall seconded the motion.

2661
2662 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall to
2663 recommend approval of Case C-3-99. All those in favor say aye—all those opposed by saying
2664 nay. The motion to recommend approval carries.

2665
2666 Mr. Vanarsdall - Madam Chairman, I don't think its makes any difference now,
2667 but on the green front page (staff report), it says, "Three Chopt."

2668
2669 Mr. Vanarsdall - It certainly does.

2670
2671 Mr. Vanarsdall - I wondered why Mr. Archer had taken over Mrs. Wade's district.

2672
2673 REASON: Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
2674 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the
2675 request because it is reasonable; and it would not be expected to adversely affect the pattern of
2676 zoning and land use in the area.

2677
2678 **P-3-99 Gloria L. Freye for PrimeCo Personal Communications: Request**
2679 **for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of**
2680 **Chapter 24 of the County Code in order to construct, operate and maintain a wireless**

2681 communication monopole tower up to 199', on part of Parcel 24-A-2, containing 1296 sq. ft.,
2682 located on the east side of Brook Road (U.S. Route 1) at the Henrico County and Hanover
2683 County line. The site is zoned O-2 Office District.

2684

2685 Mr. Marlles - The staff presentation will be by Mr. Mark Bittner.

2686

2687 Ms. Dwyer - Is there any one here in opposition to Case P-3-99 PrimeCo
2688 Personal Communications? No opposition. Mr. Bittner.

2689

2690 Mr. Mark Bittner, County Planner - Thank you, Ms. Dwyer. I'd like to point out, a little
2691 while back, the applicant, actually, amended this application to make it a 199-foot pole
2692 request. The site plan still shows a 185 foot tall tower. They told us they are going to change
2693 that and put in a 190 foot tower with an 8-foot lightening rod on top which would effectively
2694 bring it to its maximum height. It would only be a foot underneath that.

2695

2696 This proposed tower location is behind the Corporate and Franchise Interiors Office Building
2697 located on the east side of Brook Road, near the Hanover County line. Staff has inquired
2698 about the possibility of locating this tower elsewhere to the northeast within Hanover County.

2699

2700 This area of Hanover is mainly industrial and contains such uses as a Virginia Power
2701 easement, contractor storage yards, and a mini-storage facility. A tower would be more
2702 compatible in this area than in the proposed Henrico County location.

2703

2704 The applicant has stated that no other property owners in the area were willing to
2705 accommodate a tower on their property.

2706

2707 Staff continues to recommend that the applicant consider locating this tower on property to the
2708 northeast within Hanover County that is industrial in nature. This would lessen the visual
2709 impact of this proposed tower.

2710

2711 Should this tower ultimately be approved, it is recommended the requested permit be granted
2712 subject to the conditions presented tonight. Staff is recommending 3 new conditions. I'd like
2713 to explain what those conditions are all about right now.

2714

2715 Number 7, would require a revision of the POD for this office building site. The reason
2716 being, parking on this site is very tight, and installation of this tower could, perhaps, make that
2717 situation worse. So, what the applicant would have to do is revise the POD to improve the
2718 parking situation by, most likely, adding a couple of spots, although that's not yet been worked
2719 out totally. And, if there are any other POD issues that need to come out of there, we'd fix
2720 those at that time as well.

2721

2722 Conditions 8 and 9 both address the existing trees on the site. You might be able to see them
2723 better here (referring to slide). This here, and here, and here represent some large, very
2724 mature trees. We'd like to try to save them, and so would the applicant, for the tower.

2725 Condition 8 would require that any tree with a caliper of 12 inches or greater would have to
2726 remain. It could not be removed for any reason.

2727
2728 In Condition 9 is an attempt to try and protect those tree root systems during construction and
2729 installation. What we have discovered, by talking with the applicant today, if you look on the
2730 graphic, they've labeled this driveway area as a "Proposed 12-foot wide access road."
2731 Presently, there is mulch on top of it. But, actually, the applicant tells me that underneath this
2732 mulch is an existing gravel driveway. This condition would require them to use the existing
2733 driveway for all construction and installation of the tower. The intent, of course, would be to
2734 create no new impervious area and, hopefully, not disturb those roots at all on those trees.

2735
2736 There is one other issue, and its more just for your information to the Commission, I wanted to
2737 point out tonight. It has come to our attention that the reason for this application is PrimeCo
2738 has an existing facility on top of a Virginia Power transmission tower close to Interstate 95.
2739 That facility is only about 100 feet in the air and no longer meets their needs, which is why
2740 they want to put this new tower in which would go up to 199 feet.

2741
2742 PrimeCo has an agreement with Virginia Power that says they have to remove that old set of
2743 equipment once this tower comes on line. A representative from Virginia Center called me
2744 today and she wanted to know if this was, indeed, the case and its all been verified. So, both
2745 the applicant and Virginia Center representatives said they wanted the Commission to be aware
2746 of that information.

2747
2748 With that, that concludes my presentation. I'd be happy to answer any questions you may
2749 have.

2750
2751 Ms. Dwyer - Thank you, Mr. Bittner. Are there any questions by Commission
2752 members?

2753
2754 Mr. Archer - Mr. Bittner, maybe you can answer this, but if you can't, then,
2755 perhaps, the applicant can. I want to mention this more as a point of information for my
2756 colleagues on the Commission. When we were discussing this case the other day, we talked
2757 about the fact that the 199 feet has to be inclusive of the lightening rod. Were you aware that
2758 that existed that if you put a tower up of 199 feet, and we had to put a lightening rod on top of
2759 it, that we would exceed 199 feet?

2760
2761 Mrs. Quesinberry - Well, you know I wasn't aware of that. But that's a given, right?

2762
2763 Mr. Archer - Well, it may be.

2764
2765 Mrs. Quesinberry - But now I am.

2766
2767 Mr. Archer - I just thought I'd call it to your attention, because sometimes I
2768 wonder if we are thinking when we do these. It occurred to me, that whenever we went above
2769 199 feet, we would be in violation of the FAA regulations. But I just wasn't sure everyone
2770 was aware of that. I just thought I'd bring it to your attention. That was not a question. That
2771 was just a clarification.

2772

2773 Mrs. Wade - That's always been such an attractive site there, but "There goes
2774 the neighborhood," an oasis along Route 1 for years.

2775
2776 Ms. Dwyer - Are there any questions for Mr. Bittner? Would you like to hear
2777 from the applicant?

2778
2779 Mr. Archer - Yes ma'am. I think we need to.

2780
2781 Ms. Gloria Freye - Thank you. Good evening. My name is Gloria Freye. I'm an
2782 attorney here on behalf of the applicant, PrimeCo Personal Communications. Mark Cornell
2783 with PrimeCo is also here with us this evening.

2784
2785 As Mr. Bittner explained, the reason for this is that PrimeCo, in launching their network, tried
2786 everywhere they could find opportunities for collocation to use those opportunities where ever
2787 they found them. I don't remember the exact statistic, but when they came on line in Henrico,
2788 they were able to collocate over 60 percent of the sites that they needed for the system here.

2789
2790 They found that this one simply does not work for them. It's only 102 feet. And they do need
2791 to have a taller structure. They needed 185, which is why they applied for 185, but after
2792 talking with the staff, and the feeling was, if this were deemed to be an appropriate location, it
2793 would be better to maximize the use of that so that you could have the collocation for three
2794 users and promote the County's goal of nonproliferation of towers.

2795
2796 PrimeCo has received a letter from Triton, one of the new carriers in the area, committing to
2797 go on this tower if it would be approved. PrimeCo is willing to build the taller tower to
2798 accommodate the collocators. This site was explored along with the other properties that Mr.
2799 Bittner mentioned in his staff report. This site really turned out to be the best site, not only
2800 because there was a willing landlord there, but because of the screening that this site offers.
2801 There is a very nicely wooded area in the back. But, fortunately, there is also a cleared area
2802 that the tower can be inserted in that clear area without removing a tree, with only possibly
2803 having to remove some limbs. That's a very good situation to have. You have an existing
2804 gravel surface. You do not need to build a road. And this site plan doesn't show it, but the
2805 access to the tower site will not displace any parking or disrupt the functioning of that office
2806 development there.

2807
2808 To the extent that there's any problem with the construction, or any disruption to the parking
2809 lot when the tower is constructed, PrimeCo will repair that and also replace the mulch that is
2810 displaced after they do the construction.

2811
2812 PrimeCo does accept the conditions that are being recommended by the staff. As far as we
2813 know, there's no opposition to this request. It will promote the County's goal of collocation.
2814 It's a passive use. It's well screened. It will not have any adverse impact on the area. And
2815 we feel that this does meet all the jurisdictional requirements for the Provisional Use Permit,
2816 and we ask that you recommend approval to the Board of Supervisors. I'd be glad to answer
2817 any questions that you have.

2818

2819 Ms. Dwyer - Thank you, Ms. Freye. Are there any questions for Ms. Freye?
2820

2821 Mr. Archer - Ms. Freye, can you explain for the other Commission members
2822 why there are not alternative sites that are suitable for this tower to the northeast as mentioned?
2823

2824 Ms. Freye - Right. PrimeCo talked with landowners on both sides of Route 1
2825 all the way into Hanover. One of the problems with looking at the industrial land, that Mr.
2826 Bittner referred to, is that you're getting into the Airport Safety Overlay District. The
2827 Hanover Airport contact that we had really discouraged them from moving any further north
2828 because of that, knowing that a taller height was needed. So, we also looked at the Presbytery
2829 Church on the other side of the road which would have been a nice site because of the higher
2830 elevation, but the landlord ultimately decided that they weren't certain about what their future
2831 plans were going to be for the development of their property, and decided not to go forward
2832 with the lease.
2833

2834 The nice thing about this piece of property, its good and bad. It is a very irregular shaped
2835 piece of property. It's mostly Conservation. There is a floodplain that comes through there.
2836 There really isn't anything else that can be done with that property, so the landowner felt like
2837 this would not be a negative impact on their existing use or anything that they would
2838 contemplate in the future.
2839

2840 The other nice thing about this property is there are some old sheds; some outbuildings in the
2841 back that PrimeCo will be able to remove and just clean that up for the landowner as well.
2842

2843 Ms. Dwyer - Is that a residence, I guess, to the south of this A-1? I noticed
2844 what looked like a home there? Is that being used as a residence? Do you know?
2845

2846 Ms. Freye - I'm not sure where you're referring to.
2847

2848 Ms. Dwyer - The adjacent property to the south.
2849

2850 Ms. Freye - That's Brookfield. That's a home for unwed mothers.
2851

2852 Ms. Dwyer - Okay.
2853

2854 Mr. Marlles - Ms. Freye, did you submit a list of alternative sites that were
2855 considered with the information with the application to the staff?
2856

2857 Ms. Freye - No sir. I don't believe we did. We simply sat down with staff
2858 and showed them on the map the properties that we had looked at.
2859

2860 Mr. Marlles - Did you submit a propagation study to show the area that you're
2861 trying to service with this particular tower?
2862

2863 Ms. Freye - No sir.
2864

2865 Mr. Marlles - So, you can't tell us essentially what area you're trying to cover;
2866 the service gap hole that you're trying to cover?
2867

2868 Ms. Freye - I can let Mr. Cornell respond to that, specifically, but we are
2869 trying to serve the Route 1/I-95 corridor. Mr. Cornell says he did provide a PrimeCo
2870 coverage area map with the application.
2871

2872 Mr. Marlles - Madam Chairman, I am a little bit concerned that the Planning
2873 Commission is ready to take action without knowing what alternative sites were considered.
2874 That is something that we're trying to, and, perhaps, the staff did not request it in this case. It
2875 is something that we are trying to request of applicants so that the Planning Commission has
2876 full knowledge of all the alternative sites that were considered.
2877

2878 Ms. Dwyer - Well, Ms. Freye mentioned, correct me if I'm wrong, the
2879 Presbyterian across the street.
2880

2881 Ms. Freye - We looked at the Presbyterian Church. We looked at Greentop.
2882 We looked at the property adjacent to that. We looked at the mobile home park further up
2883 Route 1 in Hanover. We looked at that property, that was zoned Industrial, but the contact at
2884 the airport discouraged us from that.
2885

2886 The area that is shown on this map, we did look at properties; we also looked at the Little
2887 Azalea Farm. We really did look at everything we could in that coverage area, and this was,
2888 what we thought, Number 1, available, and, secondly, an appropriate request.
2889

2890 Ms. Dwyer - So, Mr. Secretary, you're concerned that, in this case, and in
2891 future cases, staff would like to have a list of all of the potential alternative locations that the
2892 applicant has examined?
2893

2894 Mr. Marlles - I think its important for the Commission to have that information
2895 when evaluating the site such as this, particularly, since the staff, in this case, is
2896 recommending that there are alternative sites available which should be considered.
2897

2898 Ms. Freye - We certainly would have provided a typed list to that effect, and
2899 we'll be glad to do that. We would like to move forward, and we'd be glad to provide that to
2900 the staff.
2901

2902 Mrs. Wade - When you say, "Looked at," do you mean, inquired of, or you
2903 just...
2904

2905 Ms. Freye - Tried to get a lease on their property.
2906

2907 Mr. Archer - Ms. Freye, when we discussed this the other day, we talked about
2908 alternative sites, but I don't think we had any written list of alternative sites?
2909

2910 Ms. Freye - No sir. We didn't know that was needed.

2911
2912 Mr. Archer - Mr. Secretary, are you saying that you think we should have that
2913 before we move with this?
2914
2915 Mr. Marlles - Mr. Archer, I believe so. Also, I think, in cases like this, I
2916 believe, and I've directed staff to refer an evaluation or a list of alternative sites to the
2917 County's RF consultant to review before the Planning Commission takes action. I'm just
2918 concerned that the Commission doesn't have all of the information they should have before
2919 making this decision.
2920
2921 Ms. Dwyer - But, did we ask the applicant to provide that information? Is the
2922 first time that they've been asked to provide that?
2923
2924 Mr. Marlles - I would ask Mr. Bittner that.
2925
2926 Mr. Vanarsdall - Mr. Secretary, isn't that what you call a proclamation study?
2927
2928 Mr. Marlles - Propagation study. Yes sir.
2929
2930 Mr. Vanarsdall - Isn't that what you call it? Isn't that's what supposed to be done?
2931 Mr. Marlles - Yes sir.
2932
2933 Mr. Vanarsdall - Why wasn't that done before we got here?
2934
2935 Ms. Freye - Mr. Vanarsdall, generally, the situations that I've been involved
2936 with the County, that submitted a propagation map, calling in the County's consultant, and
2937 researching every site that the site acquisition people looked at has come when its been a
2938 controversial site. When it is close to neighborhoods; when there are real strong objections to
2939 their being a problem. This has never been viewed by anyone in the community or by the staff
2940 as particularly objectionable. It does have good screening. It is set off of the road. It's in a
2941 commercial area. It's zoned Office. It's property that can't be developed otherwise. Of all
2942 the sites that we looked at, there is really nothing that would suggest this as an inappropriate
2943 site. So, its been when there's been serious doubts about the appropriateness of a site that the
2944 County has asked for those things, but that was never requested of this site and never been
2945 viewed that way. Had we been asked, we would have provided that.
2946
2947 Mr. Archer - Ms. Freye, are you in agreement with all of the conditions that
2948 have been listed and you think it can be obtained?
2949
2950 Ms. Freye - Yes sir. We have worked with the staff and we are in agreement
2951 with everyone of those conditions.
2952
2953 Mr. Archer - Mr. Bittner, are you satisfied that if we were to have compliance
2954 with all of the conditions that are listed here, that this case would then be suitable?
2955

2956 Mr. Bittner - Well, ultimately, we think there are better sites in this area. But,
2957 those conditions, we think, will help protect the trees on the site and help make this as good a
2958 situation as possible.
2959
2960 Mr. Archer - If it had to go here?
2961
2962 Mr. Bittner - Yes sir.
2963
2964 Ms. Dwyer - Mr. Bittner, did we ask the applicant to provide what Mr.
2965 Secretary said he thinks is an appropriate documentation of alternative sites?
2966
2967 Mr. Bittner - No. We did not. I would like to point out, we did share the staff
2968 report with our consultant in New Jersey. And he did tell me that, in a general sense, potential
2969 alternative sites we are looking in Hanover are about 900 feet away at the most. He said,
2970 generally, moving it 900 feet would not affect the overall coverage of the system. He didn't
2971 think it would have that negative effect if they were to move 900 feet or so to the northeast.
2972
2973 Mrs. Wade - I noticed on the Board agenda from last night that three of these
2974 were deferred. Was this an issue with the towers that were deferred from the Board meeting?
2975
2976 Ms. Freye - The cases that were deferred from the Board meeting; one had an
2977 advertising problem because the newspaper failed to advertise it.
2978
2979 Mrs. Wade - I don't need to know all the reasons, but it wasn't for this
2980 purpose?
2981
2982 Ms. Freye - Oh. No ma'am. This is the first time this has ever come up.
2983
2984 Mr. Archer - Ms. Freye, may I suggest something? It appears that there is
2985 some concern, I would say from my colleagues, and I have some also, about the fact that we
2986 would prefer having this propagation map and we don't have one. I would like to defer this
2987 not for a month, and not at your request, but at my request to the January 23rd meeting.
2988
2989 Ms. Freye - February 23rd meeting.
2990
2991 Mr. Archer - February 23rd.
2992
2993 Ms. Freye - Mr. Archer, we are willing to do that.
2994
2995 Mr. Archer - Do you understand what the concerns are and why we need this
2996 information? I suppose we're going to need it in the future from now on.
2997
2998 Ms. Freye - And I'm sorry we had to learn about it in the middle of a hearing.
2999
3000 Mr. Archer - Well, I am, too. That's why I don't want to go a whole month.
3001

3002 Ms. Freye - ...because we certainly would have provided that. I guess the
3003 thing that I'd like to say is, there may always be a better site somewhere, but if the land is not
3004 available, you have to work with what you have.
3005

3006 Mr. Archer - I understand, Ms. Freye. If you can bring that information to us
3007 that you tried, and you couldn't, I think it gives us a better face to put on this case anyway.
3008

3009 Ms. Freye - I'll be glad to do that, Mr. Archer.
3010

3011 Ms. Dwyer - May I ask, Mr. Secretary, to be real specific about what he
3012 would like you to provide in this case.
3013

3014 Mr. Marlles - What we're looking for, Mrs. Freye, is a list of all the alternative
3015 sites that were considered, as well as, a copy of the propagation study that was done on this
3016 particular site so that we can provide that. Not just a radius drawn around the site, but actually
3017 the propagation study; the map that was done so that we can provide that further information to
3018 our consultant for review.
3019

3020 Ms. Dwyer - Is this information, Mr. Secretary, that we from now on, are
3021 going to require with every tower application?
3022

3023 Mr. Marlles - We're not trying to require it of every tower application.
3024 However, I believe where staff is recommending that there may be more desirable sites, what
3025 we're trying to do is provide that information to the Commission so that they can make a more
3026 informed decision.
3027

3028 Mr. Vanarsdall - Does she have to go into, in this particular case, does Ms. Freye
3029 have to go into showing the Commission that they asked a certain company and they said,
3030 "No?"
3031

3032 Mr. Marlles - No, Mr. Vanarsdall. What we are actually looking for is a
3033 simply list of all of the alternative sites that were considered with a propagation map.
3034

3035 Mr. Vanarsdall - When you refer to "looking at, " you mean, contacting the people
3036 who own the property?
3037

3038 Ms. Freye - Yes sir.
3039

3040 Mr. Vanarsdall - Yes sir.
3041

3042 Ms. Freye - Yes sir. I'll be glad to do that.
3043

3044 Mr. Archer - Okay. Then, I move to defer this case, at the Commission's
3045 request, to February 23rd, and we'll try to make it as short as we can.
3046

3047 Mr. Vanarsdall - Does that give you enough time?

3048
3049 Ms. Freye - Yes sir.
3050
3051 Mr. Vanarsdall seconded the motion.
3052
3053 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall to
3054 defer Case P-3-99 to February 23rd. All those in favor say aye—all those opposed by saying
3055 nay. The motion carries.
3056
3057 I believe the next two cases on our agenda have been deferred, is that right, Mr. Secretary?
3058
3059 Mr. Marlles - Yes ma'am. The next case is C-14C-99.
3060
3061 **C-14C-99 James W. Theobald for Alternative Living Services, Inc.:**
3062 Request to conditionally rezone from R-2 One Family Residence District to R-6C General
3063 Residence District (Conditional), Parcel 53-A-80C, described as follows:
3064
3065 BEGINNING at a found stone on the eastern right-of-way line of St. Charles Road at the
3066 southwest corner of Tax Map No. 53-A-80C and the northwest corner of Tax Map No. 53-7-J-
3067 1; thence N 17°51'54" W 324.05' to a found stone; thence N 16°50'00" E 89.47' to a found
3068 stone on the southern right-of-way line of Parham Road; thence along the southern right-of-
3069 way line of Parham Road along a curve to the right having a radius of 3779.72' for a length of
3070 147.47' to a found stone; thence N 59°00'06" E 394.72' to an iron rod found; thence leaving
3071 the southern right-of-way line of Parham Road S 30°59' 54" E 431.76' to an iron rod found
3072 on the northerly line of Lot 11, Block J, Section C, Wildwood; thence with the northerly line
3073 of Lots 11, 8 through 1, Block J, Section C, Wildwood S 63°40'06" W 194.25' to a point;
3074 thence S 63°23'06" W 489.92' to the Point of Beginning, containing 5.9085 acres.
3075
3076 Mr. Marlles - Mr. Mark Bittner will be giving the staff presentation.
3077
3078 Ms. Dwyer - Is there any one here in opposition to Case C-14C-99? There is
3079 opposition. We will get to you later on in the meeting. Thank you. Mr. Bittner.
3080
3081 Mr. Mark Bittner - Thank you, Ms. Dwyer. The applicant has proffered to develop
3082 a one-story 40-unit nursing home and intends it to be for the care of Alzheimer's patients.
3083
3084 Revised proffers have been submitted, and should be handed out to you right now, that address
3085 most of the concerns outlined in the staff report. These new proffers include such items as
3086 signage under 10 feet in height, and lighting under 14 feet in height that would be horizontally
3087 mounted.
3088
3089 There are two other issues staff would like to discuss in more detail. These are the rear buffer
3090 and access to the property. The applicant has increased the proffered rear buffer adjacent to
3091 Wildewood Subdivision from 35 feet to 50 feet in width. The rear buffer in this drawing is at
3092 the top. They have increased that minimum buffer size from 35 feet to 50 feet. They've also

3093 moved the St. Charles Road access drive. They've moved that a little closer to Parham Road
3094 to create even more buffer space. They have proffered this site plan as well.

3095
3096 Most of this buffer would be comprised of existing vegetation with the exception of the area
3097 behind the building. This is because this area would require grading during development. I
3098 think the applicant has provided us a better drawing.

3099
3100 Mrs. Wade - We already had these proffers?

3101
3102 Mr. Bittner - Right. Now, on this drawing, the buffer is on the bottom side of
3103 the picture, just for your information.

3104
3105 Again, the area behind the building, you'll see a green line. Those are a line of trees, actually.
3106 Most of this 50-foot buffer would be comprised of natural vegetation with the exception of this
3107 area. This is because this area would require grading during development.

3108
3109 The applicant has proffered to supplement this area with evergreen plantings. A site line
3110 profile, proffered by the applicant, illustrates the change in grade. On the left side of this
3111 drawing would be the new proposed Alzheimer's facility. On the right side is an existing
3112 residence within Wildewood.

3113
3114 The lower elevation of the facility, illustrated in this drawing, along with the existing and
3115 supplemental vegetation, which is shown right in the middle of the drawing, would decrease
3116 the facility's visibility from the adjacent lots in Wildewood.

3117
3118 The applicant has also indicated that, neighboring property owners in this area do not object to
3119 this buffer plan. For these reasons, staff feels that this rear buffer proffer is acceptable.

3120
3121 Regarding the second issue, which is access, the conceptual plan shows that access would
3122 come from both Parham Road and St. Charles Road. The Transportation Engineer has
3123 recommended that, if this site is to be accessed from Parham Road, the applicant should
3124 consider having joint access with the future North Park Library, which is adjacent to this site's
3125 eastern border. The library has not yet begun site design.

3126
3127 The applicant has indicated a willingness to work with the Library, in the future, on joint
3128 access. Staff would prefer that the applicant proffer to cooperate with the Library to attempt to
3129 achieve joint access between these two sites. However, the applicant has declined to submit
3130 this proffer.

3131
3132 In summary, the requested use and zoning are compatible with the North Park Library site,
3133 and the submitted proffers are consistent with proffers on similar cases. Adult care facilities
3134 also, typically, have less of an impact than regular office or single family development,
3135 especially, regarding transportation.

3136

3137 If the applicant were to proffer to attempt to seek joint access with the Library, staff could
3138 fully recommend approval of this application. I'd be happy to answer any questions you may
3139 have.

3140
3141 Ms. Dwyer - Any questions for Mr. Bittner? Thank you, Mr. Bittner.

3142
3143 Mr. James W. Theobald - Could I reserve two minutes, please, of my time? Madam
3144 Chairman, ladies and gentlemen, my name is Jim Theobald. I'm here this evening on behalf
3145 of Alternate Living Services. We are requesting a rezoning of a six-acre parcel of land from
3146 R-2 to R-6 for use as an assisted living facility for the memory impaired. This site is at the
3147 corner of Parham and St. Charles, adjacent to the new North Park Library, constructed by the
3148 County.

3149
3150 Alternative Living Services is a publicly traded company which has become the nation's
3151 leading provider of freestanding Alzheimer's services. The foundation of ALS is built upon
3152 the belief that our memory impaired citizens have the opportunity to live in a home-like
3153 environment for just as long as possible. First and foremost, these people should be living in
3154 places that were intended to be lived in, which is a residential setting, rather than an
3155 institutional one.

3156
3157 Most individuals with memory impairments don't really need a nursing home, but rather they
3158 need some sort of assistance, yet, in a residential environment. But that environment has to
3159 create familiarity like your own home, in a safe surrounding with opportunities to participate in
3160 some meaningful activities.

3161
3162 Alzheimer's, and other memory impairment diseases, tend to alter life in profound ways. But
3163 that doesn't mean an end to the quality of life. ALS's goal is to help each individual resident
3164 to rediscover their dignity and meaning, while creating new friendships.

3165
3166 This facility, as Mark indicated, is a 40-resident licensed assisted living facility. It's a one-
3167 story structure. Because it is a residence, we have proffered the building elevations, as well as
3168 the conceptual site plan. The building is designed with a central open courtyard area that you
3169 see (referring to slide) around which are the various living facilities. It provides a central
3170 dining area, as well as living room areas for crafts and other activities, T.V. rooms, enclosed
3171 walking areas. Safety of the residents is a high priority with all the exterior doorways being
3172 connected to an internal alarm system.

3173
3174 This is interesting. The average profile of our resident is that of a female age 82 years of age.
3175 This facility is 100 percent private pay, with a monthly fee in excess of \$3,000. During the
3176 day the staff consists of a Director, an Administrator, an Activities Director, a Nurse, dining
3177 services Manager, Maintenance Supervisor, in addition to the direct care staff. It's
3178 approximately 11 employees during the day. Other shifts have somewhere between four and
3179 six depending upon the resident count.

3180

3181 We have proffered that the only use permitted on this property will be for a nursing home,
3182 convalescent home, home for the aged, or an assisted living facility. We have also proffered a
3183 50-foot buffer, most of which will remain undisturbed.

3184
3185 I think Mark very accurately depicted our needs in the back there where we do need to disturb
3186 the buffer in order to create that slope. It's about a three to one slope because that building
3187 elevation is about eight feet lower than the rear property lines of the folks in back of this.

3188
3189 We have to get into that slope area which is in here. We've agreed to provide additional
3190 plantings; a staggered row of evergreens, and we've proffered minimum heights and minimum
3191 spacing. And then, at the time of Landscape Plan review, we've been talking with Mr. Ursner
3192 and Mr. Payne. We've committed to, basically, these five lot owners beginning here
3193 (referring to slide) to provide, even within the 35 feet of undisturbed buffer, additional
3194 supplemental under canopy screening just to make sure that we've provided adequate screening
3195 against their homes.

3196
3197 We have limited the height of this building to one story. You saw the impact on the view line
3198 drawing. We've limited ground mounted detached signage to be 10-feet in height. We've
3199 restricted the hours of any parking lot cleaning for trash removal; the type and height and
3200 orientation of lighting; and the square footage of the building.

3201
3202 We did meet with the North Chamberlayne Civic Association and its leadership to explain our
3203 proposal. My discussion with Dr. Gordon Pryor, thereafter, indicated no opposition by his
3204 group to this request.

3205
3206 I also met at the Chamberlayne Elementary School with about 20 people from the
3207 neighborhood directly behind our site to explain our case. Our revised proffers reflect really
3208 the very helpful input that we received from those neighbors at that meeting.

3209
3210 Interestingly, given the requirement of the Ordinance that these facilities have a minimum of
3211 five acres, whether you have 10 residents or 40 residents, our conceptual site plan only shows
3212 about 15 to 20 percent of this site being covered by buildings, parking, or driveways. That
3213 site could be developed pursuant to the existing R-2 zoning for approximately 11 homes, and
3214 those homes would have the legal right to clear their lots all the way back to their property line
3215 and they would be able to sit their homes some 45 feet off of the property line, as opposed to
3216 the proffered minimum of 70 feet of building setback that you see at the closest corner which
3217 increases to over 80 feet away from the property line at the other corner.

3218
3219 Your staff has confirmed that our proposed use will have less of an impact than the Office use
3220 that's suggested by the Land Use Plan. Possibly even less than the residential development
3221 than is permitted by the existing zoning.

3222
3223 This would really appear to be a nearly perfect transitional use between the neighborhood in
3224 the rear and the Office/Service and industrially zoned property comprising Park Central and
3225 the Best Products Corporate Headquarters across Parham. It's certainly, I think, a less intense
3226 use than the proposed library.

3227
3228 And for all the foregoing reasons, I would respectfully request that you recommend approval
3229 of this case to the Board of Supervisors. I'd be most happy to answer any questions.
3230

3231 Ms. Dwyer - Thank you, Mr. Theobald. Are there any questions by Mr.
3232 Theobald by Commission members?
3233

3234 Mr. Archer - Mr. Theobald, you and I have discussed the reason for the one
3235 issue that staff has with this, and that is not proffering the companion access to the library.
3236 Would you explain that for the Commission members, please.
3237

3238 Mr. Theobald - Yes sir. Yes I would. It so often happens right before I have a
3239 zoning case, there's an article in the newspaper that just totally devastates what I'm trying to
3240 get approved. This is one of those few weeks where I picked up the Henrico Plus Section
3241 yesterday morning and find an article that said, "Library design is reviewed." And it told the
3242 sad saga of the 10 years of trying to get the library constructed and how much trouble its been
3243 getting it under construction. So, if you didn't get a chance to read the Henrico Plus article, I
3244 can lend it to you.
3245

3246 I tell you, and Mr. Archer, you were present at this meeting. The notion of cooperating with
3247 the Library and joint access and maybe coordination of aesthetics was our idea and our
3248 commitment. We suggested, "Please give us the name of the folks at the Library. We're
3249 happy to coordinate with them." And I'll repeat that here tonight for the record. My
3250 reluctance in proffering the joint access comes really from years of negotiating joint access
3251 agreements, both with the public sector and the private sector. And, frankly, if I file written
3252 proffers, I'll cooperate with the Library. And if the Library is not ready when I'm ready to
3253 go, someone looking at my POD may just decide, I need to wait until the library is ready to
3254 go. And, then, when you get down to discussions with the library, and while all this can be
3255 resolved, you have to decide, who builds? Who goes first? Who pays? What if they don't
3256 pay, what are the penalties? Who post the bonds? Who's got the liability? How do you share
3257 liability for joint access and so forth. All these things can be resolved and are not
3258 insurmountable. We commit to you, if the Library's ready to go, we're happy to work with
3259 the Library for a joint access. It makes a lot of sense. But we're going to develop. We're
3260 ready to go. There's a need now. I don't want anything there that would tempt someone to
3261 hold me hostage; the good intention of the plans of the Library to try to get going. They have
3262 just authorized the letting of that design contract. So, with your permission, I'd like to leave
3263 that as a very strong statement on the record is one I've made to you and the staff in all of our
3264 meetings. And those are my reasons.
3265

3266 Mr. Archer - Thank you, sir. Any questions about that?
3267

3268 Mrs. Wade - You mentioned 40 units and then you say, 40 beds.
3269

3270 Mr. Theobald - Forty residents; there's basically 40 rooms. There's occasionally
3271 one or two units provided in these facilities, if, God forbid, you have a couple.
3272

3273 Mrs. Wade - So, there would be 40 rooms, basically?
3274
3275 Mr. Theobald - Yes.
3276
3277 Mrs. Wade - And you mentioned something about a fenced in walking area?
3278
3279 Mr. Theobald - The walking area, what you see is this path around the lake, is an
3280 exterior walk path that you could only access with a caregiver from inside. The interior
3281 corridors are designed to accommodate a very strong urge of an Alzheimer's patient to
3282 wander. And, what you find that areas are color coded so that the resident can find their way
3283 back to their own room. Often, they don't distinguish their own name on the door, and so they
3284 have memory boxes outside the units in which you can place treasured objects that they can
3285 relate to in order to find their way back. But this need to wander and be involved in activity is
3286 really a very powerful need. And these facilities are designed to accommodate that through the
3287 flow.
3288
3289 Ms. Dwyer - Mr. Theobald, the site line drawing that we had assumed a buffer
3290 of 35 feet.
3291
3292 Mr. Theobald - That was prepared prior to the amendment of that proffer. What
3293 we didn't want to do was to let anybody misinterpret our intentions in terms of what was
3294 needed here. And, so what we have is we have a minimum 50-foot buffer all along here and
3295 this area does not need to be disturbed at all. But, when we get back in here, in order to get in
3296 the required setback, the traffic circle and the basic building pad, we need to transition this
3297 grade. And ,so approximately 35 feet of this rear property line, we're going to need to start in
3298 on that slope.
3299
3300 Ms. Dwyer - So, even though it's a 50-foot buffer, you're still committing that
3301 35 feet will not be disturbed and the additional 15 feet may...
3302
3303 Mr. Theobald - Ms. Dwyer, right. But, in all candor, I don't want to mislead
3304 anybody. Right here at this corner, it's not quite 35 feet where you're going to have to start
3305 that grade. It's a few feet less than that.
3306
3307 Ms. Dwyer - Where are you referring to?
3308 Mr. Theobald - Right in this area here (referring to slide).
3309
3310 Ms. Dwyer - So, that will be then, a 50-foot landscaped...
3311
3312 Mr. Theobald - You'll have 30-some feet of undisturbed and then you'll have the
3313 staggered row of 6 to 8 foot minimum evergreens, and then you'll have the slope of there
3314 maybe additional landscaping on the slope. But, obviously, the slope going down isn't going
3315 to help screen anybody. And, that's the area where we've offered to supplement with
3316 additional under canopy screening along those five rear lots that you see in the back. What the
3317 view line was trying to demonstrate is, given the relative grade, given the plantings, that even,
3318 initially, you're going to be looking close to the top of that facility. Of course, you know, we

3319 have no activity back there. We've got no loading areas. We've got no drive aisles. It's
3320 really the back of the building with a walkway.

3321
3322 Ms. Dwyer - The proposed evergreen screening; will that be on the slope, or
3323 will that be...

3324
3325 Mr. Theobald - That's going to start really before the slope. It might be slightly
3326 within the slope, but that is right? It's the top of the slope.

3327
3328 Ms. Dwyer - Any other questions for Mr. Theobald. We did have opposition.
3329 Would the opposition come forward please?

3330
3331 Mr. Bill Belt - Good evening, Madam Chairman, ladies and gentlemen, my
3332 name is Bill Belt, and I'm an attorney representing Ames Diaz. Ames Diaz lives on Ironington
3333 Road. That is the piece of property that is across St. Charles, immediately to the west of the
3334 property that we're talking about. We are here primarily out of a concern over the impact of
3335 this development on the stormwater drainage.

3336
3337 As the picture shows, there is a dry stormwater management pond planned right next to St.
3338 Charles which will empty into a culvert that already exists under St. Charles and then will
3339 empty onto Mr. Diaz's property. Our concern is particularly acute because of the planned
3340 Library, which will add additional stormwater. Our purpose, tonight, is to state, on the
3341 record, our concern and obtain assurances on the record; I should say, we've worked with Mr.
3342 Theobald and we've talked to the engineers. We've also talked to Mr. Amos about this issue.
3343 We hope to continue that cooperation. We'd like to receive, tonight, on the record, those
3344 assurances that we have discussed in terms of our concern that Mr. Diaz's property not be
3345 damaged by the extra stormwater which will drain onto that property.

3346
3347 Ms. Dwyer - Thank you, sir. Any questions by Commission members?

3348
3349 Mr. Archer - Mr. Belt, before you leave, sir, what information have you been
3350 given with regard to how this would be resolved?

3351
3352 Mr. Belt - We have been told, and I'll let Mr. Cook, the engineer, address
3353 this. He'll be able to do that better than I can, but they're going to build a dry stormwater
3354 management pond which will collect the water and control the volume that drains off the
3355 property. Obviously, our concern is that, although the volume and the amount of water, so to
3356 speak, "rushes off", will be controlled. There will be more water that drains onto that
3357 property. And, we can't help but think that the more water, means more erosion, more
3358 scattering and more potential problems to Mr. Diaz.

3359
3360 If and when that damage occurs, we will seek whatever remedies Mr. Diaz is entitled to, but at
3361 this point, we'd like to continue working with the engineer and get those assurances at this
3362 time.

3363

3364 Mr. Archer - So, in other words, you've been given some information, but it's
3365 not very reassuring? Is that what you're saying?
3366

3367 Mr. Belt - We're not completely, reassured. No sir.
3368

3369 Ms. Dwyer - Have you spoken to anyone at the County whose responsible for
3370 assessing drainage plans.
3371

3372 Mr. Archer - I think he mentioned Mr. Amos.
3373

3374 Mr. Belt - We spoke with Mr. Amos, and the calculations haven't been
3375 done, and the plan hasn't been completely set out. Mr. Amos, I think, as I understand it, will
3376 be in a better position to address our concerns, specifically, once he gets all of the information.
3377 I think, in general terms, he's satisfied, and he thinks our concerns will be addressed.
3378

3379 Mr. Archer - Okay. Thank you, sir.
3380

3381 Ms. Dwyer - Any other questions of Mr. Belt?
3382

3383 Mr. Theobald - I want to introduce Bo Cook who's our engineer, with Boller
3384 Engineering, to explain, far better than I might; we have had discussions with Mr. Diaz and
3385 Mr. Belt. His home, I believe, is right here, facing the road. He does own this property all
3386 the way back to Parham. This water does enter into a creek that crosses his property and
3387 continues on down. And what we've told him is, I don't want to put words in his mouth, but
3388 he doesn't appear to be opposed to the zoning or the use. He just wants assurances that we
3389 will meet normal county policy and not harm his property with regard to our stormwater
3390 discharge. And, for the record, I'd like to have Mr. Cook just explain what will and will not
3391 occur on that site. I think it will be very helpful.
3392

3393 Mr. Archer - Thank you, Mr. Theobald.
3394

3395 Mr. Bo Cook, Boller Engineering - In a general summary, what I'd like to do is explain, as
3396 County policy dictates, through the development of this site, we will be required to ensure that
3397 the post development runoff of this site does not run off at a greater rate than is currently
3398 existing in an undeveloped state of this site. In addition, and further beyond that, this area has
3399 also been dictated to be what's considered a 50/10 area, which is language more in tune with
3400 the stormwater management department.
3401

3402 What it, in general, indicates, is that we will not only be required to ensure that the post
3403 development rate of runoff is not greater than the existing rate, but that we further reduce that
3404 rate down from a post development runoff rate of a 50-year storm, to be equal to or less than
3405 the predevelopment runoff rate of a 10-year storm.
3406

3407 In general and in summary, what we'll be doing is actually decreasing runoff from the site than
3408 what's currently there. Then, we are also, of course, abiding by and fulfilling the regulations
3409 that the County has currently for stormwater management.

3410
3411 Currently, the proposed dry detention pond is in this area right here (referring to slide).
3412 There's an existing public storm sewer outfall at this point which crosses under the road under
3413 St. Charles and onto Mr. Diaz's property and outfalls into an existing tributary across his
3414 property, which eventually discharges into this stream going underneath Parham Road. This
3415 existing situation is what, I believe, they're describing as a concern and inundating it further
3416 from our development.

3417
3418 Ms. Dwyer - Mr. Cook, is it fair to say, in laymen's terms, that the water
3419 running off of this parcel onto Mr. Diaz's property at the rate of the water flow will be
3420 decreased, but the volume of water will be constant?

3421
3422 Mr. Cook - The rate; that's correct, in that the rate will be decreased. The
3423 volume will be retained and delayed such that it gradually discharges so that it does not have
3424 the scouring and erosion effects that the increased rate would encompass.

3425
3426 Ms. Dwyer - Well, I heard Mr. Belt say that there'd be an increase in the
3427 volume of water. Is that an accurate statement? He was concerned there might be.

3428
3429 Mr. Cook - Over a period of time, the volume would be greater because of
3430 the capturing of the water; because of the imperviousness of the site increasing. Thus, the
3431 importance of the detention pond, itself, to hold that water back and to gradually release it at
3432 such time that the water can pass through the storm sewer system and through the existing
3433 tributary and then underneath Parham Road.

3434
3435 Ms. Dwyer - Is the existing culvert under St. Charles adequate?

3436
3437 Mr. Cook - I haven't done an analysis to whether its adequate at this point in
3438 time, currently, based on the existing circumstances.

3439
3440 Ms. Dwyer - But, if it were not then, the County, I'm sure would require an
3441 adequate outfall.

3442 Mr. Cook - Again, we would abide by the County policies to ensure the
3443 adequacy of the outfall.

3444
3445 Mr. Archer - Do you know what size the culvert is, sir?

3446
3447 Mr. Cook - I believe I do have that information. I believe its 24 inches.

3448
3449 Mr. Archer - Is that, in your expert opinion, sizeable enough to carry off the
3450 detained water with the increase in the...

3451
3452 Mr. Cook - And its really tough to take a comprehensive decision on that at
3453 this point in time, because the culvert, itself, does also convey stormwater from the
3454 neighborhood upstream in this area. So, the water in that 24-inch culvert would not be
3455 exclusive to the site. It's not currently exclusive to it.

3456
3457 Ms. Dwyer - Any other questions for Mr. Cook? Thank you. Is there any
3458 other rebuttal?
3459
3460 Mrs. Wade - One question of Mr. Theobald, if I may require? Only one
3461 building going on this site?
3462
3463 Mr. Theobald - Yes ma'am. We proffered the site plan.
3464
3465 Mrs. Wade - Okay. So, what happens to the rest of it?
3466
3467 Mr. Theobald - Your ordinance requires 5 acres. It beats me. We can't expand
3468 it without coming back to you. But, again, 10 beds, 40 beds, 80 beds, 5 acres.
3469
3470 Mrs. Wade - Okay. Thank you. Well, that may be good. Sometimes we get
3471 these on just barely enough room for the...
3472
3473 Ms. Dwyer - Any other questions?
3474
3475 Mr. Archer - Madam Chairman, I don't have a question, but maybe I do. I'm
3476 trying to figure out a way to assure Mr. Belt and Mr. Diaz that we're not going to harm their
3477 property. Can you help me out in any way? I can't make the assurance. I'm not an engineer.
3478 I don't know.
3479
3480 Mr. Theobald - As Mr. Merrithew is whispering trying to help me here, that's
3481 what the POD process is for. That's the time when the engineers actually submit their
3482 calculations once the final engineering is done. You'll know the impervious area. You will
3483 have looked at the culverts. You'll know exactly what it is. If the pipe is too small, you're
3484 going to have two choices; put in a bigger pipe, or you're going to have to retain the water
3485 longer. Okay. You're going to have to deal with it.
3486
3487 Mr. Archer - Or not let it rain.
3488
3489 Mr. Theobald - Or not let it rain. The POD is when you get all that information.
3490 We agreed to get with Mr. Belt and Mr. Diaz when we submit the POD and we've had a very
3491 nice relationship trying to provide them with information. That's really the time to get down
3492 to the details on it.
3493
3494 Mr. Archer - Thank you, Mr. Theobald. Mr. Belt, you don't have to come up,
3495 but do you understand the process that we go through? If the zoning is approved, we'll go
3496 through a Plan of Development process that should take care of all of these things. I would
3497 hope that would reassure you.
3498
3499 Mr. Belt - We'd like to come back down...
3500
3501 Mr. Archer - We'd be glad to have you.

3502
3503 Mrs. Wade - He'll get notice.
3504
3505 Ms. Dwyer - Mr. Archer.
3506
3507 Mr. Archer - Okay. I think the one issue that sort of lingers a little bit, I think,
3508 Mr. Theobald, you might have to deal with it when it comes before the Board, and that is joint
3509 access to the Library. I spoke with Mr. Thornton the other night. There was a meeting,
3510 perhaps, the one they were talking about in the paper. I know he's been trying to get this off
3511 the ground for a long time. And, hopefully, we're approaching that point. But, you are on
3512 record, as indicating that you would like to share in the access. I think, for now, that will
3513 satisfy me, but you may have to deal with it when you bring the case before the Board.

3514
3515 This application is for a facility that, unfortunately, has become more necessary with the
3516 graying of America, especially those of us who use products that you can buy across the
3517 counter. The location, which would be next to the proposed library, near a residential area,
3518 would appear to be ideal for this type of operation. It's relatively quiet. It's not offensive.
3519 Design characteristics that we've seen and what Mr. Theobald has submitted, I think, is very
3520 attractive and blends very well. I think it's a good case. For that reason, I move to
3521 recommend approval.

3522
3523 Mrs. Wade seconded the motion.

3524
3525 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mrs. Wade to
3526 recommend for approval C-14C-99. All those in favor say aye—all those opposed by saying
3527 nay. The motion is carried.

3528
3529 REASON: Acting on a motion by Mr. Archer, seconded by Mrs. Wade, the Planning
3530 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the**
3531 **proffered conditions and grant** the request because it is reasonable; it would not adversely affect
3532 the adjoining area if developed as proposed; and the proffered conditions will assure a level of
3533 development otherwise not possible.

3534
3535 **Deferred from the January 14, 1999 Meeting:**
3536 **C-5C-99 Glenn R. Moore for Robert M. Atack: Request to conditionally**
3537 **rezone from A-1 Agricultural District to O-2C Office District (Conditional), Parcels 28-A-36A**
3538 **and 36B, described as follows:**

3539
3540 BEGINNING at a point on the southwest line of Nuckols Road, approximately thirty (30) feet
3541 southeast of its intersection with the east line of relocated Sadler Road, thence S. 39° 42' 59"
3542 E. a distance of 309.82 feet to a point; thence S. 37° 43' 04" W. a distance of 367.76 feet to a
3543 point; thence N. 53° 02' 54" W. a distance of 281.09 feet to a point; thence N. 34° 56' 06" E.
3544 a distance of 439.43 feet to the point and place of BEGINNING, containing 2.7 + - acres.

3545
3546 Mr. Marlles - Ms. Gardner will be giving the staff report.

3547
3548 Ms. Dwyer - Is there any opposition to C-5C-99? We have opposition.
3549

3550 Ms. Gardner - During the break I handed out new proffers on this case. I think
3551 you might have gotten a second handout. What I'd like you to look at is "Proposed O-2C
3552 south line of Nuckols Road." In the upper right hand corner in green ink, it says, "Received
3553 2/11/99 at 1:00 p.m." which leads me to the first point. The applicant has submitted new
3554 proffers. You've got color coded proffers in front of you. This is a little tricky. There are
3555 two sets of proffers that came in since the staff report. What you have highlighted in yellow
3556 came in earlier this week and you do not have to waive the time limits to consider these. The
3557 blackline portion of this set of proffer, the strike through and underlined, came in this
3558 afternoon. And to consider those changes, you do have to waive the time limits.
3559

3560 Person from Audience - Do you have any more copies of those?
3561

3562 Ms. Gardner - The Planning Commission did hear this case in January, and it
3563 was deferred in order to allow the applicant time to get with the residents of the vicinity. The
3564 applicant has had at least one meeting with the residents, and I don't know what the status of
3565 the discussions is.
3566

3567 I will focus on the changes in the proffers since the January hearing. First, regarding lighting.
3568 There was language added to make sure that the light will not glare onto other properties. I'd
3569 like to point out on the last line, since this came up as a concern. "Parking lot lighting shall be
3570 reduced to no more than a security level when uses conducted on the property are closed."
3571 The applicant has discussed putting a bank on the property with an ATM. ATM's, of course,
3572 although accessory to the primary use of a bank, are 24-hour operations. It is ambiguous at
3573 best, whether those lights would be turned down when the bank is closed, or rather, I suspect,
3574 the lights would stay up during the nighttime hours.
3575

3576 On Proffer No. 4, during the January hearing, the applicant was proposing a limit of 45 feet on
3577 the building. Today, that was reduced from 35 to 28. So, the applicant is now proposing 28
3578 feet. However, we also have to look at the change in Proffer 5 to understand how that would
3579 work. This is a little complicated.
3580

3581 "Any rooftop mechanical equipment shall be screened from public view at the boundaries of
3582 the property, as determined at the time of Plan of Development review. The screening
3583 materials shall either be by approved screening material on a flat roof or by a screening well
3584 on a sloped roof. The height of the screening material on a flat roof shall not exceed 28 feet
3585 above ground level. The height of the screening on a sloping roof shall also not exceed 28 feet
3586 above ground level, measured to the mid-point of the roof slope." Hopefully, the applicant
3587 will be able to illustrate how all that might play out.
3588

3589 Going to the next page, Proffer No. 6, the word, "new" is inserted. That's a very minor
3590 change. "All new utility lines shall be placed underground." In Proffer No. 8 under "Setback
3591 Area," the applicant has proposed to make a commitment to certain landscaping on the
3592 property. And, then, finally as a result of discussion at the January hearing, the applicant has

3593 added a limitation on outside activities to preclude any outside activity; that is the parking lot
3594 cleaning and trash pick up on Saturday or Sunday.

3595
3596 At the January hearing, staff did not have any objections to the case. We continue not to have
3597 objections to the case. However, as I pointed out earlier, the applicant did submit new proffers
3598 this afternoon and I do not know if the residents of the area have had a chance to see them.
3599 And, I can't advise you of what the status of that is. I'd be happy to take any questions.

3600
3601 Ms. Dwyer - Any questions for Ms. Gardner? Thank you, Ms. Gardner.
3602 Would the applicant like to come forward, please? Would you like to reserve some rebuttal
3603 time?

3604
3605 Mr. Sidney Gunst - Yes. I'd like to reserve two minutes. Thank you. Good evening.
3606 I'm Sidney Gunst, President, of the Innsbrook Corporation and developer of Innsbrook for the
3607 past 20 years, 850 acres, 5 million square feet, 17,000 people. And, I think this week, we had
3608 another announcement. We've been working closely with the County on that—Capital One.
3609 In this particular case, the applicant is Mr. Bob Attack. I have agreed to let this property
3610 become a part of Innsbrook, which, we think, would be beneficial. It would become part of
3611 our protective covenants and our standards. This property to the north is Innsbrook North. To
3612 the east is the Post Office. To the south is more of Innsbrook. And to the west is The
3613 Overlook, an O-2 case, and, diagonally, as you can see, is the residential areas, both
3614 Saddlebrook and The Cedars.

3615
3616 We have met with the neighbors, and we've handed out earlier tonight the revised proffers
3617 again. What we have done is made a major and significant commitment to a one-story O-2
3618 case, a maximum of 28 feet.

3619
3620 If we built a flat roof, we would limit the entire building to 28 feet, including any roof
3621 screening. And if it's a sloped roof, indicate that there would be a recessed well to hide all of
3622 the equipment. So, it was done just to explain the difference on how you treat roof screening,
3623 if it was a decorative sloped roof, or a flat roof.

3624
3625 We've also tried to enhance our landscaping on this property. There's no bank within one
3626 mile. This use, both the offices and the bank, would be compatible with the Innsbrook Master
3627 Plan, with the County's Land Use Plan, and, I believe, recommended by the staff.

3628
3629 We have over 12,400 cars. At Nuckols Road there is a signal light there. And the traffic
3630 there will ultimately grow to approximately 30,000.

3631
3632 The crux of the matter that seems to be on the table are the following issues: screening of use,
3633 traffic, nighttime traffic, and crime. Crime, particularly robberies associated with banks,
3634 seems to be a very major concern with the residents that I've had the opportunity to meet with.
3635 And I know it's a very strong feeling. I know it's a sincere feeling. And, I'll be candid. If
3636 you've got a robbery problem with banks, if we have a crime problem, then we shouldn't
3637 allow this case. A bank is a principle use within O-2, and I think this would set a powerful
3638 precedent for the County. If that's the case, let's move on with it, because if we have a real

3639 problem here; this bank would be 460 feet from the nearest home—Mr. Waters home. It is
3640 further to Mrs. Barker's home which is the two closest. The issue on the crime, we did a
3641 study of residential areas. We did a study of 12 different areas in the west end, many of which
3642 have been recently approved, particularly in the Pump Road corridor, the Short Pump Crossing
3643 area, and others where banks have been approved at a shorter distance than ours; some within
3644 100 feet; some 50 feet. Forest Avenue over at Patterson, you've got a Nations Bank that's 50
3645 feet across from new homes being built in Blueberry Hill. So, if this is a problem, then I think
3646 we need to set a precedent to eliminate from now on.

3647
3648 I will tell you, the County Police, and it's in your report, the County Police Report for 1998
3649 for the Three Chopt District is 38 total robberies. And only three robberies with respect to;
3650 one for an ATM; three for banks. All of those were on Parham Road or east. There have
3651 been no robberies in 1998 in the Three Chopt District west of Parham Road, according to the
3652 Henrico County Police Department. And that information is available.

3653
3654 The next issue is ATM usage at night. This is another concern, and a very legitimate concern
3655 of the neighbors. We are working with Guaranty Bank. They have seven ATMs in the state.
3656 I think, presently, Glen Young is familiar with the bank and its people. They have ATMs, and
3657 they operate from 8:00 p.m. to 6:00 a.m. They average five uses per night. And that
3658 information has been filed with the County, too. This is a community bank. It's a
3659 convenience service. There's not a bank nearby.

3660
3661 Our traffic report and traffic analysis, which has been accepted by the Public Works
3662 Department, is in the 600 total cars per day onto Sadler Road, about half of what the recently
3663 built Childress-Kline project was.

3664
3665 The Cedars, for instance, would generate, it has 105 homes, I believe. They would generate
3666 close to a 1,000 cars per day, just to give you a relative basis here.

3667
3668 The Innsbrook Project, remember, this was 21,000 square feet, plus a 3,000 square foot bank.
3669 And, we're building 250,000 to 500,000 a year in Innsbrook. I think the real issue is, we're
3670 committed on the landscape.

3671
3672 With respect to the ATM, we can certainly say it would be oriented towards Nuckols Road, if
3673 that is an issue. The lighting would have to be kept up on the ATM, but the parking lot
3674 lighting can be reduced to the normal safety level that we have elsewhere, or potentially turn it
3675 off, but generally the lighting level is reduced to a security level in Innsbrook.

3676
3677 The density, if you'll look in your report, the density of the project is less than 9,000 square
3678 feet per acre, It does have a 62 percent coverage ratio, but because we've committed to one-
3679 story, our density is 9,200 square feet.

3680
3681 I think the key thing now is that the County has worked on Innsbrook for many years. I've
3682 worked with many of you over the years. I know you're proud of Innsbrook. I'm proud of
3683 Innsbrook. We want to be good neighbors with the community. This calls for your
3684 professional judgement on the facts. There are a lot of hands being raised. If the number of

3685 hands being raised that it's true, then we should not have it here. I do not believe that's the
3686 case. I've used up my eight minutes. I'll reserve it for rebuttal. Thank you.

3687
3688 Ms. Dwyer - Any questions for Mr. Gunst by Commission members?

3689
3690 Mrs. Wade - Are any of these included in the renditions here?

3691
3692 Mr. Gunst - This is the plan we propose to use. You'll notice the lines to the
3693 nearest house is 460. It's extensive. It's further than most of the banks currently being
3694 approved next to neighborhoods. And, I have that list in your package of 12 in the west end.
3695 So, this is the layout that we propose to use.

3696
3697 Ms. Dwyer - Is this being proffered, the site plan?

3698
3699 Mr. Gunst - I'm willing to proffer it as a concept. What we haven't done is
3700 the engineering necessary. I've had problems with this in the past, but let me be very clear. I
3701 can proffer this in the general orientation, that the bank will be up towards Nuckols Road.
3702 That the buildings will be near the post office. That will leave me the flexibility to adjust the
3703 configuration in that context, that's okay. I had, in the past, difficulty where it's becoming
3704 locked in before we've done the engineering.

3705
3706 Mrs. Wade - Now, is all this site shown on the screen here part of this case,
3707 Mr. Gunst?

3708
3709 Mr. Gunst - What we've addressed here is, I've explained to Mary Wade, is
3710 that the area shown on the plan, the area that affects the line of sight, we have been very
3711 specific about that with the eight to ten foot Leland cypress, double stacked on the other side
3712 where there's a greater buffer. There's another piece of land that we do not own; owned by
3713 Gibson Wright. There is also quite a bit of area that's being abandoned. As you know, Sadler
3714 Road is being moved and relocated. So, it's more than standard right of way. The area to the
3715 east here, it's not finalized how we will landscape it. We will certainly commit to landscaping
3716 on the same standards we've used in Innsbrook. I thought that was one of the benefits is that
3717 Innsbrook does require extensive landscaping. This would be subject to our Innsbrook
3718 protective covenants.

3719
3720 Mrs. Wade - Can you outline on here where the property line is on the top of
3721 this on the western property line?

3722
3723 Mr. Philip Parker - Mrs. Wade, I'm Philip Parker with Foster & Miller. Referring
3724 to the boundary line for the rezoning, it runs from right at this corner, following down this
3725 straight line. The property line comes down along through here, between the tree line and the
3726 road along Nuckols here and then it continues on through here back up to the realignment of
3727 Sadler Road right up through here.

3728
3729 Mrs. Wade - Thank you.

3730

3731 Ms. Dwyer - Any other questions of Mr. Gunst by Commission members?
3732

3733 Mr. Gunst - Okay, one comment. Again, I'm willing to commit to this plan if
3734 its taken in that context that we will put the building over there and the bank up there. If this
3735 is important, I can do that. I have a proffer that I can submit. I'd be willing to do that. I just
3736 want to be clear that it has not been finally engineered as to the grades and the final
3737 configuration. But that is the location we do want to put it.
3738

3739 Ms. Dwyer - Thank you. We'll hear from the opposition. Again, we do have
3740 a 10-minute time limit for both the applicant and the opposition. Usually, that's sufficient.
3741

3742 Mr. Glen Young - If you'll limit me to three minutes, I'd appreciate it. My name is
3743 Glen Young, the President of the Homeowners Association for Saddlebrook. And we're here
3744 not so much to speak out in objection for this proposal, but just we have strong concerns with
3745 the proffers.
3746

3747 As of Sunday night, stuck in a mailbox, we got version three. Walking in, before the meeting
3748 tonight, we got version four. We possibly got version five a few minutes before that. We've
3749 now heard of an additional proffer, which, I guess, will make that version 6. We're still not
3750 real sure what is going to be happening on this place.
3751

3752 We had a nice rendition up here, but we also had a second rendition that we saw at a public
3753 meeting that Mr. Gunst and Mr. Moore presented about two weeks ago. And the majority of
3754 that discussion was on that proposal. That was a two-story building; very well drawn out. I
3755 think it is acceptable to a lot of folks.
3756

3757 We have talked to our residents through annual meetings and also through other public
3758 meetings. And, there is very strong opposition to a financial institution for a number of
3759 reasons. So, at that public meeting that we had, when Mr. Gunst presented that two-story
3760 building, we were pretty excited about it, I thought. Everybody was very happy with the
3761 proposal, the way it was drawn out. It was very nice. We thought we were making a lot of
3762 progress and moving forward.
3763

3764 But, at this point, it seems that there is not much of a dialogue going on back and forth
3765 between us. We would like for it to be a dialogue. We would like it to be a working
3766 relationship. But it seems there is more of, "Hey, here's another set of proffers. Let's keep
3767 throwing stuff at us." We're not sure what's coming up next. That's all I have to say. Are
3768 there any questions I can answer, I will do so.
3769

3770 Ms. Dwyer - Are there any questions by Commission members?
3771

3772 Mr. Vanarsdall - Are you saying it is moving too fast for you? They've had a lot
3773 of meetings with you?
3774

3775 Mr. Young - I'm not saying its moving too fast, I'm just saying I don't know
3776 what we're talking about. I mean, I see the renditions but then I also hear, "Hey, we may not

3777 do that." It depends on this. It depends on that, which I can understand and appreciate their
3778 position. But, at the same time, we live across the road from this.

3779
3780 Mr. Vanarsdall - But you have been involved with the meetings, though?

3781
3782 Mr. Young - Yes. I spoke before you about a month ago. A week later we
3783 had our annual association meeting. A week after that, there was a public meeting with Mr.
3784 Gunst and Mr. Moore.

3785
3786 Ms. Dwyer - Any other questions for Mr. Young?

3787
3788 Mrs. Quesinberry - Did you say you are opposed to a financial institution?

3789
3790 Mr. Young - We are opposed to a financial institution. We are not opposed to
3791 the development of this property.

3792 Mrs. Quesinberry - Could you just tell me, briefly, why.

3793
3794 Mr. Young - He cited the case, there's five average visits per night. Guaranty
3795 Bank is centered in Albermarle County, Charlottesville. He also stated there's not any other
3796 banks within a mile. You're a block off of I-295. You're right off of Nuckols. It handles
3797 12,000 cars per day. You can't tell you're going to get five visits between the hours of 8:00
3798 p.m. and 6:00 a.m. So, you're going to have a certain amount of traffic which is coming
3799 through there. The rendition that's shown here has drive-in windows or drive in lanes. Those
3800 drive-in lanes point the headlights directly towards the neighborhood. An ATM has to have
3801 lighting at the security level which will also illuminate the place more. We're trying to live
3802 our private lives and get away from this. Understandably, we are next to Innsbrook. We
3803 chose it because it's next to Innsbrook. It offers a lot of opportunities. But, at the same time,
3804 we don't want to be overwhelmed by the development. We want to be a partner with it.

3805
3806 Mrs. Quesinberry - Thank you.

3807
3808 Ms. Dwyer - It's the ATM component of the financial institution that has given
3809 you the most concerns?

3810
3811 Mr. Young - I would say, in general, it's the traffic. If you get an office
3812 building, it has folks generally coming in the morning, maybe leaving for lunch, going back
3813 and then leaving in the evening. An ATM has unlimited traffic, 24-hours a day, seven days a
3814 week. And depending on the success of the bank, and, hopefully, the bank is successful. It's
3815 going to generate a lot more traffic, and that's why they're choosing this spot because it is such
3816 a prime spot.

3817
3818 Ms. Dwyer - I know the bank that was mentioned at Patterson and Forest,
3819 when that was originally approved many years ago, before ATMs were used. Since they've
3820 installed the ATM, that has generated a lot of complaints in the Tuckahoe District.

3821

3822 Mr. Young - I know I'm an ATM user. I don't want to use a bank. I go to an
3823 ATM.
3824
3825 Mr. Vanarsdall - Are you opposed to a financial institution, itself, or it is the drive-
3826 ins and the ATMs?
3827
3828 Mr. Young - It's the traffic; number of trips.
3829
3830 Mr. Vanarsdall - If there wasn't an ATM there at all, would you be opposed to it
3831 then?
3832
3833 Mr. Young - There would be less opposition. They're still generating a
3834 significant amount of traffic with people going through there. For example, let's pick a Friday
3835 night which is a bad example, because it is stacked up, but you go through a lot of drive-in
3836 windows at that time, and you get five, six, seven cars backed up. They're sitting there,
3837 motors running, headlights are pointing off towards the neighborhood.
3838
3839 Mr. Vanarsdall - It's going to draw traffic in the evenings, too, people working out
3840 of town coming home.
3841
3842 Mr. Young - And the other point I want to make, as well, is this rendition has
3843 an exit onto Nuckols Road. We don't necessarily know; that has not been proffered. We do
3844 not know that access will be something that will happen. It could be every single car in and
3845 out of there comes out at this intersection at the left hand side, which will then, I'm guessing,
3846 most will circle back around to the realigned Saddler Road at the light there at Nuckols, as
3847 opposed to proceeding on Sadler to the left past the Post Office and out to Cox.
3848
3849 Ms. Dwyer - Thank you. Any more questions of Mr. Young?
3850
3851 Mr. Archer - Would the degree of your opposition be the same if the building
3852 were oriented so that the lights would not shine in your neighborhood?
3853
3854 Mr. Young - That would definitely be helpful. I mean, again, if there's
3855 something we can get some definite; pin down to one thing. Say, "Hey, this is what we're
3856 looking at. It's either 'A' or 'B.'" The last time we saw "A" or "B," we said, "Hey, we
3857 don't like 'A,' we like 'B.'" So, now we see "A" back up here.
3858
3859 Mrs. Wade - Is this "B," Mr. Gunst? It does have the access onto Sadler?
3860
3861 Mr. Gunst - I believe that's "A."
3862
3863 Mrs. Wade - Which is not what they're proposing, tonight, of course.
3864
3865 Mr. Young - If my memory serves me correct, I believe that is the drawing we
3866 did see at the public meeting. The one thing that is very appealing about that, is that the

3867 building is pushed up as close to Nuckols Road as possible. It still has the ingress and egress
3868 onto Sadler Road, but that is acceptable if that building is that far away.

3869
3870 Ms. Dwyer - This is a two-story building that's proffered. The present case is
3871 a one-story building.

3872
3873 Mr. Young - Correct.

3874
3875 Ms. Dwyer - So, you prefer the two-story office?

3876
3877 Mr. Young - Yes. Over a financial institution. Yes ma'am.

3878
3879 Ms. Dwyer - Any more questions for Mr. Young? Thank you.

3880
3881 Mr. Young - Thank you.

3882
3883 Ms. Mary Barker - Good evening. My name is Mary Barker and I'm a resident of
3884 the Saddlebrook Subdivision, residing at 4400 Cedar Forest Road. Not to take anything away
3885 from Glen, but there's a lot of us here tonight that do feel that this case has moved too fast.
3886 From the very get go and the reason we had the deferral in the beginning, information is very
3887 late in coming. It doesn't allow us time to digest. The version 3 of the proffers, we got that,
3888 as Glen said, on Monday. The first we could get our members together was last night. We
3889 gave Sidney a discussion paper that closely aligned us with the proffers on the adjacent
3890 property. We haven't had an opportunity to get together to investigate how many of those
3891 could be incorporated into their proposal.

3892
3893 Glen had said that, you know, crime probably wasn't his topic. It is for a lot of the residents.
3894 There was a bank next to the Texaco station, I believe, was robbed last year. At least, that's
3895 what my sources are telling me. And that's just up, it's right off, I believe, Nuckols Road.

3896
3897 There's very, very large concern amongst the neighbors. In fact, the ones that I called, that is
3898 their chief concern. The next concern is, obviously, the transient traffic that comes through
3899 with a bank. When we worked on the proffer for Overlook, that was the No. 1 issue. "No
3900 financial institutions, and limiting medical to 20 percent." The other big issues were the site
3901 coverage ratio. On The Overlook, it's 50 percent. No access onto Nuckols Road, which is
3902 why we allowed it to be a little more of a building or a set of buildings than we had originally
3903 anticipated. Because for the County it was good to have that road go through. It allowed us
3904 not to have the traffic onto Sadler Road.

3905
3906 For myself, for the residents that I talked to, I think we need more time. I think we need more
3907 time to meet with Sidney and Bob to talk through and capture on paper the issues. As Glen
3908 alluded, we saw a beautiful plan for a two-story building. I'd like to investigate why that's not
3909 a possibility still. So, for myself, and for the residents that I've talked to here, we're asking
3910 for another 30 or 60 days so that we can meet on the latest set of proffers so that we can
3911 capture, so that we can get a clear definition of the lighting impacts.

3912

3913 I thought I read in the traffic study that the impact of the cars was upwards of 1,200 cars per
3914 day. So, I think we need to go back and look at that to make sure we're reading that right.
3915 Obviously, an "all office" building generates a lot less traffic.

3916
3917 The final thing I'll say is, we're very concerned about our property values. Innsbrook was a
3918 good thing to do in terms of property values, but you put yourself next to a 7-Eleven or a
3919 service-oriented company, like a bank, you tend to diminish. I mean, I wouldn't want to buy a
3920 house next to a bank. If I had known this house that I have now was likely to be next to a
3921 bank, I would have made a different choice, and I know a lot of the neighbors feel that way, as
3922 well. I thank you very much for your time. I hope you will consider extending our time
3923 period to talk.

3924
3925 Ms. Dwyer - Any questions for Mrs. Barker by Commission members?

3926
3927 Mrs. Barker - Thank you.

3928
3929 Mr. Todd Sheller - Good evening, Madam Chairman. What is the remaining time?
3930 I'd like three minutes, please. Good evening. My name is Todd Sheller. I am the President
3931 of The Cedars Homeowners Association. We are the homeowners that are adjacent to and
3932 next to Saddlebrook.

3933
3934 As Glen spoke to you, this evening, we from The Cedars are also here asking you not to reject
3935 this rezoning request. All we ask is that we be given the opportunity to work out the proffers
3936 with the developer. We worked, The Cedars Homeowners Association and the Saddlebrook
3937 Homeowners Association, worked very diligently with you all for over a four year period time
3938 as we worked with Gibson Wright on The Overlook project. Through four years, it took us
3939 four years to come up with a good set of proffers between that developer and the Homeowners
3940 Association. That was an O-2C Conditional zoning in the O-2 Land Use Plan area. That is an
3941 adjacent property to this property. All we are really asking you, is we'd like the same proffers
3942 that we spent four years negotiating with you all with the previous developer. That previous
3943 developer had requested to have a financial institution. Through those proffers, he was not
3944 able to do that. We now have a new developer that would like a financial institution. The last
3945 thing I'd say, Mr. Gunst tried to say to you and led you to believe that if you say that the
3946 financial institution; this would set a precedence if you all reject this for a financial institution.
3947 It's not setting a precedent. The precedent has already been set with four years of negotiation
3948 on the adjacent property in the same land use—the O-2 land use, according to the Land Use
3949 Plan. Those proffers were worked out. We'd like to use those same proffers or, at least, in
3950 that same general vein. We'd like the opportunity to work those proffers out with the
3951 developer. That's all I really have.

3952
3953 Ms. Dwyer - Thank you. Any questions by Commission members? Thank
3954 you. Are there any more speakers?

3955
3956 Mr. Dave Cummings - Think I'm the last one.

3957
3958 Ms. Dwyer - You have almost three minutes.

3959
3960 Mr. Dave Cummings - I am the Vice-President of The Cedars. Again, I appreciate your
3961 time. We did have a tough experience with The Overlook property, as Todd mentioned. But,
3962 we did, finally, with your help, and particularly Ms. Dwyer's help, and we appreciate the time
3963 that she put in on that project, come up with some good proffers that dealt with things like the
3964 landscaping, and adequate buffer, and screening, site coverage, the land use, itself, in
3965 restricting any retail or financial development; lighting issues, sound issues, cleanliness and so
3966 forth. And, at that time, I believe, Sidney Gunst supported us on those proffers and we
3967 appreciated it at that time and we'd like to get that same consideration here.

3968
3969 Obviously, there are some neighbors that would like to see this property remain A-1. Some
3970 would like to see it maybe go to O-1, with very limited use. We recognize that the County's
3971 Land Use Plan, and the staff have recommended an O-2 rating or zoning, and we don't oppose
3972 that. But, we do think it's very important that this land adjacent to Sadler Road is treated
3973 consistently and the same conditions that were applicable to The Overlook property are carried
3974 over and are made applicable to this property.

3975
3976 There's concern about precedence being set for financial institutions, but at the same time,
3977 there is integrity of the neighborhoods that needs to be considered. Mr. Gunst indicated that
3978 there were no banks within a mile, but there are three banks within a mile and a half. So, to
3979 the extent people need to use a bank, there are three banks within a mile and a half at the other
3980 end of Cox Road on the other end of Innsbrook that are convenient to the neighbors. And
3981 there does not have to be another bank this close to this neighborhood.

3982
3983 The property, itself, as was indicated before, had two proposals. This was Plan A, I think,
3984 and you referred to Plan B, earlier. And at the public meeting that was held, we spent a lot of
3985 time addressing Site Plan A was inappropriate. Why Plan B could be supported. And, as
3986 other folks indicated, we were supportive and somewhat enthusiastic about Plan B being
3987 pushed forward and we're hopeful that's what we're going to hear tonight. Obviously, there's
3988 now been a difference.

3989
3990 The concern we have is what you need to do tonight, whether you need to make a decision. If
3991 so, we would strongly request that you keep the same conditions on this property as we have
3992 on The Overlook. If more time can be made available, work out these issues so that we can
3993 have happy parties and good neighbors, then that would be appropriate as well.

3994
3995 Ms. Dwyer - Your first request is for deferral?

3996
3997 Mr. Cummings - If that's possible, I think we could take some time and work out
3998 some of these issues, and, hopefully, come up with a workable plan that would involve even a
3999 two-story building with appropriate height restrictions. We think being part of Innsbrook is a
4000 great idea. Innsbrook is a great place. We do have strong concerns and opposition to the
4001 financial institution and we would like to reiterate that we don't expect to acquiesce on that,
4002 but we think, the property, itself, can be developed in a very reasonable and appropriate way.

4003 Ms. Dwyer - I don't believe the Commission has another deferral? Is that
4004 correct?

4005
4006 Mrs. Wade - Well, I understand, we have 90 days is what I've heard today. I
4007 thought, too, that we didn't have. I checked on that.
4008
4009 Ms. Dwyer - What is the status of the Commission's deferral options?
4010
4011 Ms. Gardner - From the time of the first hearing, the Commission can defer
4012 action for up to 90 days. So, you can defer this again. You can defer it for 30 or 60 days.
4013
4014 Mrs. Wade - Yes, I thought it was just one, too, until Ms. Gardner looked it
4015 up for me today. Would it be accurate to say, though, as long as there is a financial institution
4016 there with drive-thru windows and an ATM, that you all would oppose it?
4017
4018 Mr. Cummings - That's correct.
4019
4020 Mrs. Wade - Okay.
4021
4022 Mr. Cummings - And we can go into those reasons in more detail, but I believe
4023 you've heard some of the basic reasons.
4024 Mrs. Wade - I understand. Yes. Thank you.
4025
4026 Ms. Dwyer - Mrs. Wade, it is my understanding you do have another deferral
4027 option. At least one.
4028
4029 Mrs. Wade - Yes. That's what I was told today. Let me ask Mr. Gunst or
4030 somebody for the applicant here. We sometimes have this problem when we're getting
4031 different plans and different proffers from time to time. Now, you've heard them that they're
4032 going to be adamantly opposed to any financial institution. If you all are insisting that you're
4033 going to have a financial institution, it doesn't seem there's any room you can meet. But they
4034 are willing to work with you, otherwise, a reasonable plan for that site.
4035
4036 Mr. Gunst - Well, first of all, prior to the meeting that you joined, there were
4037 actually some people that liked one story with the bank versus two, but I think it shifted to a
4038 preference for the two-story. That will not work for us. We want to accommodate our client.
4039 We believe that a bank is a good neighbor.
4040
4041 As far as some of the comments that were made, the five visits per night, even the First Union
4042 up in Innsbrook, I don't have the final count, but from what the manager told me, it may
4043 approach ten to fifteen. I do not have a final count but they were researching that. It is more
4044 than a Guarantee Bank. Guarantee Bank is also on Route 29 in Charlottesville and
4045 Harrisonburg with respect to their activity on the ATMs.
4046
4047 We are willing to proffer the site plan with the access to Nuckols Road. I do think it is very
4048 important to draw a distinction between The Overlook and our property. The Overlook is right
4049 opposite all the residents. The Overlook was opposed by the staff. The Overlook is 12 acres,
4050 and we're 2.6 acres. The Overlook is not part of Innsbrook. Yes, we did work with the

4051 residents because it took five years because the developer continued to pull the case and
4052 withdraw the case and reapply. And we all were familiar with that issue. We certainly have
4053 not done it in that context.

4054
4055 I think its important to look – I’m going to pull up this plan right here. This is The Overlook
4056 opposite the residents. This is opposite Innsbrook. This is in line with the Innsbrook
4057 development next to the precedent set by the Post Office and all the rest of Innsbrook. Yes,
4058 we think that and those types of activities on Nuckols Road, the first signalized interchange;
4059 the first signal off of the Interstate is an appropriate use. It’s 3,000 square feet. It does serve
4060 people. Yes.

4061
4062 As far as needing a screen for headlights, I hear about headlights. I’m trying to understand
4063 how the headlights over here are shining into this neighborhood. You are going to have traffic
4064 there. They’ve got a signalized intersection. I think the neighborhoods were done, I think at
4065 least The Cedars when Dave Kaechele and Mary Wade (unintelligible) on this side of the road
4066 has been talked about for years. It was done to relieve the congestion. This is a dense area.

4067
4068 And, so you’re going to have people going to the bank. No question about it. Whether they
4069 go to the front of Innsbrook or the back, the object is to provide convenience. The whole
4070 concept, when Innsbrook was approved, this was a total planned community with integrated
4071 uses.

4072
4073 We do believe we can screen appropriately, at the POD, these impacts without question.
4074 Again, it is very different than The Overlook because The Overlook is opposite the residents.
4075 Again, I will submit this proffer. “The property shall be developed generally as shown on the
4076 Plan, entitled “Nuckols Road Office Park, prepared by CMS Architects, dated December 23,
4077 1998,” unless an alternative site plan is specifically requested by the developer and approved at
4078 the time of Plan of Development review.”

4079
4080 Rountrey and Associates, which is probably the largest appraisal firm in Central Virginia, and
4081 they’re in the report. They do not believe there will be any value impacts by virtue of a bank
4082 or office. The one-story office is much lower profile and easier to landscape than a two-story.
4083 So, there are some benefits to this. I believe that concludes my remarks. Any further
4084 questions?

4085
4086 Ms. Dwyer - Any other questions for Mr. Gunst? Thank you.

4087
4088 Mr. Vanarsdall - Well, Mrs. Wade, I think he began by saying, "Would you
4089 consider deferring it for 30 days", and I think that’s where we still are.

4090
4091 Mrs. Wade - Well, if I thought there were any hope that some revised proffers
4092 or other details might solve the problem, but from what I hear, they say they have to have a
4093 bank and you say, you would oppose that. So, I don’t know really what would be
4094 accomplished by deferring for 30 days. Do you all hear anything?

4095
4096 Mr. Vanarsdall - I didn’t hear nothing.

4097
4098 Lady from Audience - (Comments unintelligible).
4099
4100 Ms. Dwyer - Could we have a representative come to the podium?
4101
4102 Mrs. Barker - I think what we just heard, "We'll proffer this, but if the
4103 developer says we can't do it, then, you know we'll have to revisit it again at development."
4104 So, to me, that doesn't sound like a proffer. I thought a proffer was something you could
4105 count on unconditionally. It might be an intent, but it provides very little protection. When
4106 we're looking at lights and traffic, keep in mind, that the exit here and as they're turning up,
4107 look at the sweep of the headlights goes. They're on equal footing in terms of height with the
4108 properties that they pass to go out to the light onto Nuckols Road. So, the impacts are there,
4109 and you can't screen your line of sight. So, I think there are some things that we do need to
4110 consider. I think that there are some things that do need to be captured in writing. I think the
4111 opportunity to go for 30 days may prove to be fruitless, but it may enable us to have the
4112 opportunity to get a few more things in writing to discuss why, for instance, a two-story
4113 building is not applicable. I understand they have a client, but everybody else seems to be able
4114 to lease in Innsbrook. So, again, that's what we'd like you to do.
4115
4116 Mr. Gunst - Just a point of clarification, the proffer we did submit can only be
4117 changed by the Planning Commission.
4118
4119 Ms. Dwyer - Planning Commission approval?
4120
4121 Mr. Gunst - Absolutely. So, it has totally been turned over to the Planning
4122 Commission and their judgement. I just expressed my reservations...
4123
4124 Mrs. Wade - It's not an unfamiliar proffer in terms...
4125
4126 Mr. Gunst - You know, we go to the Supervisors, and it goes back to the
4127 Planning Commission. I mean again in the context of all the activities and the residential, I
4128 mean The Cedars produces more cars than this site will produce. The Post Office produces a
4129 lot more cars than this will produce. There's going to be lots of traffic using this road. The
4130 road was put in with a signal light to bleed off traffic. This is one small aspect of a very, very
4131 large project. I think that's the context that's not being recognized here of this particular use
4132 and all the other uses that will be participating in this signalized intersection.
4133
4134 Mrs. Wade - Okay. Thank you. I would think we should probably go ahead
4135 and make a recommendation tonight. Then there will be a month to work on discussions
4136 between now and when the Board meets next month. So, I said, of course, we always have a
4137 problem with the late proffers. Ones that have come in today; this afternoon; ones that have
4138 come in just now. In the interest in taking up the case as it is, I would move that we waive the
4139 time limit for the proffers.
4140
4141 Mr. Vanarsdall seconded the motion.
4142

4143 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall to
4144 waive the Commission's time limits for late proffers. All those in favor say aye—all those
4145 opposed by saying nay. The motion carries.

4146
4147 Mrs. Wade - I don't think anybody's proposing that nothing goes there.
4148 Certainly, O-2 is an appropriate use. As far as the precedent-setting is concerned with
4149 prohibiting various and assorted uses at any given category, that happens on many, if not most
4150 of the zoning cases, that we see. Also, as far as the financial institution is concerned, it's a
4151 Guaranty Bank. Banks, as we know, get bought. It could turn into something else that would
4152 be even more active than this particular one.

4153
4154 The neighborhoods are not as close to this as The Overlook. Some neighborhoods have more
4155 stress than others. And, I know that only too well. Three Chopt has more neighborhoods that
4156 get stressed than changes uses around than some of the others do.

4157
4158 As far as the details are concerned here, The Overlook does have 50 percent. It seems to me
4159 that the Innsbrook scale that they've used is one that they have 40,000 square feet, have 57
4160 percent site coverage. I believe they're proposing 62 percent for this case.

4161
4162 If you watched Channel 12 last night on the news, the poll of the people in the County about
4163 the worst intersections in the County. Of course, Parham and Patterson was first. Cox and
4164 Nuckols was third. And, apparently, the traffic is going to double on Nuckols, according to
4165 Mr. Gunst's figures, in the next few years. So, although that would seem from the business
4166 standpoint to be an appropriate place to capture a lot of passersby or convenient, it also would
4167 add to the problem of people coming and going there, it seems to me.

4168
4169 As far as the crime is concerned, it is hard to pin point any particular area or attraction for
4170 that, although there have been quite a few bank robberies recently. But, obviously, crime is a
4171 concern, or the Police, when they come to the banks, wouldn't stress so much the lights and
4172 the security measures and visibility that they do. I know the hours of the ATMs and the lights
4173 that you're concerned about, the car lights, the lights that would have to stay on there all the
4174 time, 24-hours a day, is a concern with that particular use.

4175
4176 The fact that's occurred to me recently that we've made an exception of ATMs as far as uses
4177 and hour limitations are concerned, because other uses, of course, in O-2 they can stay open
4178 all night anyway. But in some other business categories, B-2, for instance, where the use has
4179 to close at Midnight, that doesn't include the ATMs. They don't seem to fall under the same
4180 rules as others. But he has committed just now, the layout, but with the possibility of altering
4181 that, of course.

4182
4183 And earlier this evening, I believe, Mr. Merrithew, in his comments about one of the earlier
4184 cases was that one of the Goals, Objectives, and Policies or our 2010 Plan is not to discourage
4185 rezoning when frequent, vacant, similarly zoned land exists in the vicinity. Surely, there must
4186 be another site around here some place with zoning that would allow a 24-hour bank operation.
4187 This comes out of the Residential section of the Comprehensive Plan. Also, it includes
4188 lessening the impact on residential areas, and making changes in the harmony with the existing

4189 development; the economic development and encourage infill while minimizing disruption.
4190 So, although, we could find, of course, some strong points in our Comprehensive Plan
4191 encouraging economic development, there are also these reservations when it is in contact with
4192 the residential areas. So, they do consider this their neighborhood, although it's not right
4193 directly, perhaps, across the street. So, for these reasons, I would move, at this point, that
4194 Case C-5C-99 be recommended for denial.

4195
4196 Mr. Vanarsdall seconded the motion.

4197
4198 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall to
4199 recommend Case C-5C-99 to the Board for denial. All those in favor say aye—all those
4200 opposed by saying nay. The motion for recommendation for denial carries.

4201
4202 Mrs. Wade - And it will come before the Board of Supervisors on March 9th.
4203 So, if you can work out something between now and then, that's good.

4204
4205 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning
4206 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the
4207 request because the applicant failed to meet his burden to show that the requested changes are in
4208 the best interests of the welfare and future of the community; it would not be in the best interest
4209 of the health, safety, and welfare of residents in the vicinity; and the applicant failed to address
4210 concerns about potential impacts.

4211
4212 **Deferred from the January 14, 1999 Meeting:**

4213 **P-1-99 Glenn R. Moore for Allen Tire, Inc.:** Request for approval of a
4214 provisional use permit in accordance with Sections 24-58.2(c) and 24-122.1 of Chapter 24 of
4215 the County Code in order to operate an auto parts sales, service and installation facility, on
4216 part of Parcels 56-10-2S & 1B, containing 1.157 acres, located at the southeast corner of
4217 Lauderdale Drive and Rutgers Drives. The site is zoned B-2C Business District (Conditional).

4218
4219 Mr. Marlles - The staff presentation will be by Mr. Bittner.

4220
4221 Ms. Dwyer - Any opposition to P-1-99 Allen Tire, Inc.? There is opposition.
4222 We'll get to the opposition in a moment. Mr. Bittner.

4223
4224 Mr. Bittner - Thank you, Ms. Dwyer. This application would allow the
4225 construction and operation of an auto parts sales, service, and installation facility specializing
4226 in tires, lubrication, minor repairs, maintenance, and inspections. The business would be Allen
4227 Tire, Inc., which is a local operator of Good Year franchises. The property, in question, is
4228 zoned B-2C and is adjacent to the Lauderdale Square Shopping Center.

4229
4230 Residential neighborhoods border the site's northern and eastern boundaries. There is a row of
4231 single family homes that front the north side of Rutgers Lane. The Worthington Hills
4232 condominium community is along the eastern or rear border of the site. The closest residence
4233 would be approximately 200 feet east within Worthington Hills.

4234

4235 In the western portion of the County, automobile service facilities, similar to this proposed
4236 use, do not, typically, locate next to residential areas. This is illustrated by the Good Year
4237 facility at Broad and Gaskins, the Autoport facilities at Innsbrook, and the Firestone and Tire
4238 America facilities at Regency Square Mall. These operations are generally too noisy to be
4239 compatible with residential neighborhoods. Even though this property is designated
4240 Commercial Concentration on the 2010 Plan, staff feels that the proposed use is too intense for
4241 this site because of the adjacent neighborhoods. Staff recommends denial of this application.

4242
4243 I'd like to point out that we've also received several messages from citizens expressing their
4244 opposition to this application, as well.

4245
4246 If this application is ultimately approved, staff recommends that the revised conditions passed
4247 out tonight be placed on the Provisional Use Permit. Staff has revised its recommended
4248 conditions, based on agreements that have been made between the applicant and the residents
4249 of Worthington Hills. It is staff's understanding that Worthington Hills supports this
4250 application, provided it contains certain conditions. The major changes to the recommended
4251 conditions are outlined now.

4252
4253 Condition 2, the agreement between Worthington Hills and the applicant would actually restrict
4254 hours of operation further than what staff has already recommended. They would close by
4255 3:00 p.m. on Saturday and would not open at all on Sundays. Also, pick up and delivery of
4256 supplies would be limited to business hours. Trash removal and parking lot cleaning could
4257 only take place Monday through Friday during business hours.

4258
4259 Condition 3, we're recommending a change, because it is also my understanding that the wall
4260 that staff is recommending along the Worthington Hills boundary, is not really desired by the
4261 residents of Worthington Hills. So, we have revised this condition so they would have to
4262 either be a wall, or additional landscaping; evergreen plantings installed in the area between
4263 the building and Worthington Hills.

4264
4265 Condition 4 deals with the architecture. We revised that some. You've got a black and white
4266 picture in your handout which might not be that visible, but we have a colored photograph
4267 here. This is an existing Allen Tire facility in Midlothian. And, the applicant is intending to
4268 build something very similar to this on this site.

4269
4270 Originally, staff recommended that the architecture be consistent with the CVS next door,
4271 although, this seemed to please the residents of Worthington Hills, to a certain extent, and staff
4272 thinks its an attractive design, as well, and incorporates the typical colonial elements, including
4273 brick, pitched roofs and dormer windows and so forth. So, we revised it to say that this would
4274 become part of the application and would be referenced in the conditions.

4275
4276 Condition 6, again is based upon an agreement between Worthington Hills and the applicant.
4277 Although staff is recommending no chain link fencing on the site, we would allow chain link
4278 fencing with slats which are pieces of wood on top of the fencing to be used for the gate on the
4279 dumpster enclosure. The dumpster enclosure would have to be constructed of material
4280 consistent with the building, which would be brick in this case.

4281
4282 Condition 7, we are recommending there will be no sign on the rear of the building that would
4283 face Worthington Hills.
4284
4285 Finally, we've added Condition 12, stating there shall be no exterior storage of batteries, tires,
4286 or other automotive parts or supplies on the site.
4287
4288 Again, staff's main recommendation, though, is one of denial for this application. But if you
4289 also approve this, we would recommend the conditions we've placed on the permit. I'd be
4290 happy to answer any questions you may have.
4291 Ms. Dwyer - Any questions for Mr. Bittner by Commission members?
4292
4293 Mrs. Wade - Is there anybody here from Worthington Hills? Oh, you're from
4294 Worthington Hills?
4295
4296 Man from Audience - We're from Broadford.
4297
4298 Mrs. Wade - You're from Broadford or Glen Gary.
4299
4300 Man from Audience - We're from Worthington Hills.
4301
4302 Mrs. Wade - You're from Worthington Hills? Okay. I assume you haven't
4303 seen all these latest conditions?
4304
4305 Man from Audience - You haven't seen them, yourself.
4306
4307 Ms. Dwyer - Do we have extra copies that we could share? I'll give mine up.
4308
4309 Mrs. Wade - These are a combination, really, of ones that Mr. Bittner had
4310 proposed first, and the ones that Worthington Hills recommended.
4311
4312 Ms. Dwyer - So, the new language is apparently italicized? Is that right, Mr.
4313 Bittner?
4314
4315 Mr. Bittner - Yes.
4316
4317 Mrs. Wade - Well, since everybody has stayed so long, we better hear it.
4318
4319 Ms. Dwyer - I have a question. In Condition 2, I'm not sure how we would
4320 word this. But I know that there is a tire facility on Patterson Avenue, and I've heard a
4321 number of citizen complaints about employees of the facility coming and using it after hours,
4322 and using it on weekends when its not open to the public and generating noise from car engines
4323 and radios, and whatever it is they use to take tires off and on, whatever that noise maker is
4324 called. But, it seems to me that we should clarify, based on that experience in Condition #2,
4325 that these hours of operation not only apply to public operation of the facility, but also for any
4326 use whatsoever, whether its by employees or not.

4327
4328 Mrs. Wade - I don't think that situation is uncommon, from what I gather, with
4329 service stations and other things of this nature.
4330
4331 Ms. Dwyer - And a question or clarification of No. 5; are the emergency exit
4332 doors, garage doors, or people doors?
4333
4334 Mr. Bittner - People doors is our intent.
4335
4336 Ms. Dwyer - Because its in the paragraph that talks about no garage doors, and
4337 then it says, "emergency exit" doors. I think we should clarify that those are not...
4338
4339 Mr. Bittner - For "Fire emergency" or something like that for a person to get
4340 out and not for a car.
4341
4342 Mrs. Wade - You don't even mention keeping the doors closed while they're
4343 working...
4344
4345 Mr. Bittner - That is something you can't enforce.
4346
4347 Mrs. Wade - They are in the pictures here, but...
4348
4349 Mr. Bittner - Mr. Moore told me they took them on a super cold day; those
4350 pictures.
4351
4352 Mrs. Wade - If you've been to Gaskins and Broad and Pouncey Tract; well, at
4353 Wal-Mart, you'll see that the doors stay open. All right.
4354
4355 Ms. Dwyer - Are there any other questions for Mr. Bittner? Thank you. Hear
4356 from the applicant.
4357
4358 Mr. Glenn Moore - Madam Chairman, members of the Commission, my name is
4359 Glenn Moore. And I'd like to reserve two minutes for rebuttal, if I could. I'm here this
4360 evening on behalf of the Wilton Family Limited Partnership, which is the owner of Lauderdale
4361 Square Shopping Center, which this parcel is an outparcel on Lauderdale Square, and also
4362 Allen Tire, which operates four or five Goodyear Tire facilities in the greater Richmond area.
4363 I'm sorry Mr. Allen could not be with us this evening. He has been actively involved in this
4364 case. He's ill, and wasn't able to be with us.
4365
4366 If this request is approved, Mr. Allen proposes to operate a Goodyear Tire sales and service
4367 facility on the east line of Lauderdale Drive, between a proposed Exxon Service Station and a
4368 freestanding CVS Pharmacy.
4369
4370 On the drawing that you see on the screen, it would be on the right hand building pad. The
4371 Exxon site is off of that drawing, and the CVS is pretty much in the middle of the drawing.
4372 Both the drug store and the service station have been approved, but not yet constructed.

4373
4374 The facility will be developed in a manner so that the bay doors face the buildings to either
4375 side rather than Lauderdale Drive or toward the Worthington Hills residential community to
4376 the rear of the site. And, that's consisted with the condition that Mr. Bittner has
4377 recommended.

4378
4379 The staff recommends denial of this application because of its belief that the proposed use is
4380 too intense at a location and proximity to residential neighborhoods, such as Worthington
4381 Hills. The Zoning Ordinance, as you know, specifies, however, that a Provisional Use Permit
4382 may be approved where necessary safeguards can be established for the protection of
4383 surrounding property.

4384
4385 Consequently, the Zoning Ordinance authorizes the Board of Supervisors to impose reasonable
4386 conditions to accomplish the objectives of protecting surrounding property, with respect to
4387 development matters such as screening, lighting, hours of operation and other requirements.

4388
4389 This request was deferred at your last meeting to allow the applicant time to meet with
4390 representatives of Worthington Hills. We have meet with the Board of Worthington Hills
4391 Townhouse Association. And, as a result of our meeting, the Board has indicated support for
4392 this proposal, provided appropriate conditions attached to the letter of support that was sent to
4393 Mrs. Wade, and I think Mr. Bittner has a copy of it, are made a part of the approval of the
4394 Provisional Use Permit.

4395
4396 Mr. Wilton and Mr. Allen have reviewed the conditions, and have found them to be
4397 acceptable. I haven't fully had a chance to review the ones that Mr. Bittner passed out. They
4398 seem to be generally compatible with what we had. I think the signage may be an issue, but
4399 I'll get into that later. Of course, we're at the mercy of the Commission with respect to these
4400 conditions, anyway. They're not proffers, and we have to live with whatever the Board
4401 ultimately imposes.

4402
4403 The conditions do require adherence to the residential-style of architecture with a significant
4404 amount of brick construction that you have already seen the two photographs which depict that
4405 architecture.

4406
4407 The hours of operation of the facility are quite limited. The facility will be open to the public
4408 from 7:00 a.m. to 7:00 p.m., Monday through Friday; 7:00 a.m. to 3:00 p.m. on Saturday,
4409 and will be closed on Sunday. Further, the hours of delivery, trash pick up, and parking lot
4410 cleaning will also be controlled for the benefit of nearby area residents.

4411
4412 We have made a commitment to maintain existing trees within the 25-foot transitional buffer
4413 area adjacent to Worthington Hills, and will add evergreen landscaping adjacent to the access
4414 drive you see along the rear of the facility, as it is approved at the time of landscape plan
4415 review to further screen the development on the property.

4416

4417 No signs will be oriented toward Worthington Hills. No exterior sound system or storage of
4418 new or discarded tires or other automobile parts will be permitted. And exterior lighting is
4419 also required to be screened.

4420
4421 Mr. Siegfried, who is President of the Worthington Hills Townhouse Association, indicated in
4422 his letter that the Board supported the proposal because, with the suggested conditions, the
4423 automobile service facility is likely to make a better neighbor than other possible uses which
4424 could be established on the property without significant development controls.

4425
4426 As you all know, this property is zoned B-2 Conditional, and has fairly limited conditions that
4427 apply to uses allowed on the property. For an example, a fast-food restaurant with hours from
4428 6:00 a.m. to 12:00 Midnight could be established on the property with no controls on the
4429 architecture of the building or other limitations on outside activity.

4430
4431 Other permitted uses which might be less desirable at this location without operating conditions
4432 include, an automobile service station with up to two service bays, a convenience store,
4433 catering establishment, a gun shop, lawnmower, lawn and garden equipment rental, sales and
4434 service, a private club and a Laundromat.

4435
4436 A number of these other uses also could generate significantly more traffic than Mr. Allen's
4437 proposed Goodyear facility. On average, at his existing facilities in Richmond, he services
4438 about 29 cars a day.

4439
4440 We feel, that with the recommended conditions, the jurisdictional criteria for the Planning
4441 Commission to recommend and the Board approve a Provisional Use Permit for Allen Tire
4442 Goodyear facility at the subject site were satisfied. I think, clearly, that the Board of Directors
4443 of Worthington Hills Townhouse Community found the suggested conditions established
4444 necessary safeguards for its neighborhood, particularly in view of the alternative uses which I
4445 just reviewed to which the property may be put.

4446
4447 For the foregoing reasons, I'd like to request that the Planning Commission recommend
4448 approval of the Provisional Use Permit for Allen Tire to the Board, subject to the conditions
4449 which have been recommended by the staff.

4450
4451 I would like to say one thing. Just glancing at those conditions, I think that we would
4452 probably, regardless of what happens at this meeting, like to revisit the signage condition.
4453 They're recommending only one sign. And there's another statement that says, "Outdoor
4454 advertising signs shall not be permitted." That sounds like no signs to me. So, we would like
4455 to revisit that, but, in general, these conditions will be acceptable with the exceptions of fine
4456 tuning.

4457
4458 Mrs. Wade - That's not "no signs." That means billboards.

4459
4460 Mr. Moore - You can't have billboard signs in a B-2 District.

4461

4462 Mrs. Wade - Well, that's something Mr. Bittner put in here. We'll have to ask
4463 him for an interpretation.
4464
4465 Ms. Dwyer - Because one never knows what's going to happen in the future.
4466 Mr. Bittner - My main intent, billboards may be an extreme example, but I was
4467 thinking more of a portable sign on wheels that you could put marquee letters on. We're
4468 trying to prevent that.
4469
4470 Mrs. Wade - That's a mobile sign, and they're prohibited by ordinance.
4471 Mr. Bittner - Well, that works out twice as good.
4472
4473 Mrs. Wade - That doesn't mean that you can't have any signs.
4474
4475 Mr. Moore - I don't know that we need to get into the discussion of that exact
4476 language, but I would probably try to have that modified to some respect before the Board.
4477
4478 Mrs. Wade - Okay. Thank you.
4479
4480 Ms. Dwyer - It appears, Mr. Moore, you have about three minutes for rebuttal.
4481
4482 Mrs. Wade - And are there other...
4483
4484 Ms. Dwyer - Is there any one else who would like to speak in favor of this
4485 case?
4486
4487 Mrs. Wade - Oh. Okay. They're not.
4488
4489 Ms. Dwyer - All right. We'll hear from the opposition.
4490
4491 Mrs. Wade - (Speaking to audience) I thought you were here on behalf of
4492 Worthington Hills, but not in support. Oh. Okay. There's nobody here, then, from
4493 Worthington Hills in support. Thank you.
4494
4495 Ms. Dwyer - Okay. We'll hear from the opposition. Just keep in mind, we've
4496 limited the applicant to 10 minutes, so it is our policy and custom. So, while we would like to
4497 hear from several of you, you may want to keep that in mind as you begin your presentation.
4498
4499 Ms. Connie Boyer - I live in the Glen Gary Subdivision at 11909 Rutgers Drive. I am
4500 opposed to this type of development next to my neighborhood. And several of us are still
4501 discussing significant issues on this case with the developer, including access to this facility
4502 from a residential street. I only heard about this case last weekend and have not had an
4503 opportunity to attend a formal meeting with the developer. And, at this point, I feel like
4504 there's just no way that one can keep a car repair facility from being greasy, cluttered, and
4505 noisy. I have absolutely no desire to wake up six days a week to the sound of pneumatic drills,
4506 and all the noise and tools associated with tire replacement.
4507

4508 There is a possibility that we can resolve our open issues with the developer on this case, but
4509 until that is done, I recommend that the case be deferred. And, if we can't resolve the issues,
4510 then I recommend that the case be denied.

4511
4512 Mrs. Wade - You understand about the Provisional Use Permit that we put
4513 conditions on. He doesn't have to agree. I mean, it helps. It's not like proffers.

4514
4515 Ms. Boyer - Okay.
4516 Mrs. Wade - ...that he proposes. These are conditions that we propose.

4517
4518 Ms. Boyer - Okay.

4519
4520 Ms. Jennifer Britow - I live on Rutgers Drive. Please notice I have no notes. A lot of
4521 what I've heard this evening, I've heard for the first time. Never did we ever receive any
4522 notification that CVS was coming in. So, this is quite an awakening.

4523
4524 Mrs. Wade - Did you get a notice about this?

4525
4526 Man from Audience - We got something from the County about this, but we have heard
4527 nothing from the applicant on this matter at all. We live in Broadford, and we got one thing
4528 from the County and nothing from the applicant. So, there's been a lot of tale about
4529 Worthington Hills, this, Worthington Hills that. Broadford, to my knowledge, has got
4530 nothing.

4531
4532 Ms. Britow - Please know we're all tired and you've got representatives from
4533 four neighborhoods that are in the vicinity of this company.

4534
4535 Mrs. Wade - Do you live right across the street?

4536
4537 Ms. Britow - May I show you where I live so you can kind of get a feel. That
4538 is my house.

4539
4540 Man from Audience - You are right across from the access road. The way that is
4541 zoned, it does say a 20-foot buffer along Rutgers Drive. There's no provision for an inlet like
4542 that, and that will generate a lot of traffic on Rutgers Drive which is a residential street.

4543
4544 Ms. Britow - Mr. Moore made great reference to Worthington Hills. I live in
4545 Broadford. I would be a little more affected than Worthington Hills. There's Wellesley
4546 nearby. We have a woman from Wellesley. Glen Gary also is right up there. That's great
4547 that they chose Worthington Hills, but what about those of us who live along Rutgers that are
4548 immediately affected? I am vehemently opposed to a tire place. Broad Street is far more
4549 suitable for something like this. And, I am just shocked that anyone would even consider
4550 putting an access road into a residential neighborhood.

4551

4552 We have young children along that street. Lauderdale is a major thoroughfare for anything
4553 going in that is more than appropriate. Don't drag it through a neighborhood. I mean we're
4554 being offended, as it is, with these other buildings. Thank you.

4555
4556 Mr. Jack White - Good evening. I'm a resident of Worthington Hills, and I am
4557 here to voice my objection to the construction of the Goodyear Tire Store. First, let me
4558 express a point about Worthington Hills approving the tire store construction. My
4559 understanding of a meeting of the representatives of the Wilton Properties and Mr. Allen was,
4560 that, if, the Board approved construction of this particular site, then the items we discussed
4561 would be implemented. The shrubbery, the things of this nature. So, I think there's
4562 misunderstanding on my part of it, at least, of this thing.

4563
4564 Then, secondly, let me say, it's frightening to hear of all of the items; all the various stores
4565 that could be constructed on that property. A fast food, that's frightening, right next door. A
4566 gun shop, that's frightening, right next door. So, I think a lot of things that were said were
4567 somewhat frightening to hear.

4568
4569 Well, if not a tire store, we can put in a fast food restaurant. We would object to that also.
4570 But I object to the tire store; the noise of it. I spoke with Mr. Bittner about the noise level,
4571 about containment of the noise and of the Noise Ordinance, you know, and to send someone
4572 out because I called and complained about the noise coming from the store. By the time they
4573 get there, there's no noise.

4574
4575 So, I said, "What about doors on the bays opening and closing?" You know. If during
4576 winter, we're going to keep the doors closed as much as possible with heat, why not do the
4577 same thing during the summer months with air conditioning? Well, good idea, but that won't
4578 work either, because opening and closing, you still get the pneumatic drills and the breaking of
4579 the tires; things of this nature. So, my recommendation to the Board is to deny the
4580 construction of this particular site. I do appreciate your time.

4581
4582 Ms. Dwyer - Sir, Mr. White, I wanted to make one statement. One of the
4583 reasons those other uses were cited is because this is zoned B-2C already. And those uses are
4584 permitted. I'm assuming, for example, a fast food restaurant, they would not need to come to
4585 this Commission for zoning approval.

4586
4587 Mr. White - Being as naïve as I am, but still you must understand, that, on a
4588 person such as myself, to hear, "Well, if not this, then look at this, this and this."

4589
4590 Ms. Dwyer - I understand completely.

4591
4592 Mrs. Wade - We hear that.

4593
4594 Mr. White - I appreciate it greatly.

4595

4596 Ms. Dwyer - One option might be to work with the owner of the property as
4597 adjacent neighbors and to make your thoughts known about what you think is appropriate next
4598 to a residential neighborhood.

4599
4600 Mr. White - Yes ma'am. Thank you.

4601
4602 Ms. Michelle Mulligan - I'm here on behalf of Wellesley. I am the Secretary on behalf of
4603 the homeowners association. I'm here at the request of the Board and on behalf of Wellesley
4604 to express our opposition to this proposal.

4605
4606 While we're not as directly impacted as some of the prior speakers are, some of our homes are
4607 within direct site of this proposed development, and it is in the immediate vicinity of the entire
4608 Wellesley development.

4609
4610 In addition, we do not believe that this use is consistent with the less intense commercial use
4611 that's been established in the general area. We'd be opposed for that reason as well. In
4612 addition, we've heard people comment already, and I would reiterate the noise factor. The
4613 fact that I don't know how you can keep a garage clean and neat, especially this close to a
4614 residential area. And the staff report, I believe, pointed out that there are no other such
4615 service stations—garages this close to residential areas in the general vicinity.

4616
4617 The staff, obviously, has concerns about the impact on the residential areas because of the
4618 proposed six-foot fence or, I heard in the alternative, landscaping, to protect the residential
4619 areas.

4620
4621 For all of those reasons, Wellesley would respectfully request that the Commission deny this
4622 proposal.

4623
4624 Ms. Dwyer - Thank you. Any questions for Ms. Mulligan? Okay.

4625
4626 Mr. Shawn _____ - We reside at 12116 Rutgers Drive. This is my fiancée, Cary
4627 Kanacle. We're the third house in, two houses below the site. We bought this house a little
4628 over a month ago. We had no idea any of this was happening. We just met Mr. Moore,
4629 today, for the first time. Actually, Mr. Moore made a reference that was kind of ridiculous.
4630 He said that this road right here, he said no one will ever use this road. Don't worry about
4631 this access. I say, "That's crazy." Because if you put a building here and people see there's
4632 an out, they're going to use it. It's ridiculous. This should be Xnayed. Get rid of that. And
4633 to tell you the truth, I do not believe Mr. Allen has any respect for you all for not being here.
4634 It is absolutely ridiculous. If I wanted to put a building there, believe me, I'd be here through
4635 thick or thin, sick or not sick. This is ridiculous.

4636
4637 Ms. Kanacle - I guess what it boils down to, is if there has to be a tire place
4638 around, the road going through the residential area is our biggest concern. We have animals,
4639 maybe, eventually, kids. That's the biggest concern, outside of the noise and the lights. This
4640 proposed Provisional Use Permit conditions for Allen Tire, Worthington Hills' name is
4641 mentioned. Rutgers Drive is not.

4642
4643 For instance, on the exterior lighting, service doors, the buffer area needs to be further looked
4644 at, I think. But our biggest thing, we'd like the whole thing denied. Most of all, that street
4645 that's going through the residential area. That's all.

4646
4647 Ms. Dwyer - Thank you. Any questions by Commission members?

4648
4649 Mrs. Wade - Thank you. Unfortunately, that access was approved with the
4650 CVS POD some months ago. There seems to be some question about whether the neighbors
4651 on that side received notice about the POD hearing. There was nobody here to speak on the
4652 subject. And, so, we're going to have what our limited possibilities are, regarding the
4653 driveway. But, I understand, certainly, your concern. Anybody else?

4654
4655 Person from Audience - As you noticed from everyone else, certainly, we feel a tire place
4656 is very undesirable. We'll take those peoples' bank. And, with the zoning for the access road,
4657 and we had no idea any of that was approved. We got no notification and feel really like the
4658 clean up crew trying to have some say in something we didn't even know was there. We
4659 bought our house a year and a half ago. Had we had any idea, we would never have moved
4660 there. You know, it's not a place for children to play. Thanks.

4661
4662 Mrs. Wade - Do we have a POD file on this? We'll have to check to see
4663 where the notices went.

4664
4665 Ms. Dwyer - I have a question for Mr. Bittner. I'm sure this is not going to
4666 lead anywhere, but I'll ask it anyway. You said the staff report that there's a required 20-foot
4667 buffer along Rutgers Drive. Was there an exception in that proffer that allows access drives?

4668
4669 Mr. Bittner - I don't know for certain, but I assume so. It is typical language
4670 in a proffer.

4671
4672 Ms. Dwyer - I know. Maybe we can check just to double check on that.
4673 When was this property rezoned B-2?

4674
4675 Mr. Bittner - 1985 and 1989. The CVS Building is subject to one set of
4676 proffers and this set is subject to another set. I think one was in 1985 and one was in 1989.

4677
4678 Ms. Dwyer - 1985 and 1989?

4679
4680 Mr. Bittner - CVS was zoned under Case C-57C-89 and this Goodyear Allen
4681 site under C-55C-85.

4682
4683 Mrs. Wade - They were both in Tuckahoe. It was all part of a big switching
4684 around of uses at the time when there was really more business in this area than it is now.
4685 Everybody has used up their time? Okay. Mr. Moore.

4686

4687 Mr. Moore - I just want to make a few comments. In response to Mrs.
4688 Boyer's comments that the proposed facility being noisy, and greasy, and other people made
4689 the same comment, I would invite any of the residents, if you feel that might be the case, to go
4690 to Midlothian Turnpike to see the facility that Mr. Allen operates. We proffered the
4691 photographs of that facility. I was very impressed with that facility, myself, when I went there
4692 to visit it. I was surprised to find out its nine years old. It's very well run, very clean and a
4693 neat operation. I don't think that should be an issue.

4694
4695 As you all know, also, Provisional Use Permits are irrevocable if people fail to comply with
4696 conditions. That also affords the community the protection.

4697
4698 We went to Worthington Hills because that is the adjacent property to this site. The CVS
4699 Store to the north, and the access drive that goes out to Rutgers Road really isn't an issue in
4700 this case because those have been approved. So, consequently, we did not contact the people
4701 in Broadford. I don't know if Broadford has a civic association or not. But, in any event,
4702 having said that, now that we do have the names of the people that are interested in this case in
4703 Broadford, we'd be happy to talk with them further about the case, if they desire to do so.
4704 That's the reason that I went to meet with the people in Worthington Hills. They had an
4705 association established and it was okay for us to meet with them.

4706
4707 As far as Wellesley goes, I don't really know how this would impact Wellesley. I think you're
4708 getting a commitment to high quality architecture. They talk about the appearance. Ms.
4709 Mulligan talked about the appearance. You're getting a higher quality commitment to
4710 architecture here than you might get with some of the other uses that are permitted. That was
4711 one of the considerations she had. Again, I can't imagine how this would impact anybody in
4712 Wellesley from the noise impact.

4713
4714 As far as nobody using the road, I didn't say no one would use the road. I did say that I
4715 thought the use of the road might be minimal. I'd like to show this if I could explain why I
4716 still feel that way.

4717
4718 Mrs. Wade - Actually, Wellesley is getting a Guarantee Bank at the corner.

4719
4720 Lady from Audience - (Comments unintelligible.)

4721
4722 Mrs. Wade - Yes. It's the same, but I think they're building at Lauderdale.

4723
4724 Mr. Moore - (Referring to slide), You see how that road comes from behind
4725 where the service station is going to be and it curves around to the rear and you also have this
4726 access out to Lauderdale. I think that's where all the people from the service station will likely
4727 access Lauderdale. This road will be used by some people clearly. We wouldn't be putting it
4728 in. But, I think because the way its curved and designed and the other access to Lauderdale,
4729 the use of that road will not as intensive, perhaps, as feared.

4730

4731 Again, we'll be happy to continue meeting with the people in the community that are interested
4732 in talking about this any further. I'd be happy to answer any questions that Commission
4733 members may have.

4734
4735 Mrs. Wade - They're planning four bays here?

4736
4737 Mr. Moore - Eight; four on each side.

4738
4739 Mrs. Wade - Oh. Four on each side. Oh, okay. I agree. I think they can be
4740 kept fairly clean. The one at Gaskins and Broad, I haven't been right up to it, but it doesn't
4741 look dirty from the street. It just depends on the maintenance, as so many things do. But,
4742 anyway, I actually think a decision on this ought to be put off until the next time since we
4743 heard your concerns. Then, we'd have time to examine the road situation and see what, if
4744 anything, our options are here. And then you might look at the final conditions that are
4745 proposed; or the most recent ones and see if you have any further suggestions in that regard
4746 since we really haven't had much communication up to this point. So, I would move that P-1-
4747 99 be deferred until the March 11th meeting.

4748
4749 Mr. Vanarsdall seconded the motion.

4750
4751 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All
4752 those in favor say aye—all those opposed by saying nay.

4753
4754 Mrs. Wade - And, presumably, we won't be last on the agenda in March. We
4755 apologize for the hour. Thank you for coming.

4756
4757 Ms. Dwyer - We would rotate them to first, maybe? Is that what we do?

4758
4759 Mr. Merrithew - We rotate them around.

4760
4761 Ms. Dwyer - So, maybe they'll be first.

4762
4763 Mrs. Wade - We'd certainly be interested in hearing any further suggestions
4764 that you have. I moved. Did you all vote?

4765
4766 Mr. Archer - Yes.

4767
4768 **C-15C-99** Henry L. Wilton for WILHOOK L.L.C.: Request to conditionally
4769 rezone from A-1 Agricultural District to R-5C General Residence District (Conditional), part of
4770 Parcel 9-A-36, described as follows:

4771
4772 Beginning at a point being a rod set located on the east side of Pouncy Tract Road, State Route
4773 271 and lying at the noahem most intersection of Pouncy Tract Road and Nuckols Road;
4774 thence along the right of way of relocated Nuckois Road N 62°27'04"E 12.41' to a rod set;
4775 thence along a non-tangent curve to the right with a radius of 1197.92, a length of 217.58', a
4776 chord of 217.28 and a chord bearing ors 40°54' 15"E to a rod set; thence S 42°01'37"E

4777 104.92' to a rod set; thence along a non-tangent curve to the right with a radius of 1209.92, a
4778 length of 159.86', a chord of 159.74 and a chord bearing of S 54°51'16"E to a rod set; thence
4779 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 a
4780 non-tangent curve to the right with a radius of 751.20, a length of 68.91', a chord of 68.89 and
4781 a chord bearing of S 23°00'09"W to a rod set; thence S 60°01 '58"W 47.91' to a rod set;
4782 thence N -74°09'27"W 45.34' to a rod set; thence along a curve to the right with a radius
4783 of 75.00, a length of 25.19', a chord of 25.07 and a chord bearing of N 64°32'12"W to a rod
4784 set on the eastern line of Pouncey Tract Road; thence with said right of way N 24°59'18"W'
4785 586.68 to the point of beginning and containing 1.492 acres.

4786
4787 Mr. Marlls - Ms. Jo Ann Hunter will be giving the staff report.

4788
4789 Ms. Dwyer - Is there any opposition to Case C-15C-99 Wilhook? No
4790 opposition. Jo Ann.

4791
4792 Ms. Jo Ann Hunter - The applicant is requesting R-5C zoning of a 1.49 acre parcel for
4793 a child care center. The property is an awkward shaped lot located between Nuckols Road,
4794 Pouncey Tract Road, and Old Pouncey Tract Road. Old Pouncey Tract Road currently dead
4795 ends generally in this vicinity (referring to slide). The majority of the surrounding properties
4796 are currently vacant. However, there is increasing residential development in the area.
4797 Cambridge, located here, (referring to slide) is an R-2C subdivision, which has already
4798 received approval by the Planning Commission. And then, Westfield, here, is an 8-lot A-1
4799 Subdivision. This map does show a road connecting to Old Pouncey Tract Road. VDOT has
4800 not approved that connection, and this subdivision will now cul-de-sac right about here
4801 (referring to slide).

4802
4803 The applicant has submitted a conceptual plan, but it has not been proffered. As you can see,
4804 they are having access only off of Old Pouncey Tract Road. The building would need to have
4805 two fronts because of its visibility from all three roadways. The applicant has not submitted
4806 any architectural elevations, but has given final approval, subject to the Planning Commission.
4807 Then, this area, in the top corner, would be the fenced area for the playgrounds in this general
4808 vicinity.

4809
4810 The applicant has not addressed any proffers that would protect the existing and the planned
4811 residences here. There's an existing home here that fronts Old Pouncey Tract and the rear of
4812 the homes for Westfield will fall in that area (referring to slide).

4813
4814 The amended proffers, that the applicant has submitted, do address Planning Commission's
4815 review of signage, architectural style, and fencing. The applicant has limited the maximum
4816 floor area and provides landscape buffers along two sides of the property. The language of
4817 this proffer does need to be clarified, due to the confusing nature of the road names
4818 surrounding this property.

4819
4820 The staff has several concerns for this location for a day care center. The Land Use Plan
4821 designates this area for Suburban Residential 1. The request is a high traffic generating use
4822 during peak hours. The property is located in the center of two major roadways, and there's

4823 concern with the safety of the children on the site, as well as traffic safety during drop off and
4824 pick up. The staff does not support this proposal. I'd be happy to answer any questions.

4825
4826 Ms. Dwyer - Are there any questions for Ms. Hunter?

4827
4828 Mr. Donati - Any opposition?

4829 Ms. Dwyer - No opposition.

4830
4831 Ms. Dwyer - Any questions for Ms. Hunter? Would the applicant like to make
4832 a presentation?

4833
4834 Mr. Henry Wilton - Yes, Madam Chairman. For the record, my name is Henry
4835 Wilton. I represent Wilhook, LLC which is requesting R-5 zoning on the subject property for
4836 a proposed child care center. It's on .49 acre in the Three Chopt District.

4837
4838 As you can see from the comments of the staff, the development of the subject property should
4839 not be residentially developed, given the shape and location of the property. This is a piece of
4840 property left over when the highway split Rt.271, Nuckols and Pouncey Tract.

4841
4842 The staff originally had concerns regarding the picking up and dropping off of students. My
4843 engineer met with the head of Traffic, and, basically, that's how we designed the flow of the
4844 traffic so there would be sufficient space to line up cars and drop off children.

4845
4846 We have been working with the other day care center in the area—the Wyndham Day Care
4847 Center. This land, I haven't proffered it, because ultimately, after we get the zoning, we're
4848 actually working with them to, basically, just become a satellite operation of theirs. And, at
4849 that point, we'll know, actually, after we finish designing the building, the size of the building
4850 and so on, we'll come back, obviously, to this Commission for the actual layout and so on.
4851 The staff did have concerns, and, hopefully, with the layout here, as far as the traffic, we have
4852 satisfied them.

4853
4854 We did invite the adjacent property owners to meet with us, and have adjusted some of the
4855 proffers to accommodate some of the concerns that were voiced at the meeting, even though
4856 the meeting was attended by not many people.

4857
4858 Many of the concerns highlighted in the staff report will be handled by this body at the time of
4859 POD review. As I said before, not knowing the exact size, for the ultimate layout of the
4860 building site, we will have to defer to the wisdom of this body at that time during the POD
4861 review.

4862
4863 As we did state in the proffers, it will be of residential character; should not be an intrusion
4864 into the residential neighborhoods that are adjacent. As you know, I am the developer of the
4865 adjacent neighborhoods, and, obviously, we'd do nothing to hurt the value of the home,
4866 especially, the ones being built in Hampton Glen and Cambridge.

4867

4868 I did promise, during that zoning case, that I would be back before this Commission and had
4869 told them all along, that I did own this property, was acquiring it and I would be back and
4870 asking for a day care location at this site, and, that's, basically, what I'm here to do.

4871
4872 In regard to the proffers, I did get them in, in time, so, again, I'm not the latest, as most
4873 people, I guess. To show the you the changes that we made in the proffers after we had a
4874 meeting and changed the maximum square footage to 8,500 square feet. Obviously, the
4875 principal use stayed the same. We have, obviously, a planting easement all the way around the
4876 property. We'll do some additional planting in front of the parking area, too, when we come
4877 before the Planning Commission.

4878
4879 The access, again, is only one point of access. The hours of operation. Signage, architectural
4880 style; again, will be residential in character. What I have, tonight, here (referring to
4881 rendering), and I can make this a part of the case. This is the residential flavor that we're
4882 talking about here. This very much looks like the entrance to the day care center in Wyndham
4883 which we're negotiating with now to, basically, be a feeder unit for them.

4884
4885 Our facility, basically, will be designed for, right now, in our discussions with them for infants
4886 and toddlers. This is where they have a waiting list of some 60 children. And, basically, this
4887 area would become again that satellite operation and specified for the toddlers and infants. As
4888 they grew older, they would go into the larger facility which is at Nuckols and Shady Grove
4889 Forest.

4890
4891 Again, as far as the fencing, I've left it up to, obviously, this Commission. When I come
4892 back, there is going to be some type of masonry fencing. Parking lot lights, and then Proffer
4893 No. 11 was suggested by the staff in regard to any generators, air-conditioning units and so on.
4894 This is going to be a one-story unit, so everything is going to be on the ground anyway. We
4895 will, obviously, screen the units, but it will be on the ground. They won't be on the roof of
4896 the facility the way we're designing it at this point.

4897
4898 Per the staff report, it can handle the additional traffic volume. For these reasons, I would
4899 request that the Commission approve this site. If you have any questions, I'd be happy to
4900 answer them. I know its getting late.

4901
4902 Ms. Dwyer - Are there any questions of Mr. Wilton by Commission members?

4903
4904 Mr. Vanarsdall - Why did you say, Proffer No. 5, "Monday through Saturday?"
4905 Most day care centers are closed on Saturday.

4906
4907 Mr. Wilton - Yes sir. They are. In my discussions with the other day care
4908 center, I had no problem with adjusting that to go only Monday through Friday. I have not
4909 finished discussions. In fact, a lot of the changes in the proffers were a representative from a
4910 child care center came and then I went over to their child care center and met with them as far
4911 as their concerns. That will be one of the changes that we will make.

4912
4913 Ms. Dwyer - Any other questions for Mr. Wilton?

4914
4915 Mr. Archer - Mr. Wilton, about how far is this center from the other one that
4916 you're talking about?

4917
4918 Mr. Wilton - The child care development center at Wyndham is at Shady
4919 Grove Forest and Nuckols, about a mile and a half to two miles. They are at capacity right
4920 now. Again, in toddlers and infants, they have a 68-crib waiting list. So, there's a real need
4921 for this type of facility, especially, if we can go ahead and arrange it so this would
4922 accommodate, again, the toddlers and the infants. That came out of that meeting, so we're
4923 working closely with them to try to put something together.

4924
4925 Ms. Dwyer - Mr. Wilton, when I looked at the site, I have to say I have some
4926 real strong reservations about having a day care center in what looked like a large traffic
4927 median. I didn't make that into a question, but I just have some very strong reservations about
4928 this location for a child care center. And I think staff's recommendation for an office building
4929 would be more appropriate for this site.

4930
4931 Mr. Wilton - Personally, I agree with you in regard to the office building, and
4932 I would be happy to go ahead and change the zoning there, but the support in the community
4933 has been for a child care center, not for the office. Quite frankly, I would have been happy to
4934 go O-2 with the use, possibly, of a day care center. But the people in the neighborhoods are,
4935 basically, they're agreeing to this use. They're not agreeing to the office use, quite frankly. I
4936 did suggest that. In fact, I had a plan with an office and this is the plan that went over. Public
4937 opinion and political.

4938
4939 Mrs. Wade - How'd you come about that opinion? Not at the meeting we had?

4940
4941 Mr. Wilton - I had both of the layouts there. I had discussed them before, and
4942 I was led to believe that in the R-5, purely a child care center is the use that the Cross Creek
4943 people are expecting, not an office facility. I did suggest Office before, and again, they did
4944 not agree with that suggestion.

4945
4946 Mrs. Wade - What kind of capacity child-wise would you anticipate?

4947
4948 Mr. Wilton - Probably about 125.

4949
4950 Mrs. Wade - In Proffer No. 3, "...landscaping to include, but not be limited to
4951 berming and irrigation?" You haven't got a whole lot more room to do berming, do you?

4952
4953 Mr. Wilton - Yes ma'am. There's plenty of room for berming and irrigation.
4954 I just want to make sure; again, we're going to put a lot of money into that large planting strip
4955 coming through there. We wanted to make sure it all lives. And, it was suggested by the
4956 child care center and development center that one of the standards that they had for their
4957 development because they were regulated by Snyder-Hunt, they wanted berming and they
4958 wanted irrigation and, you know, the maintenance of that area pretty much fine tuned. That's
4959 where it came from.

4960
4961 Ms. Dwyer - Any more questions of Mr. Wilton? No more questions, Mrs.
4962 Wade, are we ready for a motion?
4963 Mrs. Wade - Anybody else to speak?
4964
4965 Mr. Vanarsdall - I don't have a question for Mr. Wilton. I have one for Mr.
4966 Marlles. Five out of these 11 proffers end by saying, they leave it up to the Planning
4967 Commission.
4968
4969 Mrs. Wade - They do.
4970
4971 Mr. Vanarsdall - Maybe I'm wrong, but I thought that we talked about it last year
4972 of trying to incorporate or get away from that. In other words, take his No. 8 -Fencing. Mr.
4973 Wilton could proffer what he's going to put there; either wooden or masonry, instead of having
4974 it at POD time, having somebody to wrestle with that. I thought we were trying to incorporate
4975 a lot of this into proffers, so that when the staff, at POD time, when the staff reviewed it, they
4976 had a guideline to say, "Well, this would have to be a brick wall, a masonry wall, parking lot
4977 light fixtures will not exceed 20 feet." Am I wrong on that?
4978
4979 Mr. Marlles - Mr. Vanarsdall, I don't really, honestly, recall that conversation.
4980 It's possible that occurred prior to my coming.
4981
4982 Mr. Vanarsdall - I thought that was our goal to try to get rid of some of this.
4983
4984 Mr. Silber - I think the Commission has brought this concern before. With
4985 certain proffers, I think when there is a need for the possible exception, then I think that's
4986 acceptable. I think we were trying to avoid the situation of every proffer having the latitude to
4987 be reviewed at the time of POD. Yes. We did have that conversation to try to work towards
4988 that goal.
4989
4990 Mrs. Wade - Well, I think what happened here, because, actually, the one he
4991 mentioned here; the fencing one, is the one that prompted all these others because they weren't
4992 on the proffers before. He thought maybe they needed more flexibility, in this case, to see
4993 how the site turned out and what the needs were. They weren't sure, exactly, about where the
4994 playground was going to go and what would be the best...So, this, actually, was more of my
4995 suggestion. Then, they sort of took that and ran with it on all the other proffers.
4996
4997 Mr. Vanarsdall - I'm not picking on you.
4998
4999 Mrs. Wade - No. I understand. No. I know what you're saying. He sort of
5000 got carried away here.
5001
5002 Mr. Wilton - If I was a little further along as far as knowing where the
5003 building, knowing the person I was dealing with, the actual design of it and the layout of the
5004 building site, itself, yes, I wouldn't have to go ahead and do that. But, what I'm trying to do
5005 and what I talked to Mrs. Wade about, is to give you the latitude to make sure that this is a

5006 quality development, and later on, come back, and adhere to those. That was just, basically,
5007 my commitment, to work with the Commission on this. I think they will be masonry walls,
5008 but I can't tell you where they are, because we don't have a commitment on the building site
5009 plan yet developed.

5010 Mrs. Wade - That was the one we talked about during that meeting.

5011
5012 Mr. Wilton - Maybe I over did it.

5013
5014 Mrs. Wade - Or else you have an agreeable proffer writer. I don't know.

5015
5016 Ms. Dwyer - Any other questions for Mr. Wilton? Do you have a motion,
5017 Mrs. Wade?

5018
5019 Mrs. Wade - Okay. I tend to agree with your comments, Mrs. Dwyer, about
5020 this being kind of a barren hot spot for a child care center in the middle of the road even
5021 though that little piece of road there is a dead end. I don't doubt there's a need out there for
5022 more, but surely, there ought to be some other site around there some place for a better site for
5023 a child care center that would be safer and more aesthetically pleasing. Getting in and out of
5024 there and turning left could be a problem at certain hours of the day. You say they don't want
5025 Office, but it would seem some kind of residential office building would be doable there and
5026 maybe you could persuade them if they saw what you were talking about. So, I would move
5027 that C-15C-99 be recommended for denial.

5028
5029 Ms. Dwyer - Is there a second?

5030
5031 Mr. Vanarsdall seconded the motion.

5032
5033 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall to
5034 recommend denial of Case C-15C-99 to the Board All those in favor say aye—all those
5035 opposed by saying nay. The motion for denial is carried. May we go home now?

5036
5037 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning
5038 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the
5039 request because the applicant failed to meet his burden to show that the requested changes are in
5040 the best interests of the welfare and future of the community; it would not represent sound
5041 zoning or logical land use practices; and the proposed use was found to be inappropriate at this
5042 site because of traffic safety concerns.

5043
5044 **MTP-1-99** Major Thoroughfare Plan (MTP) Amendment to delete a portion
5045 of concept road 10-1 between concept road 19-1 and Springfield Road. The amendment is
5046 requested due to significant development having already occurred in this area and limited
5047 available land remains for the proposed roadway. In addition, construction of road way would
5048 be difficult because it is proposed to pass through the County's sanitary landfill and cross
5049 Interstate 295.

5050
5051

5052 Mr. Marlles - Ms. Jo Ann Hunter will be giving the staff report. I'm sure it
5053 will be very short.
5054
5055 Mrs. Wade - Are there any questions or objections?
5056
5057 Mr. Vanarsdall - I move that we accept MTP-1-99.
5058
5059 Mr. Archer seconded the motion.
5060
5061 Ms. Dwyer - I don't think we're going to accept that Mr. Vanarsdall.
5062
5063 Mrs. Wade - He's not done yet. Excuse me. Go ahead.
5064
5065 Ms. Dwyer - Please say a few words about this.
5066
5067 Ms. Jo An Hunter - The requested amendment to the 2010 Major Thoroughfare Plan
5068 would delete a portion of Concept Road 10-1 between Concept Road 19-1 and Springfield
5069 Road. South of Interstate 295 has seen considerable development, and there's limited area left
5070 for the location of this road.
5071
5072 In addition, Public Works has indicated that this road would be very difficult and costly to
5073 construct. It would need to cross the County's sanitary landfill, as well as, I-295. For these
5074 reasons, staff supports the removal of this concept road. I'd be happy to answer any questions.
5075
5076 Ms. Dwyer - Will there be any other road to replace it, other than Nuckols, so
5077 we're going to be doomed to put all this traffic on Nuckols?
5078
5079 Ms. Hunter - Well, the access to this area would be limited, but the County
5080 feels like with the existing roads out there, that there is adequate access.
5081
5082 Ms. Dwyer - Any other questions by Commission members?
5083
5084 Mrs. Wade - We do need more access to that area, though.
5085
5086 Ms. Dwyer - Right. So, there's no proposal by Staff to find another road that
5087 might provide access in a general east/west direction?
5088
5089 Ms. Hunter - Staff did not recommend that, but if the Commission would like
5090 to include that, we can direct...
5091
5092 Ms. Dwyer - It's probably too late at this point.
5093
5094 Mrs. Wade - Everything else is built up. Anyway, are you ready for a motion?
5095
5096 Ms. Dwyer - Yes.
5097 Mrs. Wade - I move MTP-1-99 the removal of a portion of Concept Road...

5098
5099 Ms. Dwyer - I'm sorry. I believe we have someone who wants to speak.
5100
5101 Mr. Webb Tyler - We're not in opposition. What we would like; my name for the
5102 record is Webb Tyler. I'm with Youngblood, Tyler & Associates. I'm here, tonight,
5103 representing H. H. Corporation who is the owner of land along Concept Road 10-1, not in this
5104 particular location. We support the deletion of this proposed segment, but we respectfully
5105 request that you go back and look at the portion of Concept Road 10-1 from Shady Grove
5106 Road to Concept Road 19-1, which is a road segment that goes through single family detached
5107 residential development. We respectfully request that it go from a 60-foot right of way to a
5108 50-foot right of way, and from a 52 foot face of curb to face of curb, to a ditch section road,
5109 24-foot wide, similar to the collector roads in Wyndham, such as Old Wyndham Drive,
5110 Dominion Club Drive, or, for example, the River Road corridor.
5111
5112 It serves only, approximately, 150 acres of residential development, and, therefore, we think
5113 that it is more than adequate as a ditch section road. What we'd like for you to do is to direct
5114 the Traffic Engineer to review the typical section of Concept Road 10-1 from Shady Grove
5115 Road to 19-1.
5116
5117 Mrs. Wade - Is there anything that says now it's got to be 60?
5118
5119 Mr. Tyler - Currently, right now, they are holding to a position that it has to
5120 be a 60-foot right of way with a 52 foot face of curb to face of curb, four lane road, two lanes
5121 in each direction which, we think, and has no lots fronting on it. We don't desire to front lots
5122 on it. What we desire is to keep it as a residential character road. And, we think, since it will
5123 not go over the landfill and be more of a regional collector, it is literally only a minor collector
5124 now. It probably will not have a length greater than one mile.
5125
5126 Ms. Dwyer - Mr. Secretary.
5127
5128 Mrs. Wade - Yes. I suppose we could make some kind of comment, but we
5129 don't do roads, basically.
5130
5131 Mr. Tyler - You do, do Major Thoroughfare Plans and the Major
5132 Thoroughfare Plan dictates right-of-way widths, and those right-of-way widths are what have
5133 to live by as an engineer.
5134
5135 Mrs. Wade - What's it designated under?
5136
5137 Mr. Tyler - It's designated under 10-1...
5138
5139 Mrs. Wade - Well, I know that, but it is a collector, minor...
5140
5141 Ms. Hunter - It's designated on the Major Thoroughfare Plan as a Minor
5142 Collector which has a right of way recommended between 44 and 60 feet, which would fall

5143 within the range that he was speaking. So, it would not be a Major Thoroughfare Plan
5144 Amendment. It seems more to be a policy issue by design for Public Works.

5145
5146 Ms. Dwyer - Thank you, Ms. Hunter.

5147
5148 Mrs. Wade - So, nobody is telling you it has to be 60 feet?

5149
5150 Mr. Tyler - In the past, they have. They designed Wyndham for us. From
5151 what Mr. Silber was kind enough to say is that we could request that this road be reduced in
5152 width from a 52-foot face of curb to face of curb, four lane road, to a two-lane ditch section
5153 road and, hopefully, it might be favorably viewed by the Department of Public Works Director
5154 and favorably viewed by this body.

5155
5156 Mrs. Wade - This subdivision hasn't been approved yet?

5157
5158 Mr. Tyler - It has been approved. Wyndham Forest has and we have another
5159 case. This goes through there-10-1. Not what's in place, tonight, but 10-1. I do have a map
5160 with me, but I know the time is short, so I'm trying to be very quick.

5161
5162 Mrs. Wade - It's already been approved with a 60-foot right of way?

5163
5164 Mr. Tyler - Yes ma'am. It has. Just the tentative. It's not recorded.

5165
5166 Ms. Dwyer - Perhaps, it would be good to approach Public Works, since you
5167 do have the latitude to request that, and according to the current designation.

5168
5169 Mr. Tyler - Okay.

5170
5171 Ms. Dwyer - And see what fruit that will bear before the Commission takes a
5172 position on it. I'm reluctant to take a position at this point, not having any representatives here
5173 from Public Works to find out what their opinion might be.

5174
5175 Mr. Tyler - This subject is going to come up again next month, because we
5176 have just filed a rezoning case on a portion of this road. We just wanted to make our position
5177 known on it tonight. Thanks for your time.

5178
5179 Mrs. Wade - No curb and gutter. Is this what you're saying?

5180
5181 Mr. Tyler - We would prefer to have no curb and gutter, a ditch section road,
5182 similar to Old Wyndham Drive or River Road and not front houses on it, but maybe have some
5183 screening buffers.

5184
5185 Mr. Marlles - You can also bring it up before the Board when this comes up
5186 next month.

5187
5188 Mr. Tyler - We'll try to do that.

5189
5190 Mrs. Wade - That's true. That's a good time. Anyway, anybody else? I
5191 move MTP-1-99 Removal of a portion of Concept Road 10-1 on the diagram here be deleted
5192 be approved.
5193
5194 Mr. Vanarsdall seconded the motion.
5195
5196 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All
5197 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
5198 abstained).
5199
5200 Mrs. Wade - So, basically, that's Springfield over to 19-1 to be more specific.
5201
5202 Ms. Dwyer - Well, thank you for staying. All right, set the public hearing for
5203 the Capital Improvement Program for March 11th. I don't really like that 6:00 o'clock time.
5204
5205 Mr. Vanarsdall - Is everybody involved in the CIP, Mr. Marlles? We used to
5206 always have it in the afternoon because it involved all the Department Heads. I don't think we
5207 ever had it at night.
5208
5209 Mrs. Wade - We've had all different times.
5210
5211 Mr. Silber - The last couple of years we've had it before the Zoning Meeting.
5212 The Manager's Office asked that we put it on early...
5213
5214 Mrs. Wade - Usually, it doesn't take very long.
5215
5216 Mr. Vanarsdall - I move we hear the Capital Improvements Program (CIP) on
5217 March 11, 1999 at 6:00 p.m.
5218
5219 Mrs. Quesinberry seconded the motion.
5220
5221 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry.
5222 All those in favor say aye—all those opposed by saying nay. The motion carries. 6:00 o'clock
5223 on the 11th.
5224
5225 Mr. Vanarsdall - What time will we do the Residential Strategies? Will you
5226 explain what that is, Mr. Marlles?
5227
5228 Mr. Marlles - Yes sir. Last week, I think the Commissioners were aware that
5229 the staff made a number of recommendations to the Board at a Retreat on February 2nd. We
5230 received some input; direction from the Board in order to continue the process of refining
5231 those recommendations. We are requesting that the Commission schedule a work session on
5232 February 23rd. That is following the POD meeting in the afternoon. And I would also add that
5233 we have received requests from the Homebuilders Association to have a work session on the

5234 proposed Flag Lot Ordinance. It is staff's recommendation that we hold a single work session
5235 and consider all of the residential strategies that were recommended by staff.

5236
5237 Ms. Dwyer - I heard also that we were supposed to have a work session on
5238 Williamsburg Road Technology Boulevard on that day.

5239
5240 Mr. Merrithew - That's correct.

5241
5242 Ms. Dwyer - So, we have three different work sessions scheduled for this date?

5243
5244 Mr. Silber - We have Williamsburg Road. Probably around Noon, we'll
5245 serve you lunch, and then we're asking for Residential Strategies, and, perhaps, flag lots. If
5246 you recall, we asked for the development community to provide us with information on flag
5247 lots by the 26th of February. So, this is rushing them a little bit, but if they came and they
5248 wanted to speak about flag lots, we may bring that up. But, at this point, we're really talking
5249 about two work sessions; Williamsburg Road Work Session and Residential Strategies.

5250
5251 Ms. Dwyer - Let's do flag lots in March. Why are we rushing that?

5252
5253 Mrs. Quesinberry - I have a question about that. I didn't understand that we agreed
5254 with the Homebuilders to hear them again. We only agreed to accept written comments to
5255 consider for our vote.

5256
5257 Mr. Marlles - A request was made, actually, this week by a representative of
5258 the Homebuilders Association. So, this is something that has come up.

5259
5260 Mrs. Quesinberry - So, they want to be heard, you're saying?

5261
5262 Mr. Marlles - They actually asked to have a work session. Now, it doesn't
5263 have to be on the 23rd.

5264
5265 Mr. Silber - That's right. They just asked for a work session before the
5266 Public Hearing. The Commission set a public hearing on flag lots for March 23rd. So, they
5267 would just like to have a chance to discuss in a work session format with the Planning
5268 Commission before March 23rd.

5269
5270 Ms. Dwyer - Well, there really isn't much in between now and then.

5271
5272 Mr. Silber - No. There isn't.

5273
5274 Mr. Vanarsdall - Go back to Residential Strategies. Give me an example of what
5275 you were talking about.

5276
5277 Mr. Marlles - Mr. Vanarsdall, we proposed a number of recommendations to
5278 the Board at the work session that included elimination of certain zoning district classifications;
5279 certain recommendations to improve the quality of multi-family development.

5280
5281 Mr. Vanarsdall - That was to the Board?
5282
5283 Mr. Marlles - Right. Those are those items that we reviewed with the Board at
5284 the retreat last Tuesday.
5285
5286 Ms. Dwyer - Will there be a presentation of what the Board liked or wants?
5287
5288 Mr. Vanarsdall - What are we going to do with it? That's what I'm trying to find
5289 out. Why are we fooling with it?
5290
5291 Mr. Marlles - Actually, the work session provided an opportunity not only to
5292 present those recommendations to the Planning Commission and we will summarize the input
5293 that was provided by the Board. But I think that we would anticipate that we would send
5294 copies of those recommendations out to the development community and possibly the public so
5295 that they would have an opportunity to participate in that work session as well. Is that what
5296 we're thinking, Mr. Silber?
5297
5298 Mr. Silber - Yes sir. The Manager's Office has suggested that the
5299 Commission hold a work session to become more familiar with this and then set a public
5300 hearing on these ordinance amendments and have suggested that we may want to set those
5301 public hearings as early as March 23rd. March 23rd, I think, was the hearing date.
5302
5303 Mr. Vanarsdall - I stayed all the way to the end of that meeting and I didn't hear
5304 anybody say that they're turning it over to the Planning Commission to do anything. Who
5305 directed that?
5306
5307 Mr. Silber - Mr. Vanarsdall, the direction we've been given since that work
5308 session or retreat has been that they've asked the Planning Office to bring this forward to the
5309 Planning Commission for your consideration.
5310
5311 Mr. Vanarsdall - Okay.
5312
5313 Ms. Dwyer - What do they want us to do, just be briefed?
5314
5315 Mr. Silber - You needed to be briefed on this matter. If you're not ready for
5316 this, that's your choice, but be briefed on this matter and to go ahead and set a public hearing
5317 to consider these amendments.
5318
5319 Ms. Dwyer - So, we will be briefed on actual ordinance amendments or ideas
5320 or what? What will be looking at on the 23rd?
5321
5322 Mr. Silber - Concepts and we have draft ordinances if we get to that level.
5323 Draft ordinances have been prepared.
5324

5325 Ms. Dwyer - Has the Board approved or given their okay to the Ordinance
5326 Amendments that we'll be looking at? I mean, are we being directed to follow up on
5327 something they think is a good idea.
5328

5329 Mrs. Wade - Talk something out and see what happens...
5330

5331 Ms. Dwyer - Mr. Donati, do you know?
5332

5333 Mr. Donati - No. We haven't made any decisions. Staff is going to come
5334 back and give us more recommendations.
5335

5336 Mr. Vanarsdall - So they can argue about it.
5337

5338 Mr. Silber - I think, at this point, if we can talk about it and get something out
5339 on the table in the form of a hearing, then I think things will begin to happen.
5340

5341 Ms. Dwyer - We're going to have two work sessions on the 23rd. Are flag lots
5342 a part of this Residential Strategies?
5343

5344 Mr. Marlles - We pulled the flag lot recommendation out. That's going along a
5345 different tract. We do not have to talk about flag lots on the 23rd?
5346

5347 Mr. Archer - What else is scheduled for the 23rd?
5348

5349 Ms. Dwyer - A work session on Williamsburg Road...I think two work
5350 sessions is plenty.
5351

5352 Mr. Silber - Okay.
5353

5354 Ms. Dwyer - Let's not do flag lots that day.
5355

5356 Mr. Silber - Okay. Williamsburg Road and Residential Strategies.
5357

5358 Mr. Donati - Randy, are the Homebuilders going to be there for Residential
5359 Strategies or just for flag lots?
5360

5361 Mr. Silber - Mr. Donati, tomorrow, with your permission, tomorrow, we will
5362 be sending out information to the development community on all of the residential strategies
5363 and inviting them to the work session with the Planning Commission on the 23rd.
5364 Mrs. Quesinberry - Well, you might as well put flag lots in there then, because
5365 they're going to come.
5366

5367 Mr. Silber - That's our point. They have that information. They're studying
5368 it. It might come up, but it's a part of the Residential Strategies. So, it might come up. We
5369 want to focus our attention on these other four items.
5370

5371 Mr. Donati - I've had some requests from citizens, that the citizenry should be
5372 involved in this process, too, if the Homebuilders are going to be involved in a work session.
5373 I mean I don't know how you invite them.
5374

5375 Mr. Silber - That's a challenge, but, certainly, its an open meeting.
5376

5377 Ms. Dwyer - So, when you say flag lots might come up as a part of Residential
5378 Strategies, although it is not officially going to come up?
5379

5380 Mr. Silber - We do not have it on the agenda to discuss, but if the
5381 Homebuilders want to come forward and give us their ideas on that, the Commission may want
5382 to consider that. We're not asking you to set that at this time.
5383

5384 Ms. Dwyer - What are the four strategies that you plan to bring to us?
5385

5386 Mr. Silber - One is to eliminate the R-3A, R-4, and R-4A Districts. One is to
5387 enhance setbacks along collector roads with residential lots. One is to provide for the
5388 widening of lots and greater side yard setbacks. And, the fourth one is multi-family
5389 development standards, approval of development standards for multi-family.
5390

5391 Ms. Dwyer - That's a lot.
5392

5393 Mr. Donati - Randy, there is going to be a meeting on March 25th, maybe some
5394 of the Planning Commissioners would like to know this at the Varina High School Auditorium
5395 at 7:00 o'clock, March 25th, and the Virginia Beach people, the Director of Agriculture is
5396 going to be there and they're going to give a presentation of the program Virginia Beach
5397 adopted several years ago, the Purchase of Development Rights.
5398

5399 Ms. Dwyer - You said the 25th of February?
5400

5401 Mr. Silber - March. 25th of March, Varina High School, what time?
5402

5403 Mr. Donati - 7:00 o'clock. Okay.
5404

5405 Ms. Dwyer - We need to make a motion for the work session.
5406

5407 Mr. Archer - 23rd of March.
5408

5409 Mr. Silber - The last item would be the Rules and Regulations. I'll try to
5410 keep my comments to 20 minutes. There are two changes in the Rules and Regulations. The
5411 first is on Page 3, that simply reflects the Planning Commission's POD meetings moving from
5412 Tuesday to Wednesday, which we've already started to do. The second change is on Page 4
5413 was discussed by the Commission requesting that the order of the agenda for the Planning
5414 Commission reflect what actually is taking place and that is to put the minutes at the end of the
5415 agenda. So, this was under Article 5 on Page 4. We changed the order to reflect how the
5416 Commission is conducting their business.

5417
5418 Ms. Dwyer - (Comments unintelligible). Discussion of the time limit rule with
5419 reference to the Rules and Regulations.

5420
5421 Mr. Silber - Do you want us to leave it vague like that, that they have a
5422 discretion to impose time limits or do you want us to say, that the policy is use discretion, but
5423 the policy is usually 10 minutes?

5424
5425 Ms. Dwyer - Why don't we say, "just at the discretion," referring to the time
5426 limits.

5427
5428 Mr. Silber - Do you want to pass these rules and regs over, and modify that
5429 and bring them back to you at the next meeting?

5430
5431 Ms. Dwyer - I just feel more comfortable having that set in the rules,
5432 particularly.

5433
5434 Mrs. Wade - What now is the issue here?

5435
5436 Ms. Dwyer - Just to say, at our discretion, we can limit the time for
5437 presentations for applicants and opposition. Just putting in writing what we do already.

5438
5439 There being no further business, acting on a motion by Mrs. Wade, seconded by Mr. Archer,
5440 the Planning Commission adjourned its meeting on 12:55 a.m. on February 12, 1999.

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5446

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

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5451

John R. Marlles, AICP, Secretary

5452
5453 Last revised April 29, 1999.