

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary  
3 Spring Roads at 7:00 p.m., January 15, 2004, Display Notice having been published in the  
4 Richmond Times-Dispatch on December 25, 2003 and January 1, 2004.

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6 Members Present: Mrs. Lisa D. Ware, C.P.C., Chairperson, Tuckahoe  
7 Mr. Ernest B. Vanarsdall, C.P.C., Vice-Chairman, Brookland  
8 Mr. C. W. Archer, C.P.C., Fairfield  
9 Mr. John Marshall, Three Chopt  
10 Mr. E. Ray Jernigan, C.P.C., Varina  
11 Mr. Randall R. Silber, Assistant Director of Planning, Secretary  
12

13 Members Absent: Mr. James B. Donati, Jr., Board of Supervisors, Varina  
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15 Others Present: Mr. Ralph J. Emerson, Principal Planner  
16 Mr. Mark Bittner, County Planner  
17 Ms. Jean Moore, County Planner  
18 Mr. Thomas Coleman, County Planner  
19 Mr. Paul Gidley, County Planner  
20 Mr. Seth Humphreys, County Planner  
21 Ms. Debra Ripley, Recording Secretary  
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23 Mr. Jernigan - Good evening ladies and gentlemen. On behalf of the staff and the  
24 Planning Commission, we would like to welcome you. For those of you that don't come here on a  
25 regular basis, I will explain to you basically how things work. Each case that comes up, I will ask  
26 if there is any opposition in the audience. If there is, just please raise your hand and you will  
27 have an appropriate time to speak. If you do want to speak, you will have to come to the  
28 podium here because these hearings are audibly taped, and you will have to be at the podium for  
29 us to pick you up on the microphone. On cases that have opposition, there will be 10 minutes  
30 for the developer and 10 minutes for the opposition. This does not include time that is used by  
31 the Planning Commission asking questions. Mr. Donati, who is our representative from the  
32 Board, is not here tonight. They scheduled another meeting for him and he could not get out of  
33 it. So, with that I will turn the meeting over to Mr. Silber, our Secretary.  
34

35 Mr. Silber - Thank you, Mr. Chairman and members of the Commission and  
36 the audience tonight. Welcome. This is our first meeting of the new year and I wanted to  
37 announce that we do have two new Planning Commission members with us tonight. We have a  
38 new representative from the Three Chopt District. To my left is John Marshall. John Marshall  
39 replaces Al Taylor, who stepped down from the Commission in December. So John is new on the  
40 Commission and will fill the shoes well. He is a local attorney and perhaps can provide some  
41 legal assistance from that perspective. As Mr. Jernigan just indicated, we also have a member  
42 from the Board of Supervisors, Jim Donati, who is not here tonight, but he also is a new member  
43 of the Planning Commission. Basically, the way the Planning Commission works is that we have  
44 five members that represent each of the five magisterial districts, and they are all up here this  
45 evening, and we have one representative that is from the Board of Supervisors that sits on the  
46 Planning Commission on an annual basis, so the Board rotates on the Planning Commission on an  
47 annual basis, so we do have two new Commission members, one of which is not here this  
48 evening.  
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50 With that introduction, we do have a quorum and we can conduct business, and I guess first on  
51 the agenda tonight would be the consideration of requests for deferrals. Mr. Emerson.  
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53 Mr. Vanarsdall - Good evening, Mr. Emerson.

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Mr. Emerson - Good evening. Thank you, Mr. Secretary. On tonight's agenda at 7:00 p.m. you do have two deferrals and no expedited items, and at 8:00 p.m., which we will go over at that time, we have six additional deferrals and no expedited at that time. The first item for the 7:00 agenda is on Page 1 of your regular agenda. It is C-41C-03.

**Deferred from the December 11, 2003 Meeting:**

**C-41C-03 Don Smith:** Request to conditionally rezone from B-2C Business District (Conditional) to M-1C Light Industrial District (Conditional) and B-2C Business District (Conditional), Parcel 808-729-7538, containing 8.585 acres (M-1C – 6.496 ac.; B-2C – 2.089 ac.), located at the southeast intersection of Dabbs House and Creighton Roads. A mini-storage warehouse/self-storage facility and retail are proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration. The site is in the Airport Safety Overlay District.

Mr. Emerson - The deferral is requested to your February 12, 2004 meeting.

Mr. Jernigan - Is there any opposition to the deferral of Case C-41C-03? There is no opposition. Before I make a motion on this, Mr. Theobald, I would like for you to tell Mr. Smith that we need to act on this case. We have five deferrals already. So, next month let's do something. OK? Thank you. With that I will move for deferral of Case C-41C-03 to the February 12, 2004 meeting by request of the applicant.

Mr. Vanarsdall - Second.

Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Vanarsdall. All in favor say aye. All opposed say no. The ayes have it. The motion is passed.

At the request of the applicant, the Planning Commission deferred Case C-41C-03, Don Smith, to its meeting on February 12, 2004.

**Deferred from the December 11, 2003 Meeting:**

**C-56C-03 Gloria Freye for Finer Homes, Inc. & Debbie Stoddard:** Request to conditionally rezone from A-1 Agricultural District to R-2AC One Family Residence District (Conditional) Parcel 802-696-9269 and part of Parcel 803-696-6866, containing 41.758 acres, located on the east line of Osborne Turnpike approximately 0.41 mile north of Tree Ridge Road and approximately 240 feet west of the western terminus of Harmony Avenue. A single family residential subdivision is proposed. The R-2A District allows a minimum lot size of 13,500 square feet. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

Mr. Emerson - The deferral is requested to your March 11, 2004 meeting.

Mr. Jernigan - You said March 11, right?

Mr. Emerson - Yes, sir. That is correct.

Mr. Jernigan - Is there any opposition to the deferral of Case C-56C-03? There is no opposition. Ms. Freye, also, let's move on this. OK? With that I will move for deferral of Case C-56C-03 to March 11 at the request of the applicant.

Mrs. Ware - Second.

107 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mrs. Ware. All in  
108 favor say aye. All opposed say no. The ayes have it. The motion is passed.

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110 At the request of the applicant, the Planning Commission deferred Case C-56C-03, Gloria Freye  
111 for Finer Homes, Inc. & Debbie Stoddard, to its meeting on March 11, 2004.

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113 Mr. Emerson - That completes what we have listed on the agenda unless the  
114 Commission has any deferrals they would like to add.

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116 Mr. Jernigan - Mr. Emerson, I have Case C-74C-03.

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118 Mr. Emerson - Yes, sir, Mr. Chairman.

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120 **Deferred from the December 11, 2003 Meeting:**

121 **C-74C-03**

122 **Laraine Isaac for Alan Braun:** Request to conditionally rezone from  
123 A-1 Agricultural District to R-5AC General Residence District (Conditional), Parcels 805-692-4564  
124 and 806-692-0994, containing 54.073 acres, located along the north line of I-895 and at the  
125 southwest intersection of Burning Tree Road and I-895/S. Laburnum Avenue Extension. No more  
126 than one hundred seventy-five (175) age-restricted residential lots are proposed. The R-5A  
127 District allows a minimum lot size of 5,625 square feet. The Land Use Plan recommends  
128 Suburban Residential 1, 1.0 to 2.4 units net density per acre.

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129 Mr. Jernigan - Is there any opposition to the deferral of Case C-74C-03? With that, I  
130 will move for deferral to February 12, 2004, by request of the Commission.

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132 Mr. Vanarsdall - Second.

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134 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Vanarsdall. All  
135 in favor say aye. All opposed say no. The ayes have it. The motion is passed.

136

137 The Planning Commission deferred Case C-74C-03, Laraine Isaac for Alan Braun, to its meeting  
138 on February 12, 2004.

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140 Mr. Vanarsdall - Mr. Chairman, I wonder if we could have Mr. Emerson call out the ones  
141 under the 8:00 p.m. agenda, just so the people in the audience will know, and, of course, we  
142 would not take any action on it.

143

144 Mr. Jernigan - Yes. That will be fine.

145

146 Mr. Emerson - Certainly, we could run through those quickly. At 8:00 p.m. you will be  
147 considering deferral of C-18C-03, which is James W. Theobald for Commercial Net Lease Realty  
148 Services, Inc., C-51C-03, Larry D. Willis, C-4C-04, Bill Axselle for Forest Park Associates, L.L.C., C-  
149 5C-04, Robert M. Atack, C-25C-03, Henry L. Wilton for Wilton Companies, L.L.C. and C-27C-02,  
150 RFA Management, L.L.C.

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152 Mr. Jernigan - Thank you, Mr. Emerson.

153

154 Mr. Vanarsdall - Thank you, Mr. Chairman.

155

156 Mr. Silber - Again, those deferrals can't be acted on because they are on the 8:00  
157 p.m. portion of the agenda and they have been advertised for 8:00 p.m., so they will be  
158 considered later this evening. I am not aware that we have an expedited item on the agenda  
159 tonight.

160  
161 Moving on to the next item on the agenda is consideration of election of Chairman and Vice-  
162 Chairman for the upcoming year 2004. It is my duty and honor each year to preside over the  
163 election of the Chairman and Vice-Chairman for the Planning Commission the first meeting in  
164 January, 2004. I would like to start by opening the floor for nominations for Chairman of the  
165 Planning Commission for 2004. Do we have any nominations?  
166  
167 Mr. Vanarsdall - Mr. Secretary, I take great pleasure in nominating Mrs. Lisa Ware to take  
168 us down the road for 2004.  
169  
170 Mr. Silber - We have a motion to nominate Lisa Ware for Chairman for 2004. Is  
171 there a second?  
172  
173 Mr. Archer - Mr. Secretary, I second the nomination.  
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175 Mr. Silber - Thank you, Mr. Archer. Any other nominations?  
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177 Mr. Vanarsdall - I move the nominations be closed.  
178  
179 Mr. Silber - Do we have a second to the nominations being closed?  
180  
181 Mr. Archer - Second.  
182  
183 Mr. Silber - The motion was seconded to close the nominations. Being no further  
184 nominations, we need to vote on Mrs. Ware serving as Chairman of the Planning Commission. All  
185 those in favor say aye. Sounds like it is unanimous. Mrs. Ware, congratulations. You are  
186 Chairman of the Planning Commission.  
187  
188 Moving next on to opening the floor for nominations for Vice-Chairman of the Planning  
189 Commission for 2004. Do we have any nominations?  
190  
191 Mr. Archer - Mr. Chairman, I would like to place for nomination the name of Ernest B.  
192 Vanarsdall.  
193  
194 Mr. Jernigan - Mr. Secretary, I would like to second that nomination.  
195  
196 Mr. Silber - Yes, sir. Are there any other nominations? Do we have a motion to  
197 close nominations?  
198  
199 Mr. Archer - I move closing it, Mr. Secretary.  
200  
201 Mr. Jernigan - Second.  
202  
203 Mr. Silber - Thank you. No further nominations. We need a vote on Mr. Vanarsdall  
204 serving as Vice Chairman of the Planning Commission. All those in favor say aye. All those  
205 opposed say no. Mr. Vanarsdall, congratulations. You are Vice-Chairman.  
206  
207 Mr. Vanarsdall - Thank you.  
208  
209 Mr. Silber - With that change, we need to play musical chairs and do some moving  
210 around up here for a minute, so we can maybe move to our respective locations and Joe, would  
211 you mind helping us by moving the name tags.  
212

213 Mr. Archer - It has been nice having you sit by me, Mr. Vanarsdall.  
214  
215 Mrs. Ware - Commissioner Jernigan, can I get you to come down to the podium  
216 please? I just want to say that Mr. Jernigan has been an excellent Planning Commission Chair  
217 this past year and also a wonderful role model for me. You have a way of putting everyone at  
218 ease and running our meeting so smoothly and that is very much appreciated and I know we all  
219 miss you as Chair. And I want to thank you for your time and service to the Planning  
220 Commission as well as the citizens of Henrico and I present you with a token of appreciation.  
221  
222 Mr. Jernigan - Thank you, Lisa. This is nice because I do need to get my golf in shape.  
223 I am planning on taking a little trip here in a few months. Thank you very much.  
224  
225 Mr. Archer - Excellent job, Mr. Jernigan.  
226  
227 Mr. Jernigan - Thank you.  
228  
229 Mr. Vanarsdall - You are very fortunate it wasn't a plaque. You know that?  
230  
231 Mr. Jernigan - Well, I think that is what they were going to do, but I talked them out of  
232 it. I want to say it has been a pleasure to be Chairman of the Planning Commission. I feel that  
233 we have a great staff and we have a great Commission, and it has been a real pleasure working  
234 with it. Two things that have happened this year that I think has been great, and I did one. I  
235 went all year and did not mispronounce Mr. Vanarsdall's name. Around July I was really excited.  
236 I am over the hump now, you know, and I can go for the next few months. So, anyway, Ernie,  
237 you know, you kept me straight. The second thing is, getting on another note, we did make a  
238 few changes in the Commission last year that take effect the first of this year, and what we are  
239 trying to do, we want to streamline things for the staff and for the developers, and make this a  
240 process that really works good for you. Anyway, I appreciate everything and thank you.  
241  
242 Mr. Silber - OK, we can move on to the first rezoning request for this evening. This  
243 is in the Brookland District. This is on Page 2.  
244  
245 **Deferred from the December 11, 2003 Meeting:**  
246 **C-67C-03 Gloria Freye for Clarendon Associates LLC:** Request to conditionally  
247 rezone from O/SC Office Service District (Conditional) to R-5AC General Residence District  
248 (Conditional) and R-6C General Residence District (Conditional), Parcel 762-773-4696 and part of  
249 Parcel 763-774-7122, containing 87.10 acres (R-5AC = 49.25 ac.; R-6 = 37.85 ac.), located along  
250 the north line of Interstate 295, extending northward to Hunton Park Boulevard, and from  
251 Hunton Park Lane, eastward to approximately 750 feet west of Mill Road. No more than ninety-  
252 two (92) single family residential units and four hundred fifty (450) apartment units for rent are  
253 proposed. The R-5A District allows a minimum lot size of 5,625 square feet. The R-6 District  
254 allows a maximum density up to 19.80 units per acre. The Land Use Plan recommends Urban  
255 Residential, 3.4 to 6.8 units net density per acre, Office/Service and Environmental Protection  
256 Area.  
257  
258 Mrs. Ware - Is there any opposition to this case? OK. Ms. Moore.  
259  
260 Ms. Moore - Thank you, Madam Chairman and Commissioners. This request is to  
261 develop a single-family residential subdivision with up to 92 lots, and an apartment complex with  
262 up to 450 units. The applicant proposes to pursue a gated community. The property is currently  
263 zoned O/SC. The subject property is designated office service on the 2010 Land Use Plan and is  
264 designated as a prime economic development site for office service. Residential development is  
265 not consistent with the plan's recommendation, however, it is consistent with the residential

266 development trends within the immediate area. The applicant submitted revised proffers dated  
267 January 12, 2004, copies of which you just received. The time limits do not have to be waived  
268 for this project. The revised proffers address concerns listed in the staff report including but not  
269 limited to addressing cantilevered architectural elements and foundations for chimneys, including  
270 sound suppression materials and units within 300 feet of Interstate 295, and including a range of  
271 apartment units with a minimum floor area of 1,600 sq. ft. The applicant has also submitted  
272 proffered attachments showing the proposed ornamental fencing and entrance features and  
273 elevations for the rental apartment buildings, which I will display for you now on the screen.  
274

275 This first exhibit would show the entrance feature for the single-family development. Again, this  
276 feature is conceptual of what the entrance would be for the apartment complex. The apartment  
277 complex would include a community center with an outdoor pool, and the apartment's façade  
278 would be predominantly brick. It should also be noted that the single-family development would  
279 consist of 90 ft. wide lots and would adhere to the yard setbacks specified in the R-2A zoning  
280 district. While the revised proffers and submitted exhibits address the concerns in the staff  
281 report, clarification should be provided for Proffer 23 on Page 3 of the revised proffers.  
282

283 The applicant includes suppression material for units along Interstate 295, however, the proffer  
284 specifies sound suppression would be used for the walls adjacent to 295. As written, this could  
285 possibly open up that this would not include all exterior walls in close proximity to 295. Overall,  
286 a residential development consisting of single-family style and multi-family style development  
287 would be consistent with the current development trends in the area. While the one revised  
288 proffer needs clarification, they generally addressed all of staff's concerns in the staff report.  
289

290 This concludes my presentation. I'd be happy to try to answer any questions you may have.  
291

292 Mr. Vanarsdall - I believe you have a letter from Ms. Freye regarding the sidewalks that  
293 would be addressed at Board time.  
294

295 Ms. Moore - Yes, sir. We have discussed providing a pedestrian sidewalk or path as  
296 this community develops to have a cohesive development. The applicant stated that they were  
297 very interested in doing that and is looking at engineering plans to provide that. Unfortunately,  
298 some of the topography may mean that it could go on the adjacent property. So, between now  
299 and the Board, we are hoping to have that addressed and included as a proffer.  
300

301 Mr. Vanarsdall - And I have a copy of the letter. I just wanted to make note of it, since it  
302 is being recorded. I don't have any more questions, Madam Chairman.  
303

304 Mrs. Ware - Are there any questions from the rest of the Commission?  
305

306 Mr. Jernigan - Ms. Moore, isn't 50 to 54 standard sound suppression?  
307

308 Mrs. Ware - The 54 sound suppression is pretty standard with our sound suppression  
309 materials that we receive.  
310

311 Mr. Jernigan - Fifty-five is normally what we have used in extreme areas.  
312

313 Ms. Moore - OK. We will address that before the Board, too, if we can.  
314

315 Mr. Silber - Ms. Moore, on the R-6 portion, what is the density that is proposed?  
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317 Ms. Moore - The density proposed...  
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319 Mr. Silber - Is it 450 units?  
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321 Ms. Moore - That is correct. I believe it is about – close to two units per acre or a  
322 little bit more. I can figure that out on the calculator.  
323  
324 Mr. Silber - On the R-6 though...  
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326 Ms. Moore - That is for the apartments. The applicant is stating it is 12-1/2 units per  
327 acre.  
328  
329 Mr. Silber - OK, but they are asking for R-6. Maybe I will ask the applicant when  
330 they get up. I was wondering why they can't do this as R-5 versus R-6. R-5 allows up to 14-1/2  
331 units per acre. I was wondering why they need R-6.  
332  
333 Ms. Moore - OK.  
334  
335 Mr. Jernigan - I have a question for Mr. Silber and I know this has come up at quite a  
336 few meetings, I know that last year our apartment count in Henrico was 31,414 and that was  
337 probably around July. Do you know what the current count is?  
338  
339 Mr. Silber - Mr. Jernigan, I don't know what the current count is.  
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341 Mr. Jernigan - Probably close to 32,000.  
342  
343 Mr. Silber - That would be a good guess.  
344  
345 Mr. Jernigan - And we have 500 good or take acres that is zoned R-5 in Henrico now,  
346 and if we with a density of 9 on those, we are looking at another 4,500 that is already zoned.  
347 Our population I think is 262,300. Chesterfield is right at 271,000, and they have around 11,000  
348 apartments. This is something I just want us to think about down the road.  
349  
350 Mr. Silber - Yes, sir. That has been a concern of the County. The County feels as  
351 though it is carrying more than its share of multi-family rental units, and that has been a concern  
352 that has been expressed. We continue to work on that. Unfortunately, perhaps not  
353 unfortunately, Henrico County is a popular place to live and apartments are still preferred, and  
354 the market is strong in Henrico, but we do try to keep that balance, and you raise a good point.  
355  
356 Mr. Jernigan - OK.  
357  
358 Mrs. Ware - Can we hear from the applicant.  
359  
360 Ms. Freye - Good evening, Madam Chair and members of the Commission. My name  
361 is Gloria Freye. I am an attorney here on behalf of the applicant. I think there is some  
362 opposition, so I would like to reserve about three minutes for rebuttal after all of the opposition  
363 has been heard. This property is part of the large Hunton tract. The original 445 acres has  
364 undergone several changes over the past 13 years. In 1990 the property that is before you this  
365 evening was part of this larger tract which was rezoned to office service on the majority of the  
366 property with some town houses being provided next to Rock Springs to provide a residential  
367 transition, to have some residential next to that subdivision. That was actually a very good  
368 change for this area because it controlled the uses on this large tract of property. It put  
369 residential next to residential, and it set development standards, and the most important thing  
370 for this community was it kept traffic off of Mill Road. Since then, the market has changed and  
371 office/service has not developed on this site. Also, the ownership has changed hands several

372 times. In 2001, another significant change was that land on the far east side of the Hunton tract  
373 that is on the west side of Mill Road was downzoned from office/service to residential for the  
374 development of The Manor homes. That is an age-restricted community that specifically  
375 prohibited access to Mill Road, again, keeping traffic off of Mill Road. At that same case, other  
376 land on the north side of Hunton Park Boulevard that goes right through the middle of this tract  
377 was also downzoned from office/service for apartments, and they were developed as the large  
378 apartments which are currently being leased, about, I guess, between 40 and 50% leased  
379 already, and both of those developments were very high quality developments, very high end.  
380 And again, the most important part of that was in all these cases that traffic has been prohibited  
381 from Hunton Park tract would have no traffic on Mill Road. All that traffic would go out to  
382 Staples Mill. They are positive changes, but it also left 100 acres, about 100 acres south of  
383 Hunton Park Boulevard that is still zoned office/service, along with the commercial traffic that  
384 would come with that having a potential negative impact on the new residents of Hunton Park.  
385 So now, the character of that tract has become predominantly residential. With this case tonight,  
386 we have the opportunity to downzone 87 acres of that office/service land on the south side of  
387 Hunton Park Boulevard for two additional high-end residential developments, for single-family  
388 homes, where the minimum house size is 3,000 sq. ft. They would be marketed in the half-  
389 million dollar range. We are hoping for a gated subdivision and all the garages would be side or  
390 rear loaded. And for the apartments that are being proposed, they would equal or exceed the  
391 high quality that was adopted by the County when the lodge was established. On the north side,  
392 this would be right across from those apartments. It is an improvement over the previous case  
393 because it offers attached and detached garages. It offers some 1400 and 1600 sq. ft. units and  
394 the rents are expected to average over \$1,000 a month. So as you consider this case this  
395 evening, please keep in mind the positives that this opportunity brings. This request is a down  
396 zoning from office/service. The residents who live in Hunton Park would prefer residential  
397 neighbors instead of office/service warehouse kind of neighbors that have truck traffic. If this  
398 property is rezoned to residential, the amount of traffic that will be generated from the  
399 development will actually decrease by 12 to 13%, and the proposed development will all be  
400 internal to Hunton Park. There will be no negative impact on surrounding properties. This down  
401 zoning, if you will recommend approval of it, would complete the transformation of the Hunton  
402 Park Office Service Park into the high quality residential neighborhood that is in keeping with the  
403 residential character around this property. We ask that you follow the positive comments and  
404 issues that have been addressed in the staff report by the staff and that you recommend  
405 approval to the Board of Supervisors. We will be glad to answer questions.

406  
407 Mrs. Ware - Are there any questions for Ms. Freye?

408  
409 Mr. Vanarsdall - I don't have any.

410  
411 Ms. Freye - The earlier question, Mr. Silber that you raised about why the R-6, that  
412 was requested R-6 primarily in the beginning for the flexibility that we thought the R-6 would  
413 provide. Knowing that where we will have the development we are proposing and knowing that  
414 that should fit in the R-5 designation, we will be glad to amend that category down to the R-5.

415  
416 Mr. Silber - OK. Thank you.

417  
418 Mrs. Ware - Thank you. May I see the hands of those who are here to speak in  
419 opposition to this case? OK. We can hear from the opposition now. Would you go over again  
420 the rules?

421  
422 Mr. Silber - Sure. On a rezoning matter, the Planning Commission's rules and  
423 regulations stipulate that the applicant is provided 10 minutes to present their case, some of  
424 which time they can save for rebuttal. The opposition then is also provided 10 minutes. So,



425 collectively there is a 10-minute period for comment on this rezoning request. I saw two hands  
426 go up. You might want to allocate your time accordingly, recognizing that there is a maximum of  
427 10 minutes. If you could provide us your name, please.

428

429 Mr. Jim McNeal - My name is Jim McNeal and I live in Chickahominy Branch. Some years  
430 ago we agreed on the apartments in Hunton so that there would be a place for people who work  
431 in that area to live nearby, reluctantly, but it seemed like a good idea and they seem to be  
432 working out OK. If you look at the homes in that area, however, the predominant homes are on  
433 a large lot, so we are very low density, and although we'd love to see the single-family  
434 residences come in, there is an awful lot of concern about the apartments. We do not  
435 understand why we need to have apartments in that area, either there or also there is a proposal  
436 for condos over on Mill Road. We do not understand why that needs to go in. It does not fit in  
437 with the rest of the residences in that area. Thank you.

438

439 Mrs. Ware - Thank you.

440

441 Mr. Ernst - My name is Arthur C. Ernst. I have lived on Chickahominy Branch for a  
442 little over 10 years. I appreciate being allowed to speak, so I am going to be terse and I want  
443 you to know this piece of paper I wrote here took me 60 seconds to read, and I am not going to  
444 read all of it, so everybody is in luck here tonight. I am only up here because I was a little bit  
445 dismayed from last month's meeting regarding the Mill Road zoning, because I think our opinions  
446 are credible. I believe they are credible because I have a vested interest that is shared by quite  
447 a few folks, and we are not uneducated. Though my home is at the far end of the street that  
448 attaches to the neighborhood that is adjacent to this project, and my street opens up,  
449 Chickahominy Branch, a little over 100 yards away from where it is being done, and I think it  
450 does affect me. I think a few of us know all the information and education views upon which you  
451 based your decisions. I am not very knowledgeable about zoning laws and I certainly didn't  
452 know how easy it is to change them. What I did know was what the zoning laws were like when  
453 I bought the lot about 10 years ago, and things have changed since then. I just want to say I  
454 think the proposed change is going to both adversely affect my property value as well as my  
455 family's well being and life style, and to quote a neighbor of ours, Wade Kiser, who said that  
456 "Beware that the luxury apartments of today can become the townhouse apartments of  
457 tomorrow." So, thank you very much.

458

459 Mrs. Ware - Are there any questions for Mr. Ernst? All right. Thank you, sir. We  
460 have about five minutes.

461

462 Ms. Freye - I think that it is kind of hard to respond because I am having a hard time  
463 seeing the negative impact that the folks from Chickahominy feel that they would have. This  
464 development is certainly not adjacent to their subdivision. It is about a mile and a half away.  
465 You have to enter this property and exit this property from Staples Mill Road, so their traffic, their  
466 coming and going, what happens on this property is not going to have an impact on Mill Road or  
467 their peaceful quiet enjoyment of the property that they have. The impact of this property  
468 staying office/service or changing to residential, really the impact of that is internal to Hunton  
469 Park. If there is an impact, I think there is going to be, they are all going to be positive because  
470 those are the properties that are adjacent to it. It will even improve the traffic on Staples Mill  
471 Road.

472

473 I think that the positives are that there certainly are a number of apartments that are developed  
474 or zoned, but I don't think that there are very many apartments of this quality, of this standard  
475 that are going to pay the kind of rent, and it is going to attract the educated, professional  
476 employed people who want to live in this very attractive neighborhood. So, we feel like there are  
477 all positives in this case and ask that you recommend approval.

478  
479 Mrs. Ware - Thank you, Ms. Freye.  
480  
481 Mr. Silber - Ms. Freye, I have a question, please. Does you client own other  
482 remaining properties in this development? For example, there is some continued office/service  
483 zoning to the west, and it looks like some O-1 zoning across the street. I guess my question is,  
484 does he control that and how is that likely to be developed or rezoned in the future.  
485  
486 Mr. Atack - Mr. Silber. My name is Bob Atack. I apologize for the laryngitis. The  
487 property I think you are referring to is just about the R-3. Mr. Silber, it looks like the State of  
488 Florida (referring to rendering). Some of that property is actually zoned B-3 that is in there. You  
489 can see where the B zoning is along Route 33. To answer your question, no, we do not own any  
490 of that property though we have acquired over the years just about 100% of the total 500 acres  
491 that was originally owned by the RF&P Railroad from Star City Development out of Southwest,  
492 VA. This is the last remaining piece, and I know it is of interest to the Planning Department, as it  
493 could impact the remaining properties. We are in sort of an ongoing dialogue with the sellers for  
494 potential acquisition of that property, but as of today, we do not own it, sir.  
495  
496 Mr. Silber - And the O-1 property immediately across the street, the small triangular  
497 piece between the RTH parcels.  
498  
499 Mr. Atack - We do own that property and that is being developed in conjunction with  
500 the RTH townhouses.  
501  
502 Mr. Silber - I don't know if our zoning map is inaccurate or...  
503  
504 Mr. Atack - I think, Mr. Silber, it is. I think it is inaccurate. I can assure you that we  
505 do own all of the property north of Hunton Park Boulevard and we have not changed any of that  
506 zoning of the RTH zoning that was done some 10 years ago, so I want to say that your  
507 information is incorrect. It seldom is incorrect, so I would not challenge you on it, but I can  
508 assure you that we do own all of that property and there will be nothing other than residential  
509 development done there.  
510  
511 Mr. Silber - OK. Thank you.  
512  
513 Mr. Archer - Ms. Freye, before you sit down, Ms. Moore indicated a concern with  
514 proffer 23 having to do with sound suppression. Would you address that?  
515  
516 Ms. Freye - Yes, sir. The way the proffer is worded now it says that any house  
517 within 300 feet of 295 would have, would incorporated sound suppression on the exterior walls  
518 adjacent to 295, and I think that her comment was that perhaps in an area like this it should be  
519 all of the walls of any house within 300 feet of 295, and Mr. Atack has indicated that he is willing  
520 to make that clarification between now and the Board of Supervisors.  
521  
522 Mrs. Ware - Any more questions?  
523  
524 Mr. Vanarsdall - Before I get into the motion, let me begin my answering one of the  
525 things that Ms. Freye just said about, and I don't want you people from Rock Springs and the  
526 other section, Chickahominy Branch, think you are not a part of the zoning case or are off-limits  
527 by speaking. I don't think Ms. Freye meant that. We have many, many cases over the years  
528 that people right next to where it is going have no objections, but people down the street, down  
529 the block, a mile away do. And all of it is one ball of wax and it all involves traffic. It involves a  
530 lot of things. I just want to clear that up.

531

532 Also, I am surprised that there wasn't a lot of opposition here tonight, very surprised, which it  
533 doesn't make any difference to me except I am going to tell you why there is not a lot of  
534 opposition. We had a – those of you in the audience who spoke know this – we had a meeting  
535 over at Ukrop's last month on the C-66 case, which was the companion to C-67, this sale, and it  
536 was strictly for the townhouses, and I recommended in December and my colleagues went with  
537 me on approving, but half of that meeting or more was about these apartments, how they did  
538 not like them, did not want them. Also, I have, I can't tell you how many letters, phone calls and  
539 emails. Usually when you see a form letter, usually now, don't hold me to this, usually you see a  
540 form letter signed by someone and they usually are not going to come to a meeting. Some  
541 people just do not like to stand up and be counted. Some people don't mind. So, I just wanted  
542 to say that up front before I forgot it.

543

544 These apartments, I want to thank you all who did come and speak, and I am going to thank  
545 Jean Moore for all the hard work she has put on this case. I can't say anything bad about the  
546 quality of these apartments. I can't say anything bad about Mr. Atack. Mr. Atack is a good  
547 developer. He is one of the best. He always keeps his word. Sometimes he does not give you  
548 his word, so he can't break it. He is a good developer. He is known for quality and just like Ms.  
549 Freye said, this is very upscale and good quality. It has many nice amenities. It has a  
550 clubhouse, a swimming pool, a theater that holds 30 people or 30 some people. It is across the  
551 street from the lodge, which is 300 apartments, and they are very upscale. We had a ribbon  
552 cutting there and some of the staff members came and were really taken back by it. It has two-  
553 car garages, three-car garages, and I learned something the other day over there that you can  
554 have a garage and live on the third floor. I always thought the garage had to be on the floor on  
555 which you lived, so that is a plus. It is plenty of landscaping and one thing is not clear to me is  
556 the term O/S, office/service, came into being because it was good to put against a neighborhood  
557 or across the street from a neighborhood, and it was not the M zoning, which we still have.  
558 People never did want an M next to them no matter what was on there. So that is one thing.  
559 They are the pluses to the case.

560

561 And before I get into the other side, I remind you I am only saying this so I can get this over.  
562 There was a little boy standing and looking up at his teacher, and the teacher had his paper in  
563 her hand, and she was looking down at him. She said this is an excellent paper. It is good  
564 grammar, good sentence structure, the pronunciation is just excellent. You obviously have spent  
565 a lot of time on it because this is a quality paper. The only problem to your paper is the subject  
566 was President Monroe and not Marilyn. So, with that, I will go to the other side now.

567

568 There are already 300 very much upscale apartments on the other corner, and when you add  
569 300 and 450, that is 750 apartments in one area. I will read what the goals, objectives and  
570 policies of the Land Use says about this. "The goal is to encourage continued home ownership.  
571 The objective is to increase the percentage of home ownership and owner-occupied homes at all  
572 income levels." In this area, there are apartments. Next door are townhouses and down the  
573 street, as Ms. Freye told us, is the Manor Homes, which are zero lot lines. They are called age-  
574 restricted, and the political term is age privileged. In other words, if you are old enough you can  
575 get in there.

576

577 Tonight, the applicant has not proved to me that this is the highest and best use of this property,  
578 and I, therefore, recommend that Case C-67C-03 be recommended to the Board of Supervisors  
579 for denial.

580

581 Mr. Jernigan - Second.

582

583 Mrs. Ware - A motion is made by Mr. Vanarsdall and seconded by Mr. Jernigan. All in  
584 favor say aye. All opposed say no. The ayes have it. The motion is denied.

585

586 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Jernigan, the Planning  
587 Commission voted 5-0 (one absence) to recommend that the Board of Supervisors **deny** the  
588 request because it does not conform to the recommendation of the Land Use Plan nor the Plan's  
589 goals, objectives, and policies.

590

591 **C-1C-04 Jason A. Williams:** Request to conditionally rezone from A-1  
592 Agricultural District to R-2AC One Family Residence District (Conditional), Parcel 761-771-6141,  
593 containing approximately 1.435 acres, located on the south line of Old Springfield Road at  
594 Springfield Court and approximately 600 feet west of Staples Mill Road. The applicant proposes  
595 no more than two (2) units per acre. The R-2A District allows a minimum lot size of 13,500  
596 square feet. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density  
597 per acre.

598

599 Mrs. Ware - Is there any opposition to this case? OK. Thank you. Ms. Moore.

600

601 Ms. Moore - Thank you. This is a request to rezone approximately one and a half  
602 acres from A-1, Agricultural District, to R-2AC, Single-family Residential District to develop a  
603 single-family residential subdivision. The 2010 Land Use Plan designates the subject site as  
604 Suburban Residential 1. The proposed use and density, which by proffer would be two units per  
605 acre, are consistent with this designation. This rezoning would be developed in conjunction with  
606 the rezoning request on the adjacent property, which is C-65C-03, which you recommended  
607 approval for at your last meeting. The applicant has submitted proffers dated November 18 to  
608 enhance the project and provide a complimentary design with the existing and future adjacent  
609 neighborhoods. The applicant submitted and has not proffered a conceptual plan for the  
610 development of this parcel in conjunction with the parcel to the East. This conceptual plan  
611 shows 16 lots. Two of these 16 lots would access Old Springfield Road. The existing one-story  
612 residence on this property would be preserved and is one of the two lots proposed along Old  
613 Springfield Road. A new home would be constructed on the second lot fronting this road. Staff  
614 does have concerns about any new residences accessing Old Springfield Road. The applicant  
615 should consider modifying the conceptual plan to provide one point of access at Staples Mill Road  
616 for all lots except for the one with the existing access. Overall, the proposed project would be in  
617 keeping with the existing adjacent residential developments and with the 2010 Land Use Plan. If  
618 the applicant could address the issue regarding access to Old Springfield Road, staff could  
619 support this request.

620

621 This concludes my presentation. I'd be happy to answer any questions you may have.

622

623 Mrs. Ware - Are there any questions for Ms. Moore?

624

625 Mr. Vanarsdall - So, Ms. Moore, the only real issue is the house that is there, we need an  
626 address for that, and we needed a proffer to say "would not enter Old Springfield Road."

627

628 Ms. Moore - Yes, sir. In the staff report there was also reference to tree  
629 preservation, but actually that has been proffered and is on the adjacent property and not this  
630 one, so it is not an issue.

631

632 Mr. Vanarsdall - All right. Thank you.

633

634 Mrs. Ware - Is the applicant present?

635

636 Mr. Williams - Hi. My name is Jason Williams. As far as addressing this, we are saying  
637 now that we will not have any egress/ingress off of Old Springfield Road, so that should be no  
638 longer an issue. As far as a tree protection program, as Jean stated, the piece of land adjacent  
639 to this has already been recommended for approval. It is the piece that should have the tree  
640 preservation along Old Springfield Road. The only property that would abut Old Springfield Road  
641 that we are discussing tonight has an existing house on it, so there is no need to have to worry  
642 about a buffer zone there.  
643  
644 Mr. Vanarsdall - Well, Jason, since you have authority, you can add that proffer tonight,  
645 can't you?  
646  
647 Mr. Williams - Yes.  
648  
649 Mr. Vanarsdall - All right. I will get together with you after we have heard the opposition  
650 if you want to proffer that. It is volunteer, you know.  
651  
652 Mrs. Ware - Are there any questions for Mr. Williams? OK. Opposition. You have 10  
653 minutes total. Do you have one spokesperson or several of you?  
654  
655 Mr. Sykes - Good evening. My name is James Sykes. I live at 4180 Old Springfield  
656 Road, which is diagonally across the street from the particular property in question. Before I say  
657 anything else, from what Mr. Williams just said, does it mean that the only house that is going to  
658 have access is the one we are talking about now?  
659  
660 Mr. Vanarsdall - Right. The one that is there now.  
661  
662 Mr. Sykes - Just the one that is there now, not the second lot.  
663  
664 Mr. Vanarsdall - That is right. Only one.  
665  
666 Mr. Sykes - That is fine. That is what I really wanted to know. Thank you.  
667  
668 Mrs. Ware - Thank you. Is there anyone else in opposition?  
669  
670 Mr. Vanarsdall - I wanted to tell you that Mr. Glover gave you all in the R-4 section down  
671 the other way, he gave you all word that he wouldn't have anything coming out on Old  
672 Springfield Road, and he kept it, and the only reason this is because it is already there. So, you  
673 won't see anything coming out there. Mr. Williams, if you will get that proffer, if you want to, we  
674 will go on and that will be No. 16.  
675  
676 Mr. Emerson - Mr. Vanarsdall, you have your proffer and it has been dated and signed.  
677  
678 Mr. Vanarsdall - All right. Thank you, Mr. Emerson.  
679  
680 Mr. Archer - We have to waive the time limits on the first one, don't we?  
681  
682 Mr. Vanarsdall - I make a motion that we waive the time limits on C-1C-04.  
683  
684 Mr. Archer - Second.  
685  
686 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Archer. All in favor  
687 say aye. All opposed say no.  
688

689 Mr. Marshall - I will abstain, Madam Chairman.  
690  
691 Mr. Vanarsdall - He is not opposing what we are doing. He has a conflict.  
692  
693 Mrs. Ware - Thank you.  
694  
695 Mr. Silber - So noted, thank you.  
696  
697 The Planning Commission waived the time limits on the proffers for Case C-1C-04.  
698  
699 Mr. Vanarsdall - You all know he is an attorney and he can't be all bad. His name is John  
700 Marshall, and that was the first Chief Justice of the United States. He doesn't look that old, does  
701 he? All right with that I recommend C-1C-04 be recommended to the Board for approval.  
702  
703 Mr. Archer - Second.  
704  
705 Mr. Vanarsdall - We have proffer No. 16, wasn't it, Joe, addressing the ingress/egress on  
706 Old Springfield Road.  
707  
708 Mrs. Ware - We have a motion made by Mr. Vanarsdall and a second by Mr. Archer.  
709 All in favor say aye. All opposed say no. The motion passes.  
710  
711 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the Planning  
712 Commission voted 4-0 (one abstention and one absence) to recommend that the Board of  
713 Supervisors **grant** the request because it conforms to the recommendations of the Land Use Plan  
714 and represents a logical continuation of the one-family residential development, which exists in  
715 this area.  
716  
717 **C-2C-04 Robert M. Atack:** Request to conditionally rezone from A-1 Agricultural  
718 District to R-2AC One Family Residence District (Conditional), Parcel 763-772-8743, containing  
719 approximately 19.2 acres, located on the south line of I-295 and on the north line of Mountain  
720 Road approximately 300 feet east of its intersection with Old Mountain Road. The applicant  
721 proffers a maximum of forty-five (45) single-family residential lots. The R-2A District allows a  
722 minimum lot size of 13,500 square feet. The Land Use Plan recommends Suburban Residential 1,  
723 1.0 to 2.4 units net density per acre.  
724  
725 Mrs. Ware - Is there any opposition to this case? All right. So noted. Mr. Bittner.  
726  
727 Mr. Bittner - Thank you, Madam Chair.  
728  
729 The applicant had been proposing 45 lots for a density of 2.3 units per acre. This is greater than  
730 surrounding subdivisions that have a density of 2.0 units per acre or less. However, the applicant  
731 today has reduced his proposed number of lots to 39, which would be a density of two units an  
732 acre, and would be consistent with the surrounding neighborhoods. I do have a signed sheet.  
733 We don't have copies for you, but the applicant did tonight sign this amended proffer, limiting  
734 the total lots to 39.  
735  
736 Given this new density that is consistent with surrounding neighborhoods and the other items  
737 contained in the proffers, staff can now recommend approval of this application.  
738  
739 This concludes my presentation. I would be happy to try and answer any questions you may  
740 have.  
741

742 Mrs. Ware - Are there any questions for Mr. Bittner?  
743  
744 Mr. Vanarsdall - Thank you, Mr. Bittner. I know you handled it last year and again this  
745 year. Thank you. Is there any opposition?  
746  
747 Mrs. Ware - Yes, there is opposition. Do you want to hear from the applicant?  
748  
749 Mr. Vanarsdall - Yes.  
750  
751 Mrs. Ware - Do you want to save some time for rebuttal?  
752  
753 Mr. Theobald - About three minutes, please. Good evening, Madam Chairwoman and  
754 members of the Commission. My name is Jim Theobald and I am here on behalf of the  
755 applicant. As Mr. Bittner indicated, this is a request to construct 39 homes on approximately  
756 19.2 or 19.3 acres from A-1 to R-2A. This request is consistent with your Land Use Plan. It is  
757 well within the density guidelines for SR-1, which is one unit to 2.4 units. A density of 39 lots  
758 would result in some 2.02 units per acre. Our proffered conditions guarantee a quality  
759 development. We have capped the density at 39 units. This particular drawing shows 41 lots  
760 that was sort of a middling iteration of lots, but it gives you a sense of the general overall layout.  
761 We have committed to have finished paved driveways for all homes that each home would have  
762 a minimum of 2000 finished square feet of space. A large portion of these homes will have two-  
763 car garages. Again, another large portion will have either side or rear entry garages,  
764 underground utilities, brick stoops and porches. We have allowed for provisions of street trees,  
765 etc. The staff report for this case has indicated that the adjacent roadway system can readily  
766 handle the anticipated traffic. This is a logical extension of development and in some sense it is  
767 really infill development in an area that has adequate infrastructure for this type of development.  
768 Again, the staff report indicates the capacity exists in our public school system. I would also  
769 advise you Mr. Attack has met with representatives of the Mill Place West Subdivision, the  
770 subdivision you see to the right of the drawing. Three of their Board members are here this  
771 evening and the Board has voted to support this request and they would like to confirm that to  
772 you when I am finished. Again, this case is totally consistent with your Land Use Plan. It  
773 represents quality development on an infill piece of property and has been recommended by your  
774 staff. With that I'd be more than happy to answer any questions.  
775  
776 Mrs. Ware - Are there any questions for Mr. Theobald from the Commission?  
777  
778 Mr. Vanarsdall - Mr. Theobald, you have one or two people here that would like to speak  
779 in favor of this case, and that comes off your time and not the Commission's time, so Madam  
780 Chairwoman, I'd like to hear from them first. I know Mr. John Wilkins might be one and probably  
781 John...  
782  
783 Mr. Silber - If Mr. Theobald is going to reserve his three minutes for rebuttal, then  
784 they have about four minutes to speak.  
785  
786 Mr. Vanarsdall - These people – you live next door?  
787  
788 Mr. Wilkins - My name is John Wilkins and thank you very much for allowing me to  
789 speak this evening. I do reside in Mill Place West. I am currently on the board of directors for  
790 the homeowner's association there. We did meet this – Monday – one week ago, this past  
791 Monday, to discuss this particular proposal. We did, in fact, meet yesterday evening with Mr.  
792 Attack to discuss what our concerns would be. Mr. Attack was able to very adequately and  
793 thoroughly address those concerns. The fact that the number of houses has been reduced to 39  
794 simply further leads me to overwhelmingly endorse his proposal. I ask that you all agree and

795 approve his proposal. I think it is absolutely the best use of the land. It is consistent with our  
796 neighborhood, and I think will help to improve both the value of our homes, the homes in his  
797 neighborhood, as well as the surrounding area. Thank you.

798  
799 Mrs. Ware - Thank you. Any questions? Mr. Vanarsdall, did you say there was  
800 someone else?

801  
802 Mr. Vanarsdall - Mr. Ed Williford.

803  
804 Mr. Williford - Good evening. My name is Ed Williford and I am a resident of Mill Place  
805 West and on the board of directors for the homeowner's association. The board as we discussed  
806 it this week feels that we know that this property is going to be developed at some time by  
807 someone. Mr. Atack does do a very good job with the developments he has done in the area,  
808 very high quality, and we definitely would prefer it be developed by someone who is going to  
809 have a lot of attention to detail and enhance the surrounding property and area. I come from a  
810 similar area, not in Glen Allen, but out of the state, that is likewise being developed and with an  
811 area that is going to be developed it is always preferable to be done so in a high quality manner,  
812 so we do support this and the way it has been proposed.

813  
814 Mrs. Ware - Are there any questions? OK. Thank you. Now the opposition. Is there  
815 someone who wishes to speak? We have two people. Would you state your name, please.

816  
817 Mr. Catlett - Bernard Catlett. I have to enter and exit Old Mountain Road. The only  
818 thing that concerns me is where I have to turn to come into my residence on Old Springfield  
819 Road, the traffic that comes behind me is about to run over the top of me because that is a  
820 banked curve around that area and that, to me, is probably what, 200 or 300 feet from Old  
821 Mountain Road, and it concerns me that people run over the top of me to get in to this entrance  
822 that they are going to be pretty upset about coming behind me and having to stop again for  
823 anybody to enter this project. That is all I have to say. Thank you very much.

824  
825 Mrs. Ware - Are there any questions? Thank you. Someone else? Good evening.  
826 Could you state your name please.

827  
828 Mr. Taylor - Good evening. My name is Locke A. Taylor. I live at 3951 Mountain  
829 Road. I have a more complete plat of the section that I'd like to share with you people. I was  
830 here approximately one year ago addressing this same issue, and the only thing that has  
831 changed is that we've now gone from 45 houses to 39 houses. As you will see on the plat that I  
832 have given you, the 1.2-mile stretch of Mountain Road, and we are not talking about Mill Road.  
833 We are discussing Mountain Road. The 1.2-mile stretch of Mountain Road from Staples Mill Road  
834 to Courtney Road currently has 29 residents with an average acreage of four plus acres, so when  
835 you speak of two houses per acre, that is not consistent with what we currently enjoy. What I  
836 would like to say is that outside of the five-house differential in the past year, there has been no  
837 change. We still have the 29 houses and we still enjoy our acreage. This project is still  
838 inconsistent with the rural nature that we have been able to preserve on Mountain Road. The  
839 proposed entrance onto Mountain Road as you can see that I have just given you is in somewhat  
840 of a blind curve. There has been, and it is marked on your map, a traffic fatality within 300 yards  
841 of the proposed entrance. I have personally tried to tastefully beautify that area of Mountain  
842 Road, and I have also, to the very best of my ability, tried to maintain its rural charm. I have 14  
843 head of cattle there. That is a bit on the rural side. My presence here tonight is an extension of  
844 my effort to maintain this area, which I still consider to be a jewel of Glen Allen. There is nothing  
845 beautiful about 39 homes squeezed on to 19 acres of land. Zoning was denied a year ago  
846 because at that time it was thought to be wrong and a bad idea. It is still wrong and it is still a  
847 bad idea. Nothing has changed. Do you have any questions for me?



848  
849 Mr. Vanarsdall - Mr. Taylor, I believe last year you told us about the accidents and so  
850 forth, but you know, Mill West has pretty big lots up and down there but no one has any that  
851 large in this area except you. And so what you are saying is you are more concerned about the  
852 accidents and the traffic.

853  
854 Mr. Taylor - Well, it is apples and oranges. We are here to talk about Mountain  
855 Road. We don't want to extend this. My property adjoins land that adjoins Staples Mill Road, but  
856 I am not here to discuss that. We have got one tract of land. We preserved an old service  
857 station on Mountain Road. We had part of the old hotel on Mountain Road. We don't need  
858 another non-descript 39 house subdivision in this area. Whatever decision you make, this is for  
859 our life time. You stick 39 houses over there and I've got to look at them the rest of my life. If I  
860 have to keep coming back every year, which I may have to do, if I fortunately win again, I've got  
861 three children and six grandchildren and we will be the last man standing. So, we are very hurt,  
862 and I am not the only one here with that same feeling.

863  
864 Mr. Vanarsdall - Yes, sir. All right. Thank you for your opinion, Dr. Taylor.

865  
866 Mrs. Ware - Are there anymore questions? Thank you. Anymore opposition to speak?  
867 Good evening. Could you state your name, please?

868  
869 Mr. Styles - Good evening. My name is Wayne Styles. I live at 11008 Springfield  
870 Court and I have to agree with Dr. Taylor that we are here again this year, and I would say very  
871 little, if anything has changed, other than they have decreased the houses, and I have to say  
872 again that when I went to school, to get two houses on an acre or 19.2 acres, that comes to 38.  
873 We don't round up. I do have a couple of questions here. One concerns the staff  
874 recommendation on page 2 of summary of staff report. "Consideration should be given to  
875 providing a stub street connection to property along the western border of this site." I don't  
876 know where that came from. That showed up this year. We are looking at Mill Place West, which  
877 has a, I believe, according to these papers, 44 homes in it and we now have proffered 39 homes  
878 from this. That is two exits and methods of getting in and out of the subdivision. You are going  
879 to put a stub street now into property on the back of this lot going into another tract of property,  
880 which I don't know the exact acreage, but I would say is equal to or larger than what we are  
881 looking at tonight. If we are going to maintain our 50 home threshold for outlets, how is that  
882 piece of property going to be developed? We are at 44 in Mill Place West, 39 on this one that is  
883 coming out here. Old Mountain Road is already at 50, so why do we have this in here for a stub  
884 street into this land that I don't see under the current regulations how it can be developed. One  
885 other issue I have is in the owner's proffers. That is proffer #3. Gas ornamental fireplaces shall  
886 be wall vented with no chimneys. I vehemently oppose this. All the homes in that area, I live in  
887 R-4. I have a brick chimney. I don't see the necessity of that or the reasons behind it. Proffer  
888 #10, "Any front porch covered by a roof may be constructed of weather resistant materials  
889 including steps and risers, and so constructed on piers built of the same material as the  
890 foundation. Weather resistant materials shall include but not be limited to pressure treated  
891 lumber." If I am reading this correctly, that means that you can have wooden front steps made  
892 out of pressure treated lumber. This is on a home in this area. They are supposed to be  
893 upscale. I don't think so. That is not my definition of upscale.

894  
895 Mr. Vanarsdall - You are saying you don't want the wooden?

896  
897 Mr. Styles - I think if this is going to be a quality and we keep getting this word  
898 thrown at us, subdivision, wooden front steps to me do not denote quality.

899  
900 Mr. Vanarsdall - Me either.

901  
902 Mr. Styles - Thank you. I appreciate that. Like Dr. Taylor has said, we are here  
903 again. I see very little change. I don't have the paper work from last year, but I think some  
904 things are stuck in here that are not good, and I would recommend that we put it back where it  
905 was last year. We still have not fully addressed the density issue. We have not addressed the  
906 traffic issue and I recommend to the Board that they deny it once again.  
907  
908 Mr. Vanarsdall - Thank you.  
909  
910 Mrs. Ware - Are there any questions? Thank you.  
911  
912 Mr. Vanarsdall - Madam Chairman, I would like to ask Mark Bittner to come to the  
913 microphone. Can you shed some light on the wording of the stoops and porches because I know  
914 that in a few cases ago, we have tried to word that and this is not supposed to be a country  
915 porch, right?  
916  
917 Mr. Bittner - I think I would like to defer to Mr. Silber on that, if I could. I am not as  
918 well versed on that issue I believe as he is.  
919  
920 Mr. Vanarsdall - They refer to them as "country porches" but most people like the brick  
921 or the stone or something and I'd like it all to be the stoop, the steps, and everything, and we  
922 had it on one case, had it worded differently.  
923  
924 Mr. Silber - Yes, sir, Mr. Vanarsdall. I think the applicant may need to clarify exactly  
925 what his intent is here. Typically, there are a variety of ways in which this could be handled.  
926 Many of our country porches do have wooden steps and wooden decks to it, and some of our  
927 nicer neighborhoods we have been encouraging all brick porches and brick foundations and brick  
928 steps even if it is a country porch arrangement. The way I am reading this proffer it would not  
929 require the brick country porch, and if that is what the Commission wishes, I am not reading it  
930 that way and the applicant needs to clarify that. This would be, if it is under a covered roof,  
931 would allow for material other than brick.  
932  
933 Mr. Vanarsdall - Thank you. Anybody else?  
934  
935 Mrs. Ware - Is there anybody else here to speak in opposition? OK. Mr. Theobald.  
936 You have rebuttal time of three minutes.  
937  
938 Mr. Theobald - Briefly, I would, the last gentleman that spoke, if you recall the plan that  
939 was on the screen earlier, we have not planned to do a stub road to the left. We do have the  
940 road connecting Mill Place Drive into Mill Place West, but we have not provided for a stub once  
941 this is all reconfigured. These houses are going to be in the \$300,000 price range. They are  
942 consistent with the plans. They are at 2.02 units per acre and well within the Land Use Plan  
943 designations in the County's Land Use Plan. I'd be happy to answer any more questions.  
944  
945 Mr. Vanarsdall - How about No. 3 with the fireplaces?  
946  
947 Mr. Theobald - No. 3 is frankly the standard type proffer that I believe we have used for  
948 a long time, Mr. Vanarsdall, and what we have said if you have one of those direct vent units that  
949 those, you can't have that. What we can do is the cantilevered type of chimney with the wooden  
950 box hanging off the side.  
951  
952 Mr. Vanarsdall - Thank you.  
953

954 Mrs. Ware - Mr. Vanarsdall.  
955  
956 Mr. Vanarsdall - I will start out by saying that I appreciate you all who made remarks and  
957 Dr. Taylor I understand where you are coming from, because last year I asked you the question  
958 directly, about 2 lots per acre, and you said you didn't want that, and I can understand why and  
959 so forth, but I do feel like it is unreasonable to think that we could get 29 houses on this lot,  
960 particularly since the people next door are very satisfied that we ever got it down to 39. We  
961 started out last year with 60 lots, and Mr. Atack dropped it to 45. This year he has dropped it to  
962 39, which puts it back into 2 lots per acre that I asked for last time, and I don't believe we could  
963 go beyond that, but I am going to recommend this to the Board and then see if we can get  
964 anything else changed on it at that time. As far as Proffer No. 3 and 10 that Mr. Theobald just  
965 covered, they are standard in the industry, and I do know what you are talking about, Mr. Styles,  
966 about the wooden porches, and staff will take a look at that, because we do have a different  
967 wording on some of them to make sure that it is not wooden, and with that Madam Chairman,  
968 and Commission members, I recommend C-2C-04 to the Board of Supervisors for approval.  
969  
970 Mr. Silber - Mr. Vanarsdall, we will need to waive the time limits.  
971  
972 Mr. Vanarsdall - I waive the time limits for C-2C-04.  
973  
974 Mr. Jernigan - Second.  
975  
976 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Jernigan. All in  
977 favor say aye. All opposed say no. The ayes have it. The motion is approved.  
978  
979 Mr. Vanarsdall - And I move that Case C-2C-04 be recommended to the Board for  
980 approval.  
981  
982 Mr. Jernigan - Second.  
983  
984 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Jernigan. All in  
985 favor say aye. All opposed say no. The ayes have it. The motion passes.  
986  
987 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Jernigan, the Planning  
988 Commission voted 5-0 (one absence) to recommend that the Board of Supervisors **grant**  
989 the request because it reflects the type and density of residential growth in the area and the  
990 proffered conditions would provide for a higher quality of development than would otherwise be  
991 possible.  
992  
993 Mrs. Ware - Are we ready for the deferrals for the 8:00 p.m. agenda?  
994  
995 Mr. Silber - I think so. We have reached the 8:00 p.m. hour and the agenda is  
996 divided into two portions. So, if we could jump ahead to the 8:00 portion of the agenda simply  
997 to handle the requests for deferrals, and then we will move back to the 7:00 agenda, but we do  
998 have a number of deferrals under the 8:00 portion. So, if you are here to hear cases under the  
999 8:00 portion of the agenda, you may want to come into the room. There are deferrals. Mr.  
1000 Emerson, can you walk us through those, please.  
1001  
1002 Mr. Emerson - Yes, sir, Mr. Secretary.  
1003  
1004 **Deferred from the December 11, 2003 Meeting:**  
1005 **C-18C-03 James W. Theobald for Commercial Net Lease Realty Services,**  
1006 **Inc.:** Request to conditionally rezone from B-3 Business District and A-1 Agricultural District to B-

1007 2C Business District (Conditional), Parcel 741-761-8112 and part of Parcel 741-761-8532,  
1008 containing approximately 2.899 acres, located at the southeast intersection of W. Broad Street  
1009 (U. S. Route 250) and Three Chopt Lane. A retail use is proposed. The use will be controlled by  
1010 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office  
1011 and Commercial Concentration. This site is within the West Broad Street Overlay District.

1012

1013 Mr. Emerson - The deferral is requested to the February 1, 2004 meeting.

1014

1015 Mrs. Ware - Is there any opposition to the deferral of this case? Mr. Marshall.

1016

1017 Mr. Marshall - Madam Chairman, I make a motion to defer Case C-18C-03 to February  
1018 12, 2004 at the applicant's request.

1019

1020 Mr. Archer - Second, Madam Chairman.

1021

1022 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Archer. All those in  
1023 favor say aye. All opposed say no. The ayes have it. The motion is passed.

1024

1025 At the request of the applicant, the Planning Commission deferred Case C-18C-03, James W.  
1026 Theobald for Commercial Net Lease Realty Services, to its meeting on February 12, 2004.

1027

1028 **Deferred from the November 12, 2003 Meeting:**

1029 **C-51C-03 Larry D. Willis:** Request to rezone from A-1 Agricultural District and M-  
1030 1C Light Industrial District (Conditional) to B-2C Business District (Conditional), Parcels 742-762-  
1031 9861, 743-762-1862 and 743-762-1538 and part of Parcel 742-762-9178, containing 4.089 acres,  
1032 located at the northern terminus of Brookriver Drive and at the I64E/I295 southeast cloverleaf. A  
1033 Bottoms Up Pizza Restaurant and other restaurants are proposed. The use will be controlled by  
1034 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Semi  
1035 Public. The site is also in the West Broad Street Overlay District.

1036

1037 Mr. Emerson - The deferral is requested to the February 12, 2004 meeting.

1038

1039 Mrs. Ware - Is there any opposition to the deferral of this case? Mr. Marshall.

1040

1041 Mr. Marshall - Madam Chairman, I make a motion to defer Case C-51C-03 to the  
1042 February 12, 2004 meeting at the request of the applicant.

1043

1044 Mr. Vanarsdall - Second.

1045

1046 Mrs. Ware - We have a motion made by Mr. Marshall and seconded by Mr.  
1047 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it. The motion passes.

1048

1049 At the request of the applicant, Case C-51C-03, Larry D. Willis, was deferred to the February 12,  
1050 2004 meeting of the Planning Commission.

1051

1052 **C-4C-04 Bill Axselle for Forest Park Associates, L.L.C.:** Request to  
1053 conditionally rezone from RTH Residential Townhouse District and O-2 Office District to B-1C  
1054 Business District (Conditional) and O-2C Office District (Conditional), Parcel 758-743-7963,  
1055 containing 1.815 acres (B-1C – 0.888 acre, O-2C – 0.927 acre), located at the northeast  
1056 intersection of Santa Rosa and Three Chopt Roads. An office and retail center is proposed. The  
1057 use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use  
1058 Plan recommends Office.

1059

1060 Mr. Emerson - The deferral is requested to your February 12, 2004 meeting.  
1061  
1062 Mrs. Ware - Is there any opposition to the deferral of this case?  
1063  
1064 Mr. Marshall - Madam Chairman, I make a motion to defer Case C-4C-04 to the  
1065 February 12, 2004 meeting at the request of the applicant.  
1066  
1067 Mr. Vanarsdall - Second.  
1068  
1069 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in  
1070 favor say aye. All opposed say no. The ayes have it. The motion is passed.  
1071  
1072 At the request of the applicant, the Planning Commission deferred Case C-4C-04, Bill Axselle for  
1073 Forest Park Associates, L.L.C., to its meeting on February 12, 2004.  
1074  
1075 Mr. Emerson - Madam Chairman, the next item is on page 4 of your agenda.  
1076  
1077 **C-5C-04 Robert M. Atack:** Request to conditionally rezone from A-1 Agricultural  
1078 District to R-5AC General Residence District (Conditional), Parcel 748-772-3954, containing  
1079 approximately 4.40 acres, located on the northwest line of Opaca Lane approximately 700 feet  
1080 northeast of Nuckols Road. The applicant proposes no more than twenty (20) single-family  
1081 residential lots. The R-5A District allows a minimum lot size of 5,625 square feet. The Land Use  
1082 Plan and the Nuckols Road/I-295 Small Area Land Use Study recommend Rural Residential, not  
1083 exceeding 1.0 unit net density per acre, and Environmental Protection Area.  
1084  
1085 Mr. Emerson - The deferral is requested to the February 12, 2004 meeting.  
1086  
1087 Mrs. Ware - Is there any opposition to the deferral of this case? No opposition?  
1088  
1089 Mr. Marshall - Madam Chairman, I make a motion to defer Case C-5C-04 to the  
1090 February 12, 2004 meeting, at the request of the applicant.  
1091  
1092 Mr. Vanarsdall - Second.  
1093  
1094 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in  
1095 favor say aye. All opposed say no. The ayes have it. The motion passes.  
1096  
1097 At the applicant's request, the Planning Commission deferred Case C-5C-04, Robert M. Atack, to  
1098 its meeting on February 12, 2004.  
1099  
1100 **Deferred from the December 11, 2003 Meeting:**  
1101 **C-25C-03 Henry L. Wilton for Wilton Companies LLC:** Request to conditionally  
1102 rezone from O-3C Office District (Conditional) to B-2C Business District (Conditional), Parcel 737-  
1103 751-4601 and part of Parcel 737-751-4028, containing 11.495 acres, located at the northeast  
1104 intersection of Ridgefield Parkway and John Rolfe Parkway right-of-way. Retail with limited office  
1105 uses are proposed. The use will be controlled by proffered conditions and zoning ordinance  
1106 regulations. The Land Use Plan recommends Urban Residential, 3.4 to 6.8 units net density per  
1107 acre, and Office.  
1108  
1109 Mr. Emerson - The deferral is requested to your February 12, 2004 meeting.  
1110

1111 Mrs. Ware - Is there any opposition to the deferral of Case C-25C-03? All right. I  
1112 move that Case C-25C-03 be deferred to the February 12, 2004 meeting at the applicant's  
1113 request.

1114  
1115 Mr. Vanarsdall - Second.

1116  
1117 Mrs. Ware - Motion made by Mrs. Ware and seconded by Mr. Vanarsdall. All in favor  
1118 say aye. All opposed say no. The ayes have it. The motion is passed.

1119  
1120 At the request of the applicant, the Planning Commission deferred Case C-25C-03, Henry L.  
1121 Wilton for Wilton Companies LLC, to its meeting on February 12, 2004.

1122  
1123 **Deferred from the September 11, 2003 Meeting:**

1124 **C-27C-02 RFA Management, LLC:** Request to amend proffered conditions  
1125 accepted with rezoning case C-32C-89, on Parcel 740-750-0178, containing 12.415 acres, located at  
1126 the northeast intersection of Ridgefield Parkway and Glen Eagles Drive, the northwest intersection  
1127 of Ridgefield Parkway and Eagles View Drive, and the southeast intersection of Eagles View Drive  
1128 and Glen Eagles Drive. The amendment would change the maximum density allowed from 7,850  
1129 square feet per acre to 8,975 square feet per acre. The existing zoning is B-2C, Business District  
1130 (Conditional). The Land Use Plan recommends Commercial Concentration.

1131  
1132 Mr. Emerson - The deferral is requested to the May 13, 2004 meeting.

1133  
1134 Mrs. Ware - Is there any opposition to the deferral of this case? Then I move that  
1135 Case C-27C-02 be deferred to the May 13, 2004 meeting, at the applicant's request.

1136  
1137 Mr. Vanarsdall - Second.

1138  
1139 Mrs. Ware - Motion made by Mrs. Ware and seconded by Mr. Vanarsdall. All in favor  
1140 say aye. All opposed say no. The ayes have it. The motion passes.

1141  
1142 At the request of the applicant, the Planning Commission deferred Case C-27C-02, RFA  
1143 Management, LLC, to its meeting on May 13, 2004.

1144  
1145 Mr. Emerson - Madam Chairman that completes the deferrals for 8:00 p.m.

1146  
1147 Mr. Silber - Next case moving back to the 7:00 portion of the agenda under the  
1148 Fairfield District.

1149  
1150 **Deferred from the December 11, 2003 Meeting:**

1151 **C-68C-03 F. Philip Parker, Jr.:** Request to conditionally rezone from R-1C One  
1152 Family Residence District (Conditional) to RTHC Residential Townhouse District (Conditional),  
1153 Parcel 808-731-7728, containing 10.328 acres, located at the southeastern corner of the  
1154 intersection of N. Laburnum Avenue and Watts Lane. A residential townhouse development is  
1155 proposed. The maximum density in the RTH District is nine (9) units per acre. The Land Use  
1156 Plan recommends Office. The site is in the Airport Safety Overlay District.

1157  
1158 Mrs. Ware - Is there any opposition to this case? There is opposition. Ms. Moore.

1159  
1160 Ms. Moore - The applicant proposes to construct 82 townhouses for sale on the  
1161 subject site. This is 11 less units than what was stated on the staff report and reflects several  
1162 revisions to the proffers submitted by the applicant on January 7, 2004. Therefore, the units  
1163 would yield a density of approximately 7.9 units per acre.

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The site is designated as Office in the 2010 Land Use Plan. The proposed use is not consistent with this designation. The site also lies within the Creighton Road Corridor Special Strategy Area, which sets forth specific design standards for development within the area.

Since the staff report was drafted, the applicant has proffered a conceptual plan and elevations for the townhouses and entrance feature. These proffered exhibits were received today; therefore, the time limits would have to be waived in order to take any action on this project tonight. Major aspects of the proffers include:

- A boulevard-style entrance from Laburnum Avenue, as proffered in Exhibit D.
- A 25' transitional buffer and decorative open rail fence along Laburnum Avenue.
- 6" curb and gutter and sidewalks along the interior walkways and a sidewalk along Laburnum Avenue.
- Sodded front yards.
- Detached garages for a least 35 vehicles.
- Proffered elevations and language to provide for 50% brick or stone front facades.
- A minimum of 1,200 square feet of finished floor area for all units and 1,400 SF for at least twenty-five (25%) of the units; and
- Common areas would be reserved for passive or active recreational use.

Staff has concerns regarding the development of more townhouses in this area and the loss of opportunity for office development. However, residential development has been the prevalent trend in this area and given the adjacent apartment complex to the north and single-family residences to the east, townhouses may be acceptable at this location.

If a townhouse development is considered, the highest standards should be applied in accordance with the strategic goals of the Creighton Road Corridor.

The revised proffers address many of the concerns outlined in the staff report; however the following items should be addressed:

- Proffer 3 states exposed foundations would be finished with brick or stone. The townhouses would be constructed on slab, so this statement needs to be clarified. Staff recommends the units have the appearance of having crawl foundations.
- The applicant should consider increasing the 25' buffer adjacent to Laburnum Avenue to 35 feet transitional and consider planting trees within the front yards in addition to sod.
- For a more attractive streetscape, the applicant should consider limiting the amount of continuous units to four and in no event exceed 5 units in a row.
- Recreational space should be quantified and delineated.

- 1215 • The applicant has proffered 25% of the units would be 1,400 square feet. Staff  
1216 recommends the applicant consider a higher range up to 50% of such units to be in  
1217 keeping with the new townhouse developments in this area.
- 1218
- 1219 • In addition, staff recommends the applicant consider a lower density of 6.0 units per acre.  
1220
- 1221 • Finally, the applicant needs to clarify Proffer 22 regarding terminating any extension of  
1222 Watts Lane to Harvie Road. The applicant could state access to Harvie Road would not be  
1223 provided unless otherwise required by the County.  
1224

1225 If the applicant could address these issues, staff could be more supportive of this application.

1226  
1227 This concludes my presentation, I would be happy to try to answer any questions you may have.  
1228

1229 Mrs. Ware - Are there any questions for Ms. Moore?

1230  
1231 Mr. Archer - Ms. Moore, could you state again your concern about the buffer, was it a  
1232 transitional buffer or street buffer that you...can you show me where that is?  
1233

1234 Ms. Moore - Yes, sir. Along Laburnum Avenue, and if you look at the Master Plan it  
1235 would be along here (referring to slide). The applicant has submitted a proffered buffer along for  
1236 a 25 foot transitional, and we would think it could be enhanced to a 35 foot.  
1237

1238 Mrs. Ware - Are there anymore questions of Ms. Moore from the Commission?

1239  
1240 Mr. Silber- Ms. Moore, did you say the exhibits were received today?  
1241

1242 Ms. Moore - Yes, sir.  
1243

1244 Mrs. Ware - And I just want to get you to clarify that these are to be built on slabs  
1245 that would have the appearance of a crawl space. Is that what you were saying?  
1246

1247 Ms. Moore - Yes, ma'am. They would be built on slabs, but the proffer refers to  
1248 having exposed foundations being brick or stone. So we just want to clarify since there may not  
1249 be exposed foundations. There should be the appearance of that.  
1250

1251 Mrs. Ware - OK. Are there any more questions from the Commission? OK. Thank  
1252 you. Can we hear from the applicant, please?  
1253

1254 Mr. Bob Atack - Madam Chairman, my name is Bob Atack, and I again apologize for my  
1255 laryngitis and members of the Planning Commission. We appreciate the opportunity to present  
1256 this case before you this evening and we believe we are offering an architectural designed  
1257 product. In fact we have made two major architectural changes that do not currently exist in this  
1258 area. This is the first example that we used which is 50% brick, which is an easy item to  
1259 quantify as far as exterior materials, but if you will obviously notice, we've got dormer windows  
1260 and instead of having a blunt end on this product, we've had an architectural design feature to  
1261 soften this residential component. We met with the staff and they asked us to reevaluate,  
1262 instead of having the shed roof to the exhibit, that we will show you now (referring to exhibit).  
1263 As you can see, it is a more gabled roof and what we suggested or said that we would be willing  
1264 to do is to be able to offer both of these exhibits to the Planning Commission and let the Director  
1265 of Planning dictate, if at will of the Director of Planning, as to which elevation will be preferable.  
1266 We have had further discussion internally and believe that we could actually probably use both  
1267 elevations to give another differential in the architectural designs of this community. This



1268 architectural design, I think, exceeds the quality that we may have been accustomed to in this  
1269 area and it is probably not speaking to quality, probably more along the evolution of the  
1270 townhouse product in our community. We are building this or proposing to build this same  
1271 product in the West End. We are very excited about it because it is new and it is so hard to do  
1272 so much with row townhouses. With regard to this specific property, we did meet with the  
1273 adjoining residents and there is some opposition, we will be glad to address that once they have  
1274 an opportunity to speak. One of the major components to this site we believe is Laburnum  
1275 Avenue and the effect that Laburnum Avenue has on this site. Now I am going to switch to that  
1276 exhibit (referring to exhibit). Ms. Moore was suggesting an additional buffer. What we have had  
1277 our landscape architect do, and I apologize that this exhibit doesn't reflect it, as closely as it truly  
1278 is, but at the top of the exhibit what we have is a rail, horizontal vinyl rail fence, supplemented  
1279 with over 200 pieces of landscaping. This area we give a softer transition, which we have seen  
1280 subliminally slow traffic down and give a much greater feel for environmental and residential feel  
1281 to an area, and this is a solution that we think is very appropriate and very necessary because  
1282 Laburnum Avenue has such a high rate of traffic, not only in velocity but in volume and we think  
1283 it is a major component to make to having this community set itself off. I apologize for my voice.  
1284 We have added 35 detached garages to the community. We do have a recreation area amenity  
1285 provided as a passive amenity. We have these architectural renderings, as I mentioned earlier,  
1286 50% of the units would be brick, and a minimum of 25% of the units would be 1400 sq. ft. We  
1287 have reduced the density from the original case that was filed some time ago. We are proffering  
1288 sidewalks in the community as well as along Laburnum Avenue. There are a total of 23 proffered  
1289 conditions to help ensure quality development in this community. I will be glad to answer any  
1290 questions that you might have.

1291  
1292 Mrs. Ware - You said the elevations are not proffered?  
1293

1294 Mr. Atack - I am not sure. Are they proffered? Did we proffer both exhibits? OK.  
1295 Good. And staff was gracious enough to work with us along this design when we presented the  
1296 original design. Staff asked us if we'd reconsider a different elevation on the end, which we were  
1297 able to do and thus submitting both.  
1298

1299 Mrs. Ware - I would like to ask you about the garage proffer. I have never seen  
1300 anything quite like this before. First come, first-serve basis.  
1301

1302 Mr. Atack - Sure, I will be glad to elaborate if you like, Mrs. Ware.  
1303

1304 Mrs. Ware - Yes. That would be good.  
1305

1306 Mr. Atack - Garages are an innovation to townhouse designs. It is an amenity that  
1307 the market is valuing tremendously. So, since we have less garages than the total number of  
1308 homes, what we are doing, the question had been asked, how do we determine who gets the  
1309 garages and can anybody have more than one. So, the intention is to warrant that garages will  
1310 come under a first-come first-serve basis and that we would not allow anybody to have more  
1311 than one until after the community was sold out.  
1312

1313 Mrs. Ware - No more than one garage?  
1314

1315 Mr. Atack - Yes, ma'am. Garages will actually be sold. In other words, it is not  
1316 identified with a particular house.  
1317

1318 Mrs. Ware - OK.  
1319

1320 Mr. Silber - What you are saying, Mr. Atack, I guess is that there could be as many  
1321 as 82 townhouse units, but there may be only 35 garages, and a unit can have no more than one  
1322 garage. So, you are basically trying to say that first-come, first-serve basis on allocating those  
1323 garages.  
1324  
1325 Mr. Atack - Yes, sir.  
1326  
1327 Mr. Silber - I am just not so sure that is something that the County really needs to  
1328 monitor.  
1329  
1330 Mr. Atack - I don't disagree, Mr. Silber. It is something that came up in the dialogue  
1331 and maybe it would be more appropriate to be left in the sales presentation or even the HRA, but  
1332 the question did come up, and I think we are trying to give an assurance that there would not be  
1333 any monopolizing of garages.  
1334  
1335 Mr. Silber - Right. I think it would be safe to say that there will be at least 35  
1336 garages and there would be no greater allocation than one garage per unit or something along  
1337 those lines.  
1338  
1339 Mr. Atack - I think the last thing you said probably as far as allocation of garages no  
1340 more than one unit is more succinct.  
1341  
1342 Mr. Silber - OK.  
1343  
1344 Mr. Archer - Mr. Silber, I think that was the intent of what we were trying to do when  
1345 we discussed it in the meeting, to make sure one person could not come in and buy up all of the  
1346 garages. So, having it allocated to one person per garage, I think, takes care of that aspect of it,  
1347 and maybe the first-come, first-serve language doesn't need to be there. Because once they are  
1348 gone, they are gone anyway.  
1349  
1350 Mr. Atack - Yes, sir. I am sorry we did not have the advantage of Mr. Silber in that  
1351 meeting. He would have simplified it greatly for us.  
1352  
1353 Mr. Archer - Mr. Atack, there were several issues that Ms. Moore brought up in her  
1354 presentation and you have addressed a couple of them. Could you speak to some of the others,  
1355 such as trees, the recreational space, of course, the possible increase from the number that had  
1356 been designated to be 1200 sq. ft. up to, I think you said 2500 sq. ft. and Ms. Moore refers to ...  
1357 and lastly, Watts Lane.  
1358  
1359 Mr. Atack - Yes, sir. Maybe we can work in reverse order, and please, Mr. Archer,  
1360 don't hesitate to insert if I am absent on some of your questions. Watts Lane, we met with the  
1361 adjoining residents. I apologize. I have to have Mr. Parker handle all of the intellectual part of  
1362 our presentation, and he is (unintelligible). As you can see, Watts Lane, we have it colored in.  
1363 The adjoining property owner to the western portion of the property was concerned about  
1364 ingress and egress to Harvie Road, and I think that was rightfully so. We have warranted to that  
1365 resident and Ms. Moore did ask if we would make this language clear, and I think we certainly  
1366 can, but the gist of what we intend to do is two things: #1 is that we would not access Harvie  
1367 Road, #2 that after once we qualified with all of the POD requirements of the County that we  
1368 would allow the residents, the adjoining property owner actually to vacate that piece of property  
1369 that we own that is next door to them, so that was the intention of that proffer, and that was the  
1370 termination of Watts Lane, Mr. Archer.  
1371  
1372 Mr. Archer - OK.

1373  
1374 Mr. Atack - The question with regard to, sort of leading back into this, Mr. Archer,  
1375 Ms. Moore suggested with regard to square footage of the homes, we have proffered a minimum  
1376 of 1200 sq. ft. We have proffered a minimum of 1400, 25% of those units to be in excess of  
1377 1400 sq. ft. We believe that the architectural design is something that is innovative in its self.  
1378 We do not know of any homes in this area, and a lot of other areas in the County, we are very  
1379 pleased with this design, with the dormer windows. Though that area is not designed to be  
1380 finished, thus increasing our square footage, that area is actually designed for storage so it  
1381 literally gives a net more usable acreage, but our plan reflects what we believe is a fair  
1382 compromise in the square footage requirements with regard to trying to achieve the 1400 sq. ft.  
1383 goal, sir.  
1384  
1385 Mr. Archer - She also mentioned site design in terms of how the units would be  
1386 placed. Is there something that could be done to engineer that differently?  
1387  
1388 Mr. Atack - Mr. Archer, I might add one other point to this, the question. We are  
1389 always working on trying to create a better site layout and when we do these first (unintelligible),  
1390 we often are able to come up with a more efficient and more esthetically pleasing layout. One of  
1391 the ironic encumbrances to us is the garage requirement in Henrico County, and we would like to  
1392 have more garages, but because we are not getting credit for them for storage, it also  
1393 encumbers our ability to make a more attractive site plan, specifically I am referring to the  
1394 detached garages, no garages count towards the parking requirements in the County. It is ironic  
1395 that we have found that detached actually become areas in which are more typically used for  
1396 storage than attached. I feel like this is sort of a contradiction with the intention of garages, but  
1397 if we were able to have more flexibility in the space allocation of parking with garages, we could  
1398 probably be a little more creative with our site plan. I do think this is a fairly representative and  
1399 attractive site plan. We do have a water feature that we will have as an amenity, a passive  
1400 amenity. We have eliminated 11 units and we have taken out the original grid layout that existed  
1401 on this property we proposed. It is going to be landscaped, irrigated, sidewalks. It will be very  
1402 passive and an extensive amount of landscaping on Laburnum Avenue, and I believe that this will  
1403 make for a very attractive enclave of development at this highly trafficked intersection of Watts  
1404 Lane and Laburnum Avenue.  
1405  
1406 Mrs. Ware - Are there any more questions for Mr. Atack from the Commission?  
1407  
1408 Mr. Archer - I don't have any, Madam Chairman, but we do have opposition.  
1409  
1410 Mr. Silber - Yes, I have one more question. I feel bad asking you. It sounds like  
1411 your voice is wearing out, but your comments on Watts Lane. My understanding is that Watts  
1412 Lane is a dedicated right of way off of Laburnum Avenue, a certain distance. I wasn't aware that  
1413 it was a dedicated right of way all the way to Harvie. Am I mistaken?  
1414  
1415 Mr. Atack - I don't know that you are mistaken, Mr. Silber.  
1416  
1417 Mr. Silber - So the proffer that you have that speaks to the possible abandonment or  
1418 vacation of that right of way, would be that portion that Mr. Parker has shown?  
1419  
1420 Mr. Atack - Right here, Mr. Silber (referring to rendering). The part that is not  
1421 outlined in dark. This area right through here and adjoining this property owner.  
1422  
1423 Mr. Silber - Mr. Parker, I thought you just showed on the screen the right of way  
1424 runs from that point right there towards Laburnum.  
1425

1426 Mr. Atack - I think that is correct, Mr. Silber, but to get two points of ingress and  
1427 egress, we would need to have, I believe, access right here (referring to rendering). I am going  
1428 to let Mr. Parker speak to this.  
1429  
1430 Mr. Parker - Good evening. I am Philip Parker with Atack Properties. Watts Lane  
1431 currently exists at this point as a public right of way. It is shown to be extended on the Major  
1432 Thoroughfare Plan to this point of access shown to go beyond subdivisions that have been  
1433 developed along this area to terminate that need. The intent of that proffer, the question came  
1434 up, would Watts Lane ever be extended to Harvie Road that was shown on the County's plan.  
1435 Our response was we would agree to work with this property owner to eliminate the need and  
1436 the requirement of Watts Lane ever being extended to Harvie Road by virtue of deeding that  
1437 property over to the adjoining property owners, if that were necessary.  
1438  
1439 Mr. Silber - But that portion down by Harvie is not a dedicated right of way?  
1440  
1441 Mr. Parker - Correct.  
1442  
1443 Mr. Silber - So there would be no vacation or abandonment of that right of way  
1444 because it doesn't exist as right of way?  
1445  
1446 Mr. Parker - Correct.  
1447  
1448 Mr. Silber - You are saying it is on the County's Major Thoroughfare Plan?  
1449  
1450 Mr. Parker - It is shown to be extended through to Harvie. That is correct.  
1451  
1452 Mr. Silber - I don't think it is on the County's adopted Major Thoroughfare Plan.  
1453 Maybe it was a proposed road to go through and at some point perhaps, it was deemed to be  
1454 necessary. I think we need to work on the proffer with you. I think probably all that needs to be  
1455 said is that there will not be access provided from your development to Harvie Road unless  
1456 otherwise required by the County.  
1457  
1458 Mr. Parker - Yes, sir.  
1459  
1460 Mr. Silber - OK.  
1461  
1462 Mr. Archer - Mr. Secretary, so if it is not on the Major Thoroughfare Plan then it does  
1463 not require Board action for removal. Is that correct?  
1464  
1465 Mr. Silber - That is correct. Mr. Foster, can you come up and tell us if, in fact, I am  
1466 correct. Is this on the Major Thoroughfare Plan or not?  
1467  
1468 Mr. Foster - My name is Tim Foster. I am the Traffic Engineer for the County. It is  
1469 not on the Major Thoroughfare Plan.  
1470  
1471 Mr. Silber - So it does not require Board action?  
1472  
1473 Mr. Foster - That is correct and not right of way as Mr. Parker stated, so there is no  
1474 County action at all as far as the property goes at this time.  
1475  
1476 Mr. Silber - OK.  
1477  
1478 Mr. Jernigan - It is a paper road, though.

1479

1480 Mr. Foster - No, sir.

1481

1482 Mr. Jernigan - It is not a paper road?

1483

1484 Mr. Foster - No, sir. The right of way ends where the line is for the second point of  
1485 access is, and all the maps we have show that as a little stub is private property going over to  
1486 Harvie Road.

1487

1488 Mr. Jernigan - Oh, OK. All right.

1489

1490 Mr. Vanarsdall - Mr. Silber, you said that "unless required by the County." Is that how  
1491 you ended that?

1492

1493 Mr. Silber - Yes.

1494

1495 Mr. Vanarsdall - What assurance would anybody have that it wouldn't ever open, and you  
1496 are going to end it like that?

1497

1498 Mr. Silber - Well, that is a good point, I guess. Then maybe there wouldn't be any  
1499 assurance if it was left that way. I think...

1500

1501 Mr. Vanarsdall - That leaves it open to sometime later and somebody will have a surprise.

1502

1503 Mr. Silber - That is correct. I was leaving open the possibility that when the  
1504 property, perhaps the property along Harvie Road might develop, and there may be a need for a  
1505 future connection that wouldn't be objected to by the residents nor the County. But if that is an  
1506 issue you want to put to rest in this rezoning case, then that can be done with the wording of  
1507 that proffer.

1508

1509 Mrs. Ware - Are you ready to hear from the opposition?

1510

1511 Mr. Archer - Yes, ma'am. There were quite a few hands up. You have 10 minutes as  
1512 a whole. OK? Good evening. State your name please.

1513

1514 Mr. Eugene Boland - Good evening. My name is Eugene Boland and my property is this one.  
1515 My address is 3813 Harvie Road, which is the second property on the east side of the property in  
1516 question tonight. I'd like to begin by saying that I was not able to attend the meeting that Mr.  
1517 Attack planned, so our discussions before this meeting is the only time we have had a chance to  
1518 talk, so I thought in all fairness that I needed to mention that to the Commission, that I don't  
1519 want to catch anyone blindsided and be the mean landowner next to a property to stop things,  
1520 buy unfortunately I am going to have to be the mean landowner next to the property to try to  
1521 stop things.

1522

1523 One point of contention – I was going to go through my list – it is in no particular order of  
1524 importance to the neighbors. One is and has always been the density of the housing. The  
1525 County's recommendation of six units per acre for a residential townhouse is below what is being  
1526 proffered by Mr. Attack and it is still above what the neighbors feel is appropriate for this region,  
1527 if you look at those of us with single-family houses on the eastern side of this property. We are  
1528 all on one plus acre lots, and we already have to deal with a high-density apartment complex to  
1529 the north of this property, and we don't feel that our area needs additional high density. That  
1530 being said, if you look at something the Board has already approved on this C-80C-02 property,  
1531 which is the extension of the subdivision across the street from us, we will see that currently our

1532 schools are going to be pushed to capacity when that is developed as the next extension of the  
1533 Harvest Crest Subdivision. As a parent with three children in the schools in this area, that is of  
1534 great concern to me. Our local school, we are very excited of the fact that our grades, the SOL  
1535 scores and everything have been coming up and have been coming up faster than other  
1536 surrounding schools and one of the reasons we believe this is true is because our school is not  
1537 yet at capacity and God forbid over capacity like a number of the other elementary schools, and  
1538 if the Commission and the County chooses to continue development at the rate that it is going on  
1539 the east side, we would definitely like to set up some time to talk about additional schools in this  
1540 region, because trailers don't educate children.

1541

1542 Another area of concern that we have with this property is on the size of the units. As the County  
1543 said, they were looking at 50% at over 1400 sq. ft. Again, we agree that a larger unit will  
1544 promote a more responsible homeowner and will bring a property value that would be in keeping  
1545 with what we'd like to see in this area. Again, as we look at the subdivision across the street  
1546 from our properties, we are looking at houses, houses in the mid \$150,000 resale right now. Our  
1547 houses we are looking, at the extension of Harvie Road, as Harvie Road travels this way, we have  
1548 a new subdivision going at the end, very large houses actually, on \$200,000 plus property, and  
1549 we don't feel that residential townhouses in this area is in keeping with the trend of residential  
1550 development in our area. The County was originally asking for in excess of 50% garages  
1551 available, first-come, first-served, no matter how it is worded, 35 garages for that property is still  
1552 below a 50% threshold as I am not aware of how the County counts garages and why garages  
1553 aren't counted as parking spaces, if that is the case. Either way, I do believe that attached  
1554 garages would be a major selling point in keeping with a plan for quality development in our  
1555 area.

1556

1557 We'd like to applaud Mr. Attack with the stopping of Watts Lane. There is nobody that lives either  
1558 in the subdivision or with the properties that adjoin it that want to see Watts Lane come through  
1559 all the way to Harvie Road. Harvie Road where Watts Lane would come out is a very narrow  
1560 piece of road and that road would dead end, as you can see here into two houses that have just  
1561 been built, so with that, we'd like to see the virtual end of Watts Lane be no further than a north-  
1562 south extension of the property line of Mr. Avery's property, which is that first property adjoining  
1563 the questioned Watts Lane extension.

1564

1565 Another area of concern is obviously recreation. If you are putting in 82 units, they are going to  
1566 need someplace to go and as somebody who has a lot of property that adjoins it, we don't want  
1567 to see that be our backyard providing their recreation facility. A privacy fence has been proffered  
1568 again for the extension against Mr. Avery's property, and I understand that is because Mr. Avery  
1569 was the only one of us who adjoins the property who was able to attend the meeting. It is  
1570 something we'd like to work with the developer and the Commission on into basically ask that Mr.  
1571 Avery, myself, the Walkers and if we go around the corner we have the Kaufmans, who own the  
1572 property, to see that no matter what gets developed here as the neighbors want that we'd like to  
1573 see this whole edge be privacy fence and isolated from any development that would happen in  
1574 this region.

1575

1576 One personal question that I have is with the County's request on increasing from a 25 to a 35  
1577 foot setback off of Laburnum Avenue, is that 35 feet from the proposed six-lane expansion of  
1578 Laburnum Avenue, or is that 35 feet from the existing road edge?

1579

1580 Mr. Silber - What proffer number is that?

1581

1582 Mr. Boland - In respect to proffer #1 where it is looking at a transitional buffer  
1583 against Laburnum Avenue.

1584

1585 Mr. Jernigan - It should be from the...  
1586  
1587 Mr. Silber - It depends on how it is worded. Let me see if I can pick up on that.  
1588 Typically it says it would be from the ultimate right of way, which would be the ultimate  
1589 expansion of Laburnum. It would be from that point. I am trying to see how this is worded. Mr.  
1590 Foster, do you know if there is going to be any widening required on Laburnum? If there is no  
1591 widening required, then it would be from the existing right of way.  
1592  
1593 Mr. Foster - If Laburnum is the same as most of the berms in this area, we already  
1594 have 100 feet of right of way. They will be required to dedicate an additional two feet, so we  
1595 can get six lanes 20 years from now. Also, I think there may be a right turn lane already there,  
1596 so there will be some right-of-way dedication, but I think it is going to be minimal above and  
1597 beyond what is out there now, approximately two feet is what, without a plan that is what I  
1598 would say right now, only two feet.  
1599  
1600 Mr. Silber - OK. I think what we can do in this case is work with the applicant to  
1601 have this from the ultimate right of way, so we will be assured to have that space in the future.  
1602  
1603 Mr. Boland - With that, I really have no further concerns. I was able to speak to the  
1604 Commission last time when this property was proposed for development and we are, the  
1605 neighbors are still under the same, we still have the same feeling that we don't want to prevent  
1606 anyone from making a living, any developer from making a living on the east side of Henrico  
1607 County, however, if the price of this property requires a density at this level, we think that price  
1608 is above what the market will bear, and we will continue to fight development until a price is  
1609 reflective that a developer can make money either on single-family houses in keeping with the  
1610 latest expansions in our area or with a townhouse and a much lower density. Thank you.  
1611  
1612 Mrs. Ware - Are there any questions of Mr. Boland? OK, thank you. There are two  
1613 minutes left. Is there anyone else who wanted to speak in opposition? The rebuttal from the  
1614 applicant. Oh, I am sorry. Could you state your name, please?  
1615  
1616 Mr. J. R. Stubbins - My name is J. R. Stubbins and I reside at 3709 Harvie Road, slightly  
1617 north of the area we are talking about. I just wanted to say I think the time for any type of  
1618 development of condos or the smaller square footage we are talking about has passed long ago.  
1619 The existing apartment complex there was built. It was a very rural area. It probably sufficed at  
1620 the time, but since then the trend has been larger homes, better quality homes. I have lived  
1621 there for eight years and the homes have gotten larger and larger, brick faced, and they have  
1622 exceeded \$70,000 from what they started at, and something like this does not fit. That is all.  
1623  
1624 Mrs. Ware - Thank you. Is there any more opposition? Would you like your rebuttal?  
1625  
1626 Mr. Atack - Thank you, Madam Chairman. I appreciate the opportunity to respond, I  
1627 think, more than a rebuttal. I think the points on economic values and impacts of our values to  
1628 the adjoining residential communities are very fair and appropriate questions. One thing that I  
1629 apologize for, I neglected to mention in my original presentation that our town homes would  
1630 start at \$160,000. We have developed over 300 homes in this area and the Clarendon area and  
1631 this area is correct. As he mentioned, it has grown economically and I think socially as well, and  
1632 it is becoming a very popular residential area. I would say this, I would warrant this to this  
1633 Board (sic) and as I spoke to the gentleman in the two minutes I met him before outside,  
1634 regardless of the decision of the Planning Commission this evening, I would be glad to have  
1635 another meeting prior to the Board of Supervisors meeting, so that I can meet with these folks  
1636 and as Mr. Boland mentioned about the fencing, the privacy fencing between his property and  
1637 the subject property, we did meet Mr. Avery and that is who we had a discussion with. We will

1638 be glad to maintain that dialogue with the other adjoining property owners. Square footage is  
1639 another issue that has come back up, recreation areas. One thing that is interesting about  
1640 square footage is that if the square footage grows, so does the number of people in multi-family  
1641 housing. We believe that this community that we intend to develop here is not going to be  
1642 aimed at first-time homebuyers with three school-aged children. That is a very important  
1643 commodity in our community and should be in a single-family home. We hope to be able to offer  
1644 housing for professionals who are interested in maintenance free living with a quality life style,  
1645 and be able to maintain the same economic appreciation that has been enjoyed in the  
1646 community. I will be glad to answer any other questions that you folks may have.

1647  
1648 Mr. Archer - Mr. Attack, one thing I think I failed to mention was something Ms.  
1649 Moore mentioned in her presentation, having to do with exposed foundations, having the  
1650 appearance of being crawl space. Can you address that?

1651  
1652 Mr. Attack - Yes, sir. Mr. Archer, Ms. Moore mentioned that we may not have been  
1653 very clear as to how that proffer is articulated, but we will change the proffer to make sure that it  
1654 reflects that the foundation levels, all exposed foundations be brick or similar material very  
1655 typical. We replicate the standard provision that we typically use and is a custom in the Planning  
1656 Department to show that exposure.

1657  
1658 Mr. Archer - OK, thank you.

1659  
1660 Mr. Attack - Yes, sir. Thank you.

1661  
1662 Mrs. Ware - Any more questions for Mr. Attack? Thank you. Mr. Archer.

1663  
1664 Mr. Archer - You know, since Mr. Attack has been here I am starting to get hoarse  
1665 myself. This case, as most of you know, has been brought to us before, not this particular case,  
1666 but the particular area has been brought to us before and sometime ago, two years ago, in fact  
1667 ever since Mr. Thornton was elected to the Board we have intended and tried to aggressively  
1668 pursue quality standards for Fairfield and all of eastern Henrico. The case that was presented  
1669 prior to this one, I have to admit, this one is far and above what was presented in that particular  
1670 case, although there are some things in here that probably still could be done to make  
1671 improvements. But we do intend to aggressively pursue quality in Eastern Henrico. It is true  
1672 that there is quite a bit of a conurbation going on in this area, all the way down to the  
1673 Chickahominy Swamp and Hanover. And yes, I wonder sometimes, too, how we are going to  
1674 find schools to fit all of these people, but I guess we are in a situation where we can't build the  
1675 school first and wait for people to populate them, and I think what happens most of the time is  
1676 we have to populate the area first and then build the schools. Sometimes that leads to quality  
1677 and improvement.

1678  
1679 We met with Mr. Attack last week, Ms. Moore and myself, and she has worked tremendously hard  
1680 on this case, and as you can hear from her presentation, she didn't really say the staff supported  
1681 this case. She said if some of these things could be done, she could more aggressively support  
1682 this case or something to that effect. But, I am pleased at the fact that we have been able to  
1683 develop some quality standards that are so far above what has been done before; the applicant  
1684 has proffered two exhibits tonight, and I must say I can't understand why it took so long to get  
1685 these exhibits. The original proffers came in on the 7<sup>th</sup>. Is that correct? And yet the exhibits  
1686 didn't come until today, and I have to say that puts a tremendous burden on staff to try to  
1687 incorporate these exhibits into the staff report when we get them so late, even to the extent that  
1688 we would have to waive the time limits on them tonight to make a decision. The addition of  
1689 garages as an option, the attractive boundary and buffer along Laburnum Avenue and the  
1690 general aesthetics and quality of the structure that Mr. Attack mentioned, and one of the things,



1691 the first exhibit that was shown that had the shed-type roof structure on it was something that  
1692 we thought we could do better with, and he come back with an option to that tonight, also. And,  
1693 he mentioned the proposal that Mr. Gelletly has on the east side of Creighton Road. The  
1694 standards for this particular town house development would not be quite up to what that is, but I  
1695 am not at all insensitive to the fact that this is adjacent to an apartment complex that even it is  
1696 aging somewhat is in relatively good shape, and very well maintained, but you know, I have to  
1697 be sensitive to the fact that that would have an effect on the appeal to a buyer if they had the  
1698 option of buying there or somewhere else, so I can understand how the pricing would be  
1699 somewhat less than it would be on the other side.

1700

1701 Having said all of that, I am getting ready to make a decision here in a minute, but I do want to  
1702 let you know that I will expect and would expect that Mr. Thornton and the Board is probably  
1703 going to scrutinize this a bit more, and I don't think that there are things in here that staff has  
1704 objections to that can't be overcome. I think all of these things can be overcome. I am sensitive  
1705 to the folks that live along Harvie Road and I am glad Mr. Attack is willing to put in that stipulation  
1706 that that road would not continue out to Harvie, so that you folks can maintain some level of  
1707 privacy. And with that, I am going to guardedly recommend this for approval, and I say  
1708 guardedly because two things I would suggest is that you be open to what suggestions the staff  
1709 might have before the Board meeting and also as this gentleman requested that you meet with  
1710 the neighborhood again and keep a dialogue going with them as early prior to the Board meeting  
1711 as you can so that they can address those concerns and have them ready to bring before the  
1712 Board.

1713

1714 So, Madam Chairman, first of all, we have to waive the time limits on the late exhibit and I move  
1715 to do so.

1716

1717 Mr. Marshall - Second.

1718

1719 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Marshall. All in favor  
1720 say aye. All opposed say no. The motion passes.

1721

1722 Mr. Archer - Lastly, I will move to recommend that the Board approve C-68C-03.

1723

1724 Mr. Marshall - Second.

1725

1726 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Marshall. All in favor  
1727 say aye. All opposed say no. The motion passes.

1728

1729 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Marshall, the Planning Commission  
1730 voted 5-0 (one absence) to recommend that the Board of Supervisors **grant** the request because  
1731 it is reasonable in light of the R-5 zoning in the area and the proffered conditions would provide  
1732 for a higher quality of development than would otherwise be possible.

1733

1734 Mr. Silber - This would come before the Board of Supervisors on the 10<sup>th</sup> of February  
1735 at 7:00 p.m.

1736

1737 **THE COMMISSION RECESSED FOR TEN MINUTES.**

1738

1739 **THE COMMISSION RECONVENED.**

1740

1741 **Deferred from the December 11, 2003 Meeting:**

1742 **C-69C-03 Robert M. Attack:** Request to conditionally rezone from A-1 Agricultural  
1743 District and RTHC Residential Townhouse District (Conditional) to O-2C Office District

1744 (Conditional), Parcels 776-766-2949 and 776-766-3128, containing 2.176 acres, located at the  
1745 southeast intersection of Woodman and Mountain Roads. Office use is proposed. The use will  
1746 be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan  
1747 recommends Office.  
1748

1749 Mrs. Ware - Is there any opposition to this case? No opposition. Mr. Bittner.  
1750

1751 Mr. Bittner - Thank you, Mrs. Ware.  
1752

1753 The subject properties are designated Office on the 2010 Land Use Plan, and this request is  
1754 consistent with that designation.  
1755

1756 The applicant has submitted several proffers with this proposal, including some revised proffers  
1757 you should now have in front of you. The applicant's proffers include:  
1758

- 1759 - A proffered building elevation, which we have here (referring to slide);
- 1760 - Building material of at least 40% brick;
- 1761 - 20-foot landscape areas along Mountain and Woodman Roads planted to exceed  
1762 Transitional Buffer 10 requirements;
- 1763 - Building height limited to 35'; and
- 1764 - Monolithic style signs limited to 8' in height.  
1765

1766 Staff had been recommending more landscaping in the buffer areas above the Transitional Buffer  
1767 10 standards. Staff had also been recommending signage limited to six (6) feet in height instead  
1768 of the proffered eight (8) feet. Although the revised proffers do not completely address staff  
1769 comments, they are a significant improvement.  
1770

1771 The two parcels are separated by an undeveloped right-of-way known as Old Woodman Road. This  
1772 right-of-way would need to be abandoned to develop the property as proposed. Staff encourages  
1773 the applicant to continue to work with the Real Property Department to complete the abandonment  
1774 of this right-of-way as soon as possible. Ideally, this case should not receive final approval from the  
1775 Board of Supervisors until this matter is settled.  
1776

1777 The requested rezoning is consistent with the land use plan recommendation and the applicant  
1778 has provided proffers to improve the quality of development. Staff recommends approval of this  
1779 application.  
1780

1781 I would be happy to try and answer any questions you may have.  
1782

1783 Mrs. Ware - Are there any questions from the Commission?  
1784

1785 Mr. Archer - Mr. Bittner, with regard to the 8 ft. signage, you wanted six?  
1786

1787 Mr. Bittner - We recommended six and the applicant said he wanted to limit that to 8  
1788 feet.  
1789

1790 Mr. Archer - OK, I will ask him. I will ask him why.  
1791

1792 Mrs. Ware - Would you like to hear from the applicant?  
1793

1794 Mr. Attack - Madam Chair and members of the Planning Commission, my name is  
1795 Bob Attack and I am the applicant before you this evening. Mr. Parker is going to pass out a  
1796 letter that was prepared by the president of the homeowners association that adjoins, that is

1797 across the street from the subject property. I think most of you, probably with the exception of  
1798 Mr. Marshall, have been here for the previous zoning attempts on this property, and Michelle  
1799 Faison is the president of the homeowners association and has been very active in all of the  
1800 zoning that has occurred recently in her area, and when I say she, in the singular tense, I am  
1801 really speaking of her as president of the homeowners association. We have met with Ms. Faison  
1802 and she has, and I really appreciate her correspondence both to the Planning Commission as well  
1803 as to Mr. Thornton. I am sorry. The letter was to Mr. Archer and only to Mr. Archer, and I would  
1804 just take the last sentence of the last paragraph to Mr. Thornton to reiterate she says, "We hope  
1805 that you will vote in favor of the rezoning issue in the event it comes before the Board of  
1806 Supervisors." That is what she asked Mr. Thornton and she asked Mr. Archer virtually the same  
1807 thing. The reason she was an advocate of this case is we also are developing the adjoining  
1808 property and we, in our original zoning case had a number of discussions with the current  
1809 owners, the Ramsey family, who have owned this property for an extended period of time,  
1810 decades literally, and this is a big representation of our property in conjunction with what is  
1811 currently owned by the Ramsey's that we are seeking the rezoning for. The exhibit that you saw  
1812 on the front elevations did not really give the true quality of the construction of the office zoning  
1813 that we are requesting. This will be for rent or possibly condos for sale, but we think it is very  
1814 compatible with the 70 townhouses that we currently have under construction and we feel like  
1815 this is a really good use and compatible use and even a transitional use for the Ramsey property.  
1816 It is very unusual, it is the first time we have ever owned a piece of property, rezoned it for a  
1817 higher density that being RTH, and then we are involved in the subsequent rezoning for ever  
1818 higher zoning, next to residential that we own. That is typically not as compatible, but we feel  
1819 very comfortable with this and would ask that you support the staff's recommendation for  
1820 approval. I will be happy to answer any questions.

1821  
1822 Mr. Archer - Thank you, Mr. Atack. I just had one question having to do with the  
1823 signage. Is there any particular reason why you prefer the 8 feet over the 6 feet that the staff  
1824 recommends?

1825  
1826 Mr. Atack - Mr. Archer, I am sure there is a good reason. We always want to  
1827 disagree with staff on some point at some time. Tonight we disagreed with them on just about  
1828 everything, so we wouldn't want to leave that opportunity out, but in all due respect, I think it is  
1829 something that we could work on. We have had one case in our recent zoning, Hunton Estates,  
1830 where we had a sign that was about 20 feet high, residential sign, and it is because it was a  
1831 landscape monument sign. I am not sure of the importance of whether this could be 8 feet or 6  
1832 feet, sir.

1833  
1834 Mr. Archer - I just wanted to make sure you understand. It may be an issue at the  
1835 Board meeting, and you do understand Mr. Bittner's assertion about the abandonment issue and  
1836 what we have to do before that is finalized.

1837  
1838 Mr. Atack - Yes, sir. We are in complete accord with Mr. Bittner, sir, I think  
1839 specifically. To reiterate, that the staff would not recommend to the Board unless the  
1840 abandonment occurred and Mr. Parker has instituted that process, and it is in the works, so we  
1841 believe that will occur prior to the Board's hearing of this case.

1842  
1843 Mr. Archer - OK. Thank you, sir.

1844  
1845 Mr. Atack - Thank you, sir.

1846  
1847 Mr. Silber - Mr. Atack, there is a reference to an exhibit in Proffer 1 that references  
1848 January 2, 2003. I don't know if that is a typo and should be 2004, or was that prepared last  
1849 year?

1850  
1851 Mr. Atack - Excuse me, Mr. Silber. That is a typo. It should be 04, sir.  
1852  
1853 Mr. Archer - I have written a few checks with 2003 on them.  
1854  
1855 Mr. Marshall - Actually the drawings do say 2003 in the right hand corner.  
1856  
1857 Mr. Archer - We can get that corrected.  
1858  
1859 Mr. Silber - That makes it two typos. Mr. Marshall, you have good eyes.  
1860  
1861 Mr. Parker - I am Philip Parker, Atack Properties. The exhibit had a typo with its date  
1862 and was caught after it was submitted, thereby the proffer was made to reference the exhibit, so  
1863 they both were in accord with each other. The date of the exhibit and the date of the proffer  
1864 both match each other for the purposes of being one and the same.  
1865  
1866 Mr. Archer - OK. Thank you, Mr. Parker.  
1867  
1868 Mrs. Ware - Thank you. Are there any more questions for Mr. Atack? Thank you. Mr.  
1869 Archer.  
1870  
1871 Mr. Archer - I think we are ready on this one. Hello, Mrs. Ramsey. How are you  
1872 doing? The only issue, I guess, that we have to deal with is the abandonment issue, and that  
1873 has to be done anyway, so we don't need to worry about it, and Mr. Atack is going to take care  
1874 of the signage issue, I believe. So, with that I will recommend approval to the Board of Case C-  
1875 69C-03.  
1876  
1877 Mr. Marshall - Second.  
1878  
1879 Mrs. Ware - We have a motion made by Mr. Archer and seconded by Mr. Marshall.  
1880 All in favor say aye. All opposed say no. The motion passes.  
1881  
1882 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Marshall, the Planning Commission  
1883 voted 5-0 (one absence) to recommend that the Board of Supervisors **grant** the request because  
1884 it conforms to the recommendations of the Land Use Plan and the proffered conditions will  
1885 assure a level of development otherwise not possible.  
1886  
1887 **C-3C-04 Henry L. Wilton for Wilton Development Corp.:** Request to  
1888 conditionally rezone from A-1 Agricultural District, O-3 Office District and O-3C Office District  
1889 (Conditional), to RTHC Residential Townhouse District (Conditional), part of Parcel 788-771-3457,  
1890 containing approximately 75.0± acres, located approximately 2,000 feet north of the northeast  
1891 intersection of I-95 and Virginia Center Parkway. The applicant proposes no more than one  
1892 hundred eighty (180) age and non-age restricted townhouses for sale. The RTH District allows a  
1893 maximum density of nine (9) units per acre. The Land Use Plan recommends Office and  
1894 Environmental Protection Area.  
1895  
1896 Mrs. Ware - Is there any opposition to this case? No opposition. Ms. Moore.  
1897  
1898 Ms. Moore - Thank you, Madam Chairman.  
1899  
1900 This request would permit 180 townhouses for sale on the property, ninety-five (95) of which  
1901 would be age restricted.  
1902

1903 The 2010 Land Use Plan designates the subject site as Office and Environmental Protection Area.  
1904 The proposed use is not consistent with this designation: however, it is consistent with the  
1905 residential development trends in the immediate area.

1906  
1907 The applicant has submitted revised proffers dated January 12, 2004. Major aspects of the  
1908 proffers include:

- 1909
- 1910 • Minimum floor area for age restricted and non-age restricted townhomes would be 2,100 and
- 1911 1,500 square feet, respectively.
- 1912 • The age-restricted units would have one-car garages for interior units and two car garages
- 1913 for end units and those would be attached.
- 1914 • Proffered elevations with vinyl and brick front facades and brick facades for sides facing
- 1915 right-of-ways.
- 1916 • Minimum 500 square feet of recreational open space per townhouse unit, and 1,500 square
- 1917 feet devoted to a recreational clubhouse.
- 1918 • Access to the site would be provided by private roads (built to County standards) containing
- 1919 2 lanes divided by a 16' median and a boulevard entrance.
- 1920 • Sidewalks would be installed adjacent to interior roadways.

1921  
1922 The applicant has also proffered a conceptual layout. The revised proffers address most of staff  
1923 concerns in the staff report.

- 1924
- 1925 • Specifically, the applicant has included provisions for sound rating the walls to mitigate noise
- 1926 from Interstate 95.
- 1927 • The buffer along I-95 would include a range of a 35' to 50' transitional buffer rather than a
- 1928 straight minimum of 35 feet. The applicant has also clarified on the conceptual plan the
- 1929 proposed buffer would not impede access to the pumping station to the north.
- 1930 • The applicant has included an outdoor pool in addition to a clubhouse.
- 1931 • Proffer 25 regarding the tree coverage for the site was included to enhance the overall
- 1932 landscaping within the site.
- 1933 • Proffer 5 has been clarified to ensure foundations on all facades would be finished with brick or
- 1934 stone.
- 1935 • Bay windows and/or a minimum of two windows would be placed on side elevations facing
- 1936 right-of-ways.
- 1937 • The entrance sign has been reduced in height to a maximum of 6 feet.
- 1938 • Because burning of construction material is not permitted on site, the applicant has removed
- 1939 proffer 15 regarding burning restrictions.

1940  
1941 Overall, the project would be high quality and compatible with the adjacent uses in the vicinity.  
1942 Staff has concerns regarding the limited access to the site. Virginia Center Parkway is the point of  
1943 access to this area and there would be only one point of access from Virginia Center Parkway to the  
1944 development. Normally, the Commission requires 2 points of access for developments over 82  
1945 units. Due to topographical constraints, this project would not comply with this policy. If the  
1946 Planning Commission moves this project forward with a favorable recommendation, staff would like  
1947 to recommend the applicant address one additional item pertaining to the design and has to do  
1948 with the garages. The applicant should consider providing side and rear loading garages for the  
1949 end units to enhance the overall streetscape and appearance of the development.

1950  
1951 This concludes my presentation. I would be happy to try to answer any questions you may have.

1952  
1953 Mrs. Ware - Are there any questions for Ms. Moore?  
1954

1955 Mr. Archer - I am sorry. Ms. Moore, you and I have talked about this and I am  
1956 concerned about this ingress-egress issue. Is there anyway that you see that we could, what  
1957 could we do?  
1958  
1959 Ms. Moore - We do have Tim Foster, Traffic Engineer, to help us with this issue if  
1960 you'd like to address that.  
1961  
1962 Mr. Archer - I was trying not to get you up here, Mr. Foster, but I don't know what  
1963 else to do.  
1964  
1965 Mr. Foster - Again, I am Tim Foster, Traffic Engineer. When we first looked at this  
1966 many years ago, we were trying to get access up to Sliding Hill Road along 95. As environmental  
1967 laws changed and as big of a swamp that is, that actually became not possible. One of the  
1968 things that happened was we designated how much traffic crossed the bridge, that we felt  
1969 comfortable crossing the bridge, being that is the only access point, and I believe what we also  
1970 required on the bridge design, if you look at it closely, is actually – it looks like one bridge, but it  
1971 is actually two separate bridges. We did that so just in case one of the bridges became  
1972 incapacitated for whatever reason, there was still a sufficient way to get across it.  
1973  
1974 Mr. Archer - What can we do to contend with the number of units per point of  
1975 access? Is that my problem with this, Ms. Moore? I am not an engineer and I have absolutely  
1976 no idea how...  
1977  
1978 Ms. Moore - I think that as this goes through the process, we do need to take a  
1979 closer look, although there are constraints, as Mr. Foster pointed out due to wetlands in that  
1980 area. I think we need a closer look at this through the process and the POD to see if we can  
1981 accomplish at least some safer, I guess, ingress and egress here through the development. We  
1982 did have concerns previously that the median went straight through. They had broken that  
1983 median to try to provide two accesses at least within the site, although they are trying to  
1984 accomplish that also with the 60' median to actually translate that into two accesses. Again, I  
1985 probably should let Tim Foster address this issue more closely.  
1986  
1987 Mr. Archer - Thank you, Ms. Moore.  
1988  
1989 Mr. Foster - Mr. Archer, one thing that just looking at it and without seeing a topo  
1990 and a whole plan, one of the things that could be considered, first of all, as anyone knows, I  
1991 have been up here for 15 years, and when I come we'd like to see two points of access. We do  
1992 understand the problems with this. One of the things that could be looked at as we get to the  
1993 POD stage is an emergency access through the golf course. That could be some type of surface  
1994 that could be done that we could get us some fire trucks through the golf course if we needed it,  
1995 if the topo provides that. So, that is something that could be looked at as we get to detailed  
1996 plans for this.  
1997  
1998 Mr. Archer - I had not thought about that aspect.  
1999  
2000 Mr. Silber - Mr. Archer, it is a valid concern and there is almost three points of  
2001 restriction here that causes staff concern. There are not a lot of solutions but one of those  
2002 restrictions is the large portion of this development that exceeds the typical 82 unit count, that is  
2003 not even connected to the other portion of the development, so maybe there is some way of  
2004 connecting those two together and let them provide sort of a semi second point of access to  
2005 itself, and then what Mr. Foster is talking about is an emergency access that the entire project as  
2006 a whole would have through the golf course, as a possibility. Then you still have the road for the  
2007 restriction point for the two bridges over the interstate, so there are a number of restrictions here

2008 at several different levels that have to be looked at, and I think when it comes to the POD review  
2009 we should be looking more closely at some things that can be done with this specific  
2010 development that may provide for some emergency access as a possibility.  
2011  
2012 Mr. Foster - Mr. Silber, I can also say that the amount of traffic that is being  
2013 generated by this property as a whole, is much less than we anticipated back in 1990, because  
2014 we did anticipate more offices, small retail components and other things back there, so it does  
2015 meet, it is less than the proffer that we had about the amount of traffic to go over the bridge, so  
2016 it is much less traffic than we had anticipated. Obviously, with the age restriction, restricted  
2017 units, just to make sure we get an emergency access to them, that would be helpful.  
2018  
2019 Mr. Archer - Mr. Foster, one more thing before you sit down. The bridges and of  
2020 course I've been over them I don't know how many times, what separation is that between those  
2021 two bridges? Is it not visible at all?  
2022  
2023 Mr. Foster - Yes, they actually touch. It is very similar to the bridges at Route 1 that  
2024 goes over 295. Those are actually two separate bridges, too. You don't notice it until you get up  
2025 under it. But the bridges actually touch, two separate structures, and there is a concrete median  
2026 over them, but it is my understanding that with that bridge they do touch. The Route 1 bridge  
2027 over 295 is the exact same way.  
2028  
2029 Mr. Archer - I had heard you say that before about this one a few years ago, that is  
2030 why I did know about this one. I wasn't aware of 295.  
2031  
2032 Mr. Foster - And that was done just in case something does happen to the  
2033 superstructure of one, we can get by.  
2034  
2035 Mr. Archer - It wouldn't pull the whole thing down.  
2036  
2037 Mr. Foster - No.  
2038  
2039 Mr. Archer - Thank you, sir.  
2040  
2041 Mrs. Ware - Would you like to hear from the applicant?  
2042  
2043 Mr. Archer - I think we probably will.  
2044  
2045 Ms. Sandra Verna - Madam Chairman, Planning Commission, my name is Sandra Verna and I  
2046 am here tonight for Henry Wilton of Wilton Development. I am pleased to present a case before  
2047 you tonight that brings a new townhouse design to the Richmond area, has a density of only 2.4  
2048 units per acre, is more than 50% age restricted, provides twice as much recreational space as  
2049 the County requires, has a much lower traffic generation than an office development on the site,  
2050 and follows the trend of residential development east of I-95 on Virginia Center Parkway. We are  
2051 also committed to providing our fair share to the maintenance costs of Virginia Center Parkway.  
2052 We have made 14 additional changes to the proffered conditions to address staff's concerns  
2053 including adding an entrance sign design, limiting traffic volumes on Virginia Center Parkway, and  
2054 providing an enhanced tree canopy to ensure quality development. With this in mind, all of the  
2055 traffic questions that were just presented I think will be presented to the Planning Commission  
2056 during the POD phase of this development if approved, and I would respectfully request that the  
2057 Planning Commission approve this rezoning request. Here with me tonight is Mark  
2058 (unintelligible), our Project Engineer, and Kent (unintelligible) with Ryan Homes to answer any  
2059 questions that you may have. Any questions?  
2060

2061 Mr. Archer - Ms. Verna, there was one question I think we raised this in the meeting  
2062 that we had last week having to do with side and rear loading garages. Did you all look at that  
2063 from an engineering standpoint that this could be done and could we still look at it again?  
2064

2065 Ms. Verna - We did, and we can have side-loading garages. At this point in time we  
2066 do not know how many side loading garages because this is a conceptual drawing. It isn't  
2067 engineered and we talked to one engineer about it and he wants to make sure that all of the  
2068 wetlands are located and all the lines are correct and at that point in time during the POD  
2069 process we can show you exactly how many side-loading garages we can provide. It is just at  
2070 this point in time we don't have a number that we can provide you with except for the fact that  
2071 we will be having side-loading garages.  
2072

2073 Mr. Archer - OK, you think you might be able to have something more definitive  
2074 between now and the time the Board meets before we go to POD? I mean, if you can.  
2075

2076 Ms. Verna - If we can, I could always give you a minimum and then work from there,  
2077 so we will talk to our engineer.  
2078

2079 Mr. Archer - It is an item we want to work toward. I just want to make you are  
2080 aware that that is something we do want to do.  
2081

2082 Ms. Verna - And we do plan to have side-loading garages and that will be in the  
2083 minutes of this Planning Commission meeting.  
2084

2085 Mr. Archer - Would you all be willing to build a bridge across 95? It doesn't have to  
2086 be a real big one.  
2087

2088 Ms. Verna - You know, truthfully, the golf cart path does come down the side of  
2089 townhouses for emergency access, but I am not so sure they'd be happy about that. I know I  
2090 wouldn't if I was playing golf out there.  
2091

2092 Mr. Archer - I think Mr. Foster's comments were very good and that is something that  
2093 we probably should look at very closely, one of the alternatives is to find a way, an escape way  
2094 through the golf course. I know there is a lake down there that would have to be diverted some  
2095 kind of way, and maybe there is a way to get around it.  
2096

2097 Ms. Verna - Were there any plans for emergency access when this was looked at as  
2098 an office development, which would have generated much more traffic volume?  
2099

2100 Mr. Foster - Back when it was an office development, we were looking at taking a  
2101 road up to Sliding Hill Road as I stated. That was going to be the second point of access.  
2102

2103 Mr. Archer - Which is on the north side?  
2104

2105 Mr. Foster - Yes, sir. And then it turned out it couldn't, then most of office  
2106 development, we had some proposals, but one of the biggest problems was getting access to the  
2107 property.  
2108

2109 Mr. Archer - Well, I think it is realistic to think and that is something that you all  
2110 would have to work on, there would be a way to get emergency egress through the golf course,  
2111 because I am just trying to think, if you went up by the 18<sup>th</sup> hole, that is solid.  
2112



2113 Ms. Verna - Well, if you came, you actually can come around. You know, knowing  
2114 the golf course, there are probably ways that we could work with the golf course on that and my  
2115 guess is with emergencies. People would just have to stop playing and let us...  
2116  
2117 Mr. Archer - I think they probably would if they saw a fire truck coming.  
2118  
2119 Ms. Verna - They probably would.  
2120  
2121 Mr. Archer - You know, the office building is on a hillside and there is a fence all the  
2122 way around it, a wrought iron fence, so that wouldn't be an option, but there has got to be a way  
2123 to get it worked out, I would assume. OK, that is all the questions I have.  
2124  
2125 Ms. Verna - Thank you.  
2126  
2127 Mr. Archer - Madam Chairman, as we heard, there is still work to be done on this. In  
2128 the meeting that we had and with what has been proffered since then, the concept seems to be  
2129 a good one, the townhouses seem to be of good quality and if it can be worked it, it probably  
2130 would add a good addition to this area. They had meetings with the adjoining neighborhoods  
2131 and folks that they met and nobody objected, as you can see. No one is here tonight and, in  
2132 fact, from what Ms. Verna tells us, they were quite supportive of what we were trying to do. But  
2133 there are some issues as was indicated in Ms. Moore's report that probably would have to be  
2134 worked out and would require quite a bit before the POD. But we need to keep those things in  
2135 mind. But with that I think I will move to recommend that the Board approve C-3C-04, Henry L.  
2136 Wilton. There is a lot of work in front of it.  
2137  
2138 Mr. Vanarsdall - Second.  
2139  
2140 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All in favor  
2141 say aye. All opposed say no. The motion passes.  
2142  
2143 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning  
2144 Commission voted 5-0 (one absence) to recommend that the Board of Supervisors **grant**  
2145 the request because it reflects the type of residential growth in the area and the proffered conditions  
2146 would provide for a higher quality of development than would otherwise be possible.  
2147  
2148 **Deferred from the December 11, 2003 Meeting:**  
2149 **C-58C-03 Jim Theobald for TC&P, LLC:** Request to conditionally rezone from A-  
2150 1 Agricultural District to RTHC Residential Townhouse District (Conditional), part of Parcel 739-  
2151 759-9539, containing 14.825 acres, located at the southeast intersection of Pump and Three  
2152 Chopt Roads. Seventy-nine (79) residential townhouses (5.33 units per acre) are proposed. The  
2153 maximum density in the RTH District is nine (9) units per acre. The Land Use Plan recommends  
2154 Urban Residential, 3.4 to 6.8 units net density per acre. The site is in the West Broad Street  
2155 Overlay District.  
2156  
2157 Mrs. Ware - Is there any opposition to this case? One. Thank you. Mr. Bittner  
2158  
2159 Mr. Bittner - Thank you, Mrs. Ware. Revised proffers have just been handed out and  
2160 actually the applicant is now proposing to construct as many as seventy-seven (77) residential  
2161 townhouses on this site, which is down two units from what the original proposal was. The  
2162 property is located within the West Broad Street Overlay District, and is designated Urban  
2163 Residential on the 2010 Land Use Plan. Some of the other proffers include:  
2164

- 2165 • Building walls to be 100% brick, excluding doors, windows and architectural design
- 2166 features and that includes this proffered elevation here.
- 2167 • A minimum finished floor area of 2,300 square feet per unit.
- 2168 • A limit on the hours of construction from 7 AM to 7PM during the week, 7 AM to 5 PM on
- 2169 Saturdays, and no Sunday construction hours.
- 2170 • A two-car garage on all units.
- 2171 • A 50-foot building setback from the Wythe Trace subdivision; and this is the latest
- 2172 layout here (referring to rendering). Wythe Trace, to orient you, would be on the
- 2173 bottom side of this drawing.
- 2174 • A 25-foot buffer along the Wythe Trace subdivision. This buffer is to be left in its
- 2175 natural state, except for the five (5) feet closest to the townhouses, which may be
- 2176 cleared, but in such a case would receive supplemental landscaping. If needed,
- 2177 additional landscaping necessary to provide the equivalent of a 35-foot transitional
- 2178 buffer would be provided.
- 2179

2180 Although this request is consistent with the Land Use Plan's recommendation of Urban Residential,  
 2181 it is inconsistent with the Multi-Family Development Guidelines' recommendation of a building  
 2182 setback at least 60 feet from single-family residential districts. Several residents of the Wythe Trace  
 2183 subdivision have expressed their support for the 60-foot setback.

2184  
 2185 If the applicant could address this issue, staff could fully support this request.

2186  
 2187 This concludes my presentation. I would be happy to try to answer any questions you may have.

2188  
 2189 Mrs. Ware - Are there any questions for Mr. Bittner from the Commission?

2190  
 2191 Mr. Marshall - Mr. Bittner, previously there was not a proffer for the 35' transitional  
 2192 planting. Is that correct?

2193  
 2194 Mr. Bittner - Yes, sir. That is.

2195  
 2196 Mr. Marshall - And that is substantially more than is normally required within the buffer  
 2197 that was offered?

2198  
 2199 Mr. Bittner - It was a significant improvement over their original buffer. We have also  
 2200 looked at some other recent townhouse cases next to single-family areas and we feel that the  
 2201 buffer here is also significantly more than what those other previous cases were.

2202  
 2203 Mr. Marshall - Thank you.

2204  
 2205 Mrs. Ware - Any more questions? Thank you, Mr. Bittner. May we hear from the  
 2206 applicant. There is opposition. Would you like to save time for rebuttal?

2207  
 2208 Mr. Theobald - I think about two minutes please. Madam Chairman and members of  
 2209 the Commission, my name is Jim Theobald and I am here this evening on behalf of TC&P, LLC.  
 2210 This is a request to rezone approximately 14.8 acres of land from A-1 to RTH consistent with  
 2211 your Land Use Plan. The proposed use for this project is luxury townhouses, marketed to the  
 2212 empty-nester market. These are maintenance-free homes. They are all brick. Sixty percent of  
 2213 these units have first-floor masters consistent with the empty-nester market. These homes will  
 2214 have a minimum of 2300 sq. ft. and many, if not most, will be actually in excess of that, and they  
 2215 are going to be built by Prospect Homes, which is the 2003 Parade of Homes winner. Many of  
 2216 you are familiar with the background on this property. This is a classic infill development site and  
 2217 a classic infill development dialogue between the proposed developers and an adjacent existing

2218 single-family detached neighborhood. This property was owned by Dr. Brown. As you know, this  
2219 area was subject to many rezoning efforts for commercial rezoning two, three and four years  
2220 ago, a result of which the County ended up buying a significant amount of land around Short  
2221 Pump Elementary for many millions of dollars in order to create a park, which is just on the other  
2222 side of Three Chopt Road from this plat. Those unsuccessful cases back in 1999 proposed for  
2223 this particular piece of property either 133 town homes or 177 condominiums. We are seeking a  
2224 plan this evening for but 77 units. Your Land Use Plan in this area would suggest an appropriate  
2225 density of 3.4 to 6.8 units per acre. We are at 5.2. Your Townhouse Ordinance, as you know,  
2226 would permit up to nine units per acre, so we are substantially below the permitted density by  
2227 statute and below the suggested density by your Land Use Plan.

2228

2229 Proffers in this case have been the result of many, many meetings and discussions with the  
2230 neighbors in Wythe Trace and I certainly appreciate their courtesy and constructive comments  
2231 throughout this process. These proffers are very detailed. As you have seen, they include a  
2232 proffered elevation and site plan. These are undoubtedly the most elegant town homes ever  
2233 offered in Henrico County to my knowledge. They are going to be nearly a half a million dollars  
2234 in cost and 100% brick. We have capped the density at 77 units. We have proffered the  
2235 minimum square footages. We spent a lot of time working on this buffering proffer with the help  
2236 of lots of folks, and I think now we have put forth an actual development scheme which basically  
2237 has us grading, stopping, looking, seeking approvals from you all with input from the neighbors  
2238 as we go along. Again, a 25 ft. buffer, and five feet closest to the town homes can be graded if  
2239 needed and that would have to be replanted per the 35 ft. transitional buffer standards. We  
2240 have to flag that natural buffer before we start any site work. The developer will then clear and  
2241 grade the streets and the sidewalk areas pursuant to the approved POD. We will then flag and  
2242 locate both the townhouse lots and the townhouse units. We will then grade the pads in the  
2243 construction area for those town homes and, at that point, we will be able to flag the trees to be  
2244 saved in between the town homes and the rear yards of those town homes as well, in an effort  
2245 to retain as many of the mature trees as possible. Then, prior to landscape approval, which we  
2246 are happy to have come back to the Planning Commission, only then will we know exactly how to  
2247 treat that buffer in the back. In a discussion with many neighbors, we lacked a consensus as to  
2248 where the people wanted supplemental plantings with an ornamental fence, a solid fence, berm  
2249 with plantings or some combination, and I think in all candor that it is hard to visualize until we  
2250 are at that particular point, which is how your landscape plan approval process works these days,  
2251 and so what we have said is at that point, once everybody knows where the pads are, the lots  
2252 will be, they have been flagged, the roads have been cleared, the pads have been cleared, and  
2253 we will come back. We will get back with the residents and we will come back to the Planning  
2254 Commission with our landscape plan and then we will do a buffer with either supplemental  
2255 plantings and the ornamental wrought iron appearance aluminum-type fence, or a stockade-type  
2256 fence if neighbors find that to be more appealing, or a berm with plantings or some combination  
2257 thereof that makes sense. So, hopefully, we have now stated that a little more plainly, so that  
2258 everybody understands the exact critical path. Each unit has a two-car garage. We have limited  
2259 the height of street lighting. All utilities are underground. We have limited hours of construction.  
2260 No central trash receptacle. The neighbors did not want an outdoor community recreational-type  
2261 amenities, such as a community pool or community tennis courts. We have said no wooden  
2262 decks on the backs of these units. There are patios. We have added sound suppression  
2263 measures between units and we have committed to a consistent 50 ft. buffer minimum setback, I  
2264 am sorry, setback from Wythe Trace to these buildings, and that has taken us, believe me,  
2265 months and months to achieve, as we have pushed these lots, tweaked the separation of  
2266 buildings, delineated wetlands, etc., and you will see we have a couple of lots that just stick into  
2267 the West Broad Overlay District a little bit, and the one point up here on the west end of the site  
2268 just a lot area, which we have been discussing with the County. The difficulty in this site is that  
2269 it is only about 300 feet wide at the western end here and by the time you apply the West Broad  
2270 Overlay District buffers, you meet your ordinance-required setbacks, you meet the road

2271 requirements, etc., then you've only got so much dirt to work with, and on the eastern side of  
2272 the property you hit wetlands and I am pleased we have been able to get at least 50 feet off of  
2273 line. You should understand that basically town house rear-yard setbacks are 30 feet in your  
2274 ordinance. These are 50 feet off of the property line. There is no transitional buffer requirement  
2275 in your ordinance from R-3A, which is Wythe Trace Subdivision, and RTH, and we have a 25 foot  
2276 buffer with additional screening provisions added.

2277

2278 The Transportation Department says this will generate very little traffic, 463 trips a day. Pump  
2279 Road carries 18,000, Three Chopt 7,000, John Rolfe Parkway is at the eastern edge of this site  
2280 once it is completed and that will probably be the biggest impact on everybody in that entire  
2281 area. There is a minor theoretical impact on the schools, not taking into account the fact that  
2282 these are going to be marketed to empty nesters. It is the highest quality of development I think  
2283 that we have seen for a town house project. It is consistent with the Land Use Plan. That Land  
2284 Use Plan was revised in 2001 by the way, as a result of the County buying the land with input  
2285 from all the area residents, so this a brand new Land Use Plan amendment supporting this  
2286 particular use. I will be happy to answer any questions.

2287

2288 Mrs. Ware - Are there any questions for Mr. Theobald?

2289

2290 Mr. Marshall - Mr. Theobald, would the applicant consider scaling back by an hour the  
2291 beginning construction times on Saturday?

2292

2293 Mr. Theobald - Mr. Marshall, the easy answer is yes, but I'd like to walk you through the  
2294 process to make sure that it will make you and the neighbors happy, because what I thought was  
2295 a very simple question got a little bit of a complicated answer and that is the framing crews and  
2296 the roofing crews that work on projects in the Richmond area will go to the earliest project where  
2297 they can get on the site because of the heat in the summer months and also so they can quit  
2298 earlier on Saturday. So, one concern is if they can't get to our site until 8:00, they may not come  
2299 to our site at all. They will go elsewhere. If we lose Saturdays in construction, which is one out  
2300 of six days that you can build, and you have a six-month construction period, you could add  
2301 three to four weeks on to the construction project, so while somebody wouldn't be awakened  
2302 perhaps an hour earlier, they may have to live with it an extra month. What I would like to do if  
2303 you would consider this is perhaps we can come up with, for instance, no hammering, no earth  
2304 moving equipment prior to 8:00, but if the brick mason is out there, the landscape guy who is  
2305 not making noise, then perhaps they would be permitted. Obviously, if the County gets a call  
2306 and there is a complaint, then we are going to have to deal with that, but I am wondering...

2307

2308 Mr. Marshall - That is my concern, the complaint. So I think the easy way to avoid  
2309 complaints is to make it 8:00.

2310

2311 Mr. Theobald - Across the board?

2312

2313 Mr. Marshall - Across the board.

2314

2315 Mr. Theobald - I think we can do that, Mr. Marshall.

2316

2317 Mrs. Ware - Anymore questions?

2318

2319 Mr. Jernigan - What is going to be the cost of these houses, townhouses?

2320

2321 Mr. Theobald - The starting price is going to average about \$420,000 to \$440,000 and  
2322 that is before any additions. There may be some that will start a little lower than that. There  
2323 will be many that will be half a million dollars by the time you add the extras. They are going to

2324 be 2300 to 3000 to 3300 sq. ft. in size, and so they are very, very large units, and they are going  
2325 to be upscale and expensive.

2326

2327 Mr. Jernigan - You said the sound suppression was between units.

2328

2329 Mr. Theobald - The co-efficient factor of 55.

2330

2331 Mr. Jernigan - All right. That is all I have.

2332

2333 Mrs. Ware - Thank you. We have opposition. How many? One. OK. Good evening,  
2334 and could you please state your name.

2335

2336 Mr. Ken Gianguilio - Ken Gianguilio, president of Wythe Trace, locating, (could I use a pointer  
2337 here, referring to rendering) My house is approximately directly behind this unit right here  
2338 (referring to rendering), at the end of the cul-de-sac, 3317 Hazeltree Court. I am here tonight to  
2339 speak on behalf of 105 homeowners in our neighborhood. I apologize for reading this, but  
2340 frankly it was felt that we'd be best able to communicate clearly and precisely our thoughts and  
2341 concerns. As our homeowners association has directed, we have established a steering  
2342 committee set up to specifically communicate with and discuss the issues and concerns of our  
2343 residents. I am a member of our steering committee and have been involved in all of the various  
2344 meetings held regarding the project. In addition, I have been involved in many direct  
2345 conversations with Mr. Theobald, representing the developer, as well as Mr. Bittner and Mr.  
2346 Kaechele, representing Henrico County. Several other concerned residents of Wythe Trace are  
2347 here tonight, also present, many of whom have also voiced their concerns with many of you, via  
2348 email and letters. In an attempt to make this as brief as possible, I offer the following statement  
2349 regarding our position: We would first like to say that we appreciate having the opportunity to  
2350 speak our piece in this public forum setting. We represent a community of hard working middle-  
2351 class folks, consisting of young families in the Far West End of Richmond and send our children  
2352 to outstanding elementary, middle and high schools that Henrico County has to offer. We are  
2353 also reasonably intelligent folks who understand the dynamics of growth and all of the residual  
2354 effects that growth may bring with it. We realize that the 14.8 acres of land next to us is prime  
2355 real estate and that this land is an obvious component of the growth we are experiencing. We  
2356 have consistently stated that we have no problem nor do we have any concerns with the upscale  
2357 residential town home concept that has been proposed. We appreciate knowing that an  
2358 experienced and reputable developer owns the land. We also appreciate knowing that a quality  
2359 homebuilder, such as Prospect Homes, is associated with this proposed upscale end product. Our  
2360 concerns have been and remain as of tonight as follows:

2361

2362 The proposed 25-foot buffer is not proffered as legitimate 25 feet of natural buffer. The proffer  
2363 as presented reads as follows: A 25-foot buffer shall be provided adjacent to the Wythe Trace  
2364 Subdivision. The buffer shall be natural subject to up to 5 feet of the buffer on the town house  
2365 side of such buffer being initially cleared. In our mind, if it is 25-feet to start with, and five feet  
2366 as initially cleared, then this should be more accurately described as a 20-foot natural buffer. If  
2367 up to five feet needs to be cleared initially, then our request is that the buffer be increased to 30  
2368 feet less the five feet, which would equate to a true 25-foot natural buffer. The proposed building  
2369 setback of 50 ft. is unacceptable. Twenty-nine out of 77 total proposed units or 38% are  
2370 planned to be directly adjacent to our property. The building foundations of these units are  
2371 proposed to be 50 feet from our property line. We have consistently stated our displeasure with  
2372 this proposal. Tonight, we are here in front of you to tell you all again we do not accept and do  
2373 not support this setback proposal of 50 feet. While we understand the difficult nature of the  
2374 project's layout, we have asked for further explanation as to why the building setbacks recently  
2375 were increased from 40 to 50 feet. We ask this question because if the setback can be increased  
2376 from 40 to 50, then clearly it can be increased an additional 10 feet from 50 to 60 feet. In our

2377 minds, 60 feet is not sufficient. We would like to make that point clear. Nonetheless, we  
2378 recognize the difficult layout of the property and we have consistently stated that we would be in  
2379 support as a neighboring community of a 60-foot building setback, in addition to a true 25-foot  
2380 natural buffer.

2381  
2382 We first received notice of this rezoning case via letter from Mr. Theobald on October 10, 2003,  
2383 over three months ago. The very first staff report generated regarding this project suggested  
2384 that the proposed buffer and setbacks were insufficient. All subsequent staff reports and  
2385 updates associated with them have also suggested that the proposed buffer and setbacks were  
2386 insufficient, including all revisions to the subject site plan proposals. Staff also suggested that  
2387 considering environmental limitations and site configuration restrictions, the proposed density of  
2388 77 units is somewhat high. To quickly quote the comments made by staff, the most recently  
2389 publicly available updated report, which is dated December 22, 2003 states: Since the December  
2390 11 meeting of the Planning Commission, the applicant has submitted new proffers including a  
2391 proffered elevation layout plan. Staff has examined these and feels that it is possible to provide  
2392 a 25-foot landscape buffer and 60-foot building setback along the Wythe Trace Subdivision  
2393 consistent with the multi-family development guidelines. As Mr. Bittner mentioned earlier,  
2394 several residents of Wythe Trace have also expressed their support for 25-foot buffer and 60-foot  
2395 setbacks. We have indeed expressed this, over and over again, that we would be in support of  
2396 25-foot buffer and a 60-foot building setback. We have asked the question, why does the staff  
2397 recommend these increases and suggest that 25 feet and 60 feet are possible and perhaps more  
2398 appropriate. If staff feels it is possible to provide a 25-foot buffer and a 60-foot building setback,  
2399 then why are we not here tonight offering our support for a 25-foot buffer and a 60-foot building  
2400 setback? Why hasn't the applicant provided a plan proposal that incorporates 25 feet of buffer  
2401 and 60 feet of building setback? In our mind to date, there has been no good reason given to  
2402 allow us to continue to ignore this question. Further in supporting our case for the inadequacy of  
2403 the proposed buffer and setback is apparent when reviewing previously submitted cases for the  
2404 subject property. In 1999, rezoning case C-34C-99 was submitted on this site, proffered with a  
2405 65-foot buffer. Later in 2001, a proposal for rezoning included a minimum of 50 feet of  
2406 landscape buffer. Tonight we are here to state our opposition to a building minimum setback of  
2407 50 feet. It is clearly not enough. Twenty-nine of the 77 units or 38%, I emphasize, will be  
2408 directly adjacent to our property's border. We would like to point out that we question the ability  
2409 of the builder to reach its price points based on this issue. We do not believe that our proposed  
2410 new neighbor will want to be this close to our border, just like we will not want to be this close to  
2411 them.

2412  
2413 Our residents have expressed concerns regarding a few additional issues that I would like to  
2414 mention, one of which has already been addressed. With many young families and many young  
2415 children in our neighborhood, we request that proffer #14, hours of construction, be modified so  
2416 as to restrict all construction activities on Saturdays from 9:00 a.m. to 5:00 p.m. This is a slight  
2417 modification, obviously, to what has been discussed already from 8:00 a.m.

2418  
2419 We also request that serious consideration be given to the independent traffic study that is  
2420 presumed to be in progress as a component of and a condition of approval for rezoning case C-  
2421 70C-03. This case was presented last month at the December Planning Commission meeting and  
2422 involves the nearby Liesfeld tract of land. It is our understanding that the approval of rezoning  
2423 for this project is conditioned upon the receipt of and the satisfactory review by the County  
2424 relating to the traffic impact. Any new development that is planned for the Far West Broad  
2425 Street Corridor or involving the West Broad Street Overlay District should include a Traffic Impact  
2426 Analysis. We request that serious consideration be given to the impact to traffic and a possible  
2427 approval given to the applicant for the rezoning of the subject town house project be conditioned  
2428 upon a review and analysis of this study.

2429

2430 As a final point to emphasize, we offer the following: The 105 Wythe Trace homeowners, as the  
2431 neighboring community of the proposed project stand to be seriously impacted from the  
2432 development of this project. Beginning October 10, 2003, we understood this rezoning process  
2433 was intended to include serious consideration for what is appropriate. We understood that any  
2434 approval for rezoning and development of the property would seriously consider the impact of  
2435 the property on the surrounding area and insure a quality development that is consistent with  
2436 nearby development. We also understood serious consideration would be given to provide  
2437 adequate green space between and within developing sites. Tonight we stand before you, and  
2438 once again ask you to reconsider what is appropriate and what is consistent with the nearby  
2439 development. We do not support the proposed plan for rezoning and development. We do not  
2440 support the proposed buffer and proposed building setback as presented tonight. We also have  
2441 requested your consideration to incorporate a condition for traffic impact analysis and modified  
2442 hours of construction as a proffered condition. In summary, we are in favor of the project's  
2443 concept. We do not, however, want the seven buildings, consisting of 29 units, to be a mere 50  
2444 feet from our subdivision's border.

2445

2446 Thank you for allowing us the opportunity to speak tonight. Your serious consideration of our  
2447 concerns is respectfully requested.

2448

2449 Mrs. Ware - Thank you. Are there any questions?

2450

2451 Mr. Marshall - Sir, were you previously in favor of the 177 unit development at the site  
2452 that included a 60-foot setback?

2453

2454 Mr. Ken Gianguilio - I don't know that that case ever got far enough long for us really  
2455 understand the dynamics of it other than what was proposed. As an adjacent homeowner, we  
2456 are concerned most obviously first and foremost with what the buffer proposes. I don't know if it  
2457 got far enough long to where the density issue was ever truly addressed.

2458

2459 Mr. Marshall - OK, so you didn't participate that heavily in that case. Do you  
2460 understand that with the five feet that is being disturbed, anything that is disturbed has to be  
2461 replanted? In other words, the 20 ft. is going to be marked. That can't be disturbed. If the five  
2462 foot needs to be disturbed, and is disturbed, then the applicant has to replant it, pursuant to the  
2463 County guidelines.

2464

2465 Mr. Ken Gianguilio - Yes, sir. We clearly understand that.

2466

2467 Mr. Marshall - So it is a true 25-foot natural buffer, because whatever is disturbed is  
2468 going to be put back.

2469

2470 Mr. Gianguilio - Our preference there would be that it be 30 feet, less five feet, so that it  
2471 is more accurately undisturbed, natural 25 feet of buffer.

2472

2473 Mr. Marshall - You also understand that if this was a single residential development,  
2474 there would be no buffer of any kind.

2475

2476 Mr. Gianguilio - Quite candidly, Mr. Marshall, if it was a single-family development, we'd  
2477 have an awful lot of green space surrounding each and every one of the units. My personal  
2478 opinion is single-family development would be OK.

2479

2480 Mr. Marshall - OK. No more questions.

2481

2482 Mr. Jernigan - I have a question. What is the setback for your house from the property  
2483 line?  
2484

2485 Mr. Gianguilio- I don't honestly know that.  
2486

2487 Mr. Silber - The minimum requirement in R-3A is 35 feet. Yours may be set back  
2488 more than that.  
2489

2490 Mr. Gianguilio- We have residents, if you look along the cul-de-sacs going down the  
2491 border of the property, we basically have four cul-de-sacs that are dramatically affected obviously  
2492 with the homeowners directly adjacent to the property. Some of these homes are much, much  
2493 closer to the proposed site than others. Some of the homes, mine being one, really has not  
2494 legitimate natural buffer, meaning that my property is cleared all the way to the border of the  
2495 property of the subject project. Some have little deeper lots, obviously.  
2496

2497 Mr. Jernigan - Would it be fair to say that the setback on the townhouses is more than  
2498 what the setback on the single-family is in the neighborhood?  
2499

2500 Mr. Gianguilio - In some cases, yes, sir. Not in all cases, I don't believe.  
2501

2502 Mr. Jernigan - The majority? OK. The other things you comment on starting work at  
2503 9:00 a.m. I mean, 8:00 is kind of pushing it a little bit and I go along with that, but 9:00 a.m. in  
2504 the construction business, most of those people are out there at 6:30 and 7:00 p.m. So I really  
2505 don't think, I mean pretty much everybody is up and moving by 9:00 on Saturday. I think that  
2506 8:00 a.m. would be fair on that. Nobody in the construction business wants to wait until 9:00 to  
2507 get started. If they wait until 9:00 a.m. to get started, they are going somewhere else.  
2508

2509 Mr. Gianguilio- I think as there are many young families in the neighborhood, it is just a  
2510 consideration for the children that are home in bed on a Saturday, typically. That is all. That is  
2511 the reason for our request. We understand the limitations and what that might do to the  
2512 construction activity and possibly delay it, but we felt like it was a reasonable request.  
2513

2514 Mr. Marshall - That is why I raised the issue. I wish I had all three of my kids sleeping  
2515 that late, but I do have one that sleeps until 8:00 a.m.  
2516

2517 Mr. Gianguilio - We are saying that some, perhaps, sleep until 9.  
2518

2519 Mr. Jernigan - Sponge Bob and Square Pants probably have them by 8:30 or so. That  
2520 is all that I have.  
2521

2522 Mr. Marshall - Is it my understanding that the Liesfeld rezoning that is not providing  
2523 access to dump cars onto Three Chopt Road?  
2524

2525 Mr. Silber - Yes, sir. That is correct.  
2526

2527 Mr. Marshall - So, therefore, this project is using Three Chopt Road, so the Liesfeld  
2528 tract would not affect the traffic on Three Chopt.  
2529

2530 Mr. Silber - Let me clarify that. There is no direct access from the Liesfeld  
2531 Development onto Three Chopt Road. That is being prohibited by proffered conditions. There  
2532 will be access from the Liesfeld property to John Rolfe Parkway that will have access to Three  
2533 Chopt Road.  
2534



2535 Mr. Marshall - Once that is constructed?  
2536  
2537 Mr. Silber - Yes, sir.  
2538  
2539 Mrs. Ware - Any more opposition? Mr. Theobald, would you like to rebuttal for two  
2540 minutes?  
2541  
2542 Mr. Theobald - Briefly, yes. Thank you very much. Wythe Trace did participate in the  
2543 Land Use Plan Amendment when the County went through all of this two years ago, and Mr.  
2544 Kaechele worked very hard in protecting the neighbors and providing them with additional park  
2545 land at County expense, but this piece was believed by all to be appropriate for town house  
2546 development with these densities, and, again, we are well within that density range. Again, we  
2547 have a 25-foot buffer portion of which we may grade but have to replant, zero required under  
2548 ordinance, 50-foot setback, only 30 feet required for rear yards. Traffic studies, traffic engineer  
2549 has said that this will generate 463 trips. If we were to zone this R-3, which is the closest  
2550 designation to Wythe Trace, which is R-3A, which no longer exists, we could do 56 homes under  
2551 an R-3 designation, which would generate 560 trips a day, so with no buffer, and if they cleared  
2552 their property to the rear property line as has most of the folks in Wythe Trace, then there would  
2553 virtually be no buffer. I think on a case like this that it is not perfect. They have got some  
2554 legitimate concerns. Nobody likes to see trees come down, but you have to look at the case in  
2555 its totality. This is the highest quality townhouse case I believe you have ever seen. It is on a  
2556 piece of property that is infill development, that has been there and has been a problem for as  
2557 long as any of us can remember. It is highly, highly proffered with an extremely reputable  
2558 developer and builder and I really think it is something that the County is going to be very proud  
2559 of. I appreciate your attention.  
2560  
2561 Mr. Marshall - Are you prepared to address the 8:00 a.m. building hours?  
2562  
2563 Mr. Theobald - I will change that on the original proffers and initial it. Randy, do you  
2564 have the original proffers? I am going to make that change to 8:00 a.m. on Saturday morning.  
2565  
2566 Mr. Marshall - I make a motion to waive the time limits as to the starting hour on the  
2567 proffers.  
2568  
2569 Mr. Vanarsdall - Second.  
2570  
2571 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in  
2572 favor say aye. All opposed say no. The motion passes.  
2573  
2574 Mr. Marshall - Thank you. Madam Chairman, members of the Board, I am new to this  
2575 but you can cram a lot into a short amount of time. I took all of these materials with me when I  
2576 went on vacation in December, read through them a great deal, came home and cut my vacation  
2577 short to attend a Citizen's Meeting on January 5 on this case. My initial concerns, after my first  
2578 meeting with the staff, was that there was basically a 10-foot buffer running the distance of this  
2579 project behind the neighborhood. Although that may have been allowable under the County  
2580 rules, I didn't think it was sufficient. I expressed that to the staff and I was pleasantly surprised  
2581 when I went to the Citizen's Meeting that the applicant had doubled the buffer from basically the  
2582 10 ft. natural and the 5 ft. planting to basically a 15 ft. buffer to a 25 foot buffer, and to do that,  
2583 the applicant had to eliminate two of the units as it was originally proposed for 79. I think the  
2584 history of this case is you went from a low-quality 177 potential unit development to now what  
2585 you have is considered by the staff to be the highest quality town house development ever  
2586 proposed in the County, and down to 77, which is basically a reduction or a potential reduction of  
2587 100 units. It is within the guidelines of the Land Use Plan. I think the proffers, if you take a

2588 close look at them, are as detailed as you can get, from the removal of the trees, the developer  
2589 was quite comfortable saying he didn't mind having a public hearing on the landscape plan and  
2590 so forth, to get all the neighbor's input, and quite frankly, my impressions at the meeting on  
2591 January 5 that Mr. Kaechele also attended were that the residents, although they prefer to have  
2592 nothing, were on the whole happy with the development and most of them were happy to find  
2593 that the buffer had increased by 10 feet. Granted, in a perfect world, everyone could have what  
2594 they want, but I think due to the quality of this case and then ultimately one of the last things  
2595 that I requested that the applicant do was increase the plantings to an equivalent of a 35'  
2596 transitional buffer, which would basically greatly enhance the density of the plantings within the  
2597 buffer that has been offered, and that is now in the proffers. So I think with all of those things  
2598 considered, I have to recommend that this case be approved and forwarded to the Board of  
2599 Supervisors.

2600

2601 Mr. Vanarsdall - Second.

2602

2603 Mrs. Ware - Motion by Mr. Marshall and second by Mr. Vanarsdall. All in favor say  
2604 aye. All opposed say no. The motion passes.

2605

2606 **REASON:** Acting on motion by Mr. Marshall, seconded by Mr. Vanarsdall, the Planning  
2607 Commission voted 5-0 (one absence) to recommend that the Board of Supervisors **grant**  
2608 the request because it is consistent with the density of development recommended by the Land Use  
2609 Plan and the proffered conditions would provide for a higher quality of development than would  
2610 otherwise be possible.

2611

2612 **Deferred from the December 11, 2003 Meeting:**

2613 **C-60C-03**

2614 **Bill Axelle for Neil Farmer:** Request to conditionally rezone from A-1  
2615 Agricultural District to R-2AC One Family Residence District (Conditional), part of Parcels 741-  
2616 774-7210, 741-775-7309, 741-773-9074 and 742-773-2472, containing approximately 17.70  
2617 acres, located in the northern portion of the Bridlewood subdivision, just south of the southern  
2618 terminus of Woolshire Court in the Hampshire subdivision. A single-family subdivision is  
2619 proposed. The aggregate density is proffered not to exceed 2.1 units per acre. The R-2A District  
2620 allows a minimum lot size of 13,500 square feet. The Land Use Plan recommends Rural  
2621 Residential, not more than 1.0 unit net density per acre, and Environmental Protection Area.

2621

2622 Mrs. Ware - Is there any opposition to this case? Mr. Bittner.

2623

2624 Mr. Bittner - Thank you, Mrs. Ware.

2625

2626 The subject property is currently within the Bridlewood subdivision, but would become a new  
2627 section of the abutting Estates of Hampshire and connect to Wilshire Place in this subdivision and  
2628 that would happen right here (referring to rendering) and you can also see it on this proposed  
2629 layout. The requested density of 2.1 units per acre would be inconsistent with the Rural Residential  
2630 designation of this property, but consistent with the adjacent Hampshire subdivision.

2631

2632 Access to Hames Lane in Bridlewood would be prohibited.

2633

2634 Restrictive covenants for Bridlewood prohibit the further subdivision of any lot within the  
2635 neighborhood. This proposal is in violation of these covenants.

2636

2637 Eight of 15 lot owners have expressed support for changing the covenants to allow subdivision.  
2638 Seven lot owners, plus the original developer of Bridlewood, have expressed opposition to  
2639 allowing further subdivision in this neighborhood. Both sides have submitted documents on this  
2640 matter, and the legal status of the situation is not clear.

2641  
2642 Staff would prefer to see this issue resolved prior to a decision being made on this application.  
2643 However, that is a matter that must be addressed by a different authority than the Planning  
2644 Commission. The Planning Commission must consider land use issues only.

2645  
2646 While this application is inconsistent with the Land Use Plan, it is consistent with the adjacent  
2647 development pattern. The applicant has also submitted revised proffers, which address the other  
2648 issues in the staff report. Staff therefore recommends approval.

2649  
2650 This concludes my presentation. I would be happy to try and answer any questions you may  
2651 have.

2652  
2653 Mrs. Ware - Are there any questions for Mr. Bittner from the Commission? OK. Thank  
2654 you, Mr. Bittner.

2655  
2656 Mr. Bill Axselle - Madam Chairman, members of the Planning Commission, my name is Bill  
2657 Axselle on behalf of Neil Farmer. In 1983, the Bridlewood Subdivision was platted about 15 lots,  
2658 literally out in the country off of Shady Grove Road, lots than range from four acres to 10 acres  
2659 in size. Now 20 plus years later, it is not so much out in the country. The adjacent properties  
2660 are R-2, R-2A, nearby is R-3 and RTH zoning, and it no longer is the rural residential area that it  
2661 was in 1983, when the subdivision was originally platted. Specifically, you will note from the map  
2662 before you that the properties in question are adjacent to the Estates of Hampshire and  
2663 Hampshire South on the north, and on the west The Estates of Hampshire. This proposal comes  
2664 to you with proffers that are, in fact, consistent or better than those of the adjacent recent  
2665 subdivision. The density is 2.1 units per acre and there is a maximum in the area that goes up to  
2666 2.3 units per acre. The minimum house size is 2800 sq. ft. and the Hampshires is 2300 to 2500.  
2667 We have two car garages that are mandated with at least 75% of those side and rear loaded,  
2668 similar again to the Hampshires. The lot width is comparable, driveways are exposed aggregate,  
2669 asphalt, brick, concrete pavers, underground utilities were installed. There were restrictions on  
2670 the lot clearing, 50% of the front exterior walls have to be brick or stone. We have included,  
2671 because this is in the northwest quadrant of the County, we have included the voluntary cash  
2672 proffer of \$10,048 to go to the project that you are familiar with. We have agreed to rezone the  
2673 property that is in the flood plain to see that is done at the appropriate time. County and water  
2674 sewer are available. The adjacent road network will handle the traffic according to the staff  
2675 report. The schools in the area have the capacity to handle the new limited number of children  
2676 that would come from here. The homes in this area will likely sell in the range from \$400,000 to  
2677 \$500,000, again consistent with this area. The proffers on this case are similar if not almost  
2678 identical to those that have been handled on other cases in this area in the last year. So, I think  
2679 you can see way the Planning Office staff recommended, and I hope you will follow their  
2680 recommendation, that this case be approved. As Mr. Bittner said, your charge and your  
2681 responsibility relates to land use, and I think this is very consistent, as you can see with the  
2682 Hampshire Estates and Hampshire North that is right to the north of us.

2683  
2684 Now, as you can see, there is some opposition, and I suggest to you that the opposition relates  
2685 primarily from the issue of subdividing part of the Bridlewood Subdivision to make this happen.  
2686 There are some who object to any subdivision. There are some who object to the way the  
2687 subdivision has been done, or the terms and conditions, but it is accurate to say that 15 of the  
2688 property owners have the right to express themselves, the majority 8 have asked that this  
2689 subdivision be subdivided from Bridlewood and those restrictive covenants have been reviewed  
2690 by the County Attorney, they have been recorded. When I say they have been reviewed by the  
2691 County Attorney, the County takes no position on the issue of the restrictive covenants. As you  
2692 know the County has never in my 30+ years ever got involved in the interruption or enforcement  
2693 of restrictive covenants. The county reviewed them, but not for an endorsement in that respect.

2694  
2695 You are going to hear, I think, from the opposition why they think this is inappropriate from a  
2696 practical and a legal standpoint. I will tell you our opinion is it is valid from both a practical and a  
2697 legal standpoint. You will not be able to, I submit tonight, to make the decision nor do you have,  
2698 I think, the responsibility of deciding whether the restrictive covenants modification is appropriate  
2699 or not. I will tell you that the title company has reviewed it and are prepared to insure.  
2700  
2701 Madam Chairman and members of the Planning Commission I will reserve the rest of my time  
2702 and I'll be glad to respond to any questions that you might have.  
2703  
2704 Mrs. Ware - You have five minutes remaining.  
2705  
2706 Mr. Axselle - Thank you.  
2707  
2708 Mrs. Ware - Are there any questions for Mr. Axselle?  
2709  
2710 Mr. Silber - I actually had a question. There is a proffer, #5 that deals with the lot  
2711 width. It speaks to a minimum of 50% of the lots would have a lot width of 90'. We have had  
2712 some experience in Hampshire with the homes being large in sides and sometimes being difficult  
2713 to place on the R-2A lot. Do you know, Mr. Axselle if that proffer is similar to the proffer that is  
2714 on Hampshire or would you consider having 100% of the lots be 90' in lot width?  
2715  
2716 Mr. Axselle - On the Estates of Hampshire, 30% of the lots maybe 90% and  
2717 Hampshire itself the same thing. Hampshire South it is at so many lots less than 90'. In those  
2718 instances and in these instances latitude is allowed to go less than the 90'. We have looked at it  
2719 and talked to some of the folks at Hampshire and this was sort of what was the agreed  
2720 arrangement. It allows some flexibility. I reckon my point that in the Estates of Hampshire and  
2721 Hampshire and Hampshire South they have lots that are less than 90' and we would like to have  
2722 the same latitude.  
2723  
2724 Mr. Silber - I can see having some latitude and flexibility with some lots, but 50% is  
2725 more than some lots. Something you may just want to give some consideration to.  
2726  
2727 Mr. Axselle - We will be glad to do that.  
2728  
2729 Mr. Marshall - Mr. Axselle, did you say that the other developments have 30%?  
2730  
2731 Mr. Axselle - Yes, basically the Estates of Hampshire and Hampshire has said that  
2732 80%, excuse me, 30% of the lots maybe less than 90'.  
2733  
2734 Mr. Silber - So in other words 70% would have to be 90'.  
2735  
2736 Mr. Marshall - Correct.  
2737  
2738 Mr. Axselle - Yes. It is late and I'm tired, but I think that flips around that way.  
2739  
2740 Mr. Silber - Well, you may want to give your proffers some more consideration.  
2741  
2742 Mr. Axselle - We will. Thank you.  
2743  
2744 Mr. Ware - Thank you. The opposition, do you have a spokesperson or more than  
2745 one to speak tonight?  
2746

2747 Mr. Marshall - Good evening Mr. Bischoff.  
2748  
2749 Mr. Ed Bischoff - Ed Bischoff representing one of the owners, Mr. Mike and Brenda Lovins,  
2750 owners of Lot 2 in Bridlewood. I'm here to speak in opposition to the proposal. Primarily I would  
2751 say to the members of the Commission that this plan is totally inconsistent with Bridlewood as it  
2752 now exists and as it has existed since 1983. In 1983, Russell Malone developed Bridlewood as a  
2753 large lot subdivision including within his restrictive covenants the right to own up to 3 horses on  
2754 your property. And each of these lots runs from 4 to 10 acres with an average of about 7 acres  
2755 per lot. And now what the applicant has asked you to do is to approve the application by 4  
2756 property owners to force upon the remaining 11 property owners 2 homes per acres, ½ an acre  
2757 per home, in a subdivision where the average lot size is 7 acres. This will absolutely destroy the  
2758 integrity of a small, high class, large lot subdivision which has existed since 1983.  
2759  
2760 The issue Mr. Axelle raised about the restrictive covenants, I believe, needs to be addressed.  
2761 These property owners represented by the applicant, in buying their properties after 1983 were  
2762 aware of and bought their properties with a full knowledge that no subdivision could occur  
2763 without the amendment of those restrictive covenants. And yet what does the applicant do  
2764 before this Commission. The applicant comes in and said disregard what we the owners have  
2765 agreed to and they thumb their nose at the remaining owners and they said please go ahead and  
2766 rezone our property and leave the remaining 11 property owners to whatever course they may  
2767 have to follow in the courts to enforce the rights which everybody has agreed to. This is not  
2768 equitable. This is absolutely not the way to do business. These restrictive covenants should have  
2769 been addressed before this application was made before this Commission. The problem with it  
2770 now is if you approve this subdivision, this rezoning, the cost of going forward and protecting the  
2771 rights which each of the remaining 11 owners have is put upon those 11 owners and not upon  
2772 the developer of the property. The developer of the property is the one who should bear the  
2773 expense and burden of resolving that property before the property is rezoned.  
2774  
2775 This is not simply a matter of 8 property owners for and 7 property owners against. The  
2776 restrictive covenants required a majority of the property owners and the consent of the  
2777 developer. The consent of the developer has not been obtained and is not likely to be obtained in  
2778 absence of consent of everyone. Russell Malone has indicated that he will not consent unless  
2779 everyone consents to this subdivision because it changes the nature of what we developed there  
2780 and what he sold the lots to be. There is a procedure for the amendment of these covenants  
2781 and that procedure should be followed. I would ask you to pay particular attention to the fact  
2782 that the density of this proposal is absolutely contrary to the existence of this subdivision and  
2783 that the density in excess of what is recommended in the rural residential section is even further  
2784 destructive of the integrity of Bridlewood Subdivision. I believe you have in the file a letter  
2785 indicating the objection of 7 of the property owners to this approval. You also have the  
2786 indication in the file that Mr. Malone also signed indicating that he did not consent to the  
2787 approval as the developer of the property. I'll be happy to answer any questions that you may  
2788 have.  
2789  
2790 Mrs. Ware - Are there any questions from the Commission?  
2791  
2792 Mr. Vanarsdall - How many property owners would it need.  
2793  
2794 Mr. Bischoff - Well, they need, they need a majority of the property owners and the  
2795 consent of the developer.  
2796  
2797 Mr. Vanarsdall - 15 property owners.  
2798

2799 Mr. Bischoff - Yes, sir. They need 8 and the consent of Mr. Malone. And I'm going to  
2800 point out to you that Mr. Malone has retained the rights as an developer in this subdivision.  
2801 There has been no assignment of his rights to any homeowners association. He still retains the  
2802 right to approve architectural designs and that type of thing under the subdivision. It is a unique  
2803 subdivision. You may remember in the restrictive covenants that there is one provision that  
2804 requires each home to be different. Each home is suppose to be unique in its own way, no 2  
2805 homes can be built alike. So it represents something that is not typical in the subdivisions that  
2806 you find.  
2807  
2808 Mr. Vanarsdall - What would happen if Mr. Malone was dead?  
2809  
2810 Mr. Bischoff - Well the restrictive covenants say, "and or his assigns". So if he were to  
2811 go, my suspicions would be if Mr. Malone passed away that his estate would assign the rights to  
2812 a home owners association which probably should have been done sometime in the past, but it  
2813 never has been done. So the end result is that Mr. Malone retains that right.  
2814  
2815 Mr. Silber - Does Mr. Malone retain any ownership of property in Bridlewood?  
2816  
2817 Mr. Bischoff - No, he does not retain any direct ownership. There are so reservations  
2818 in the restrictive covenants of some easements, rights to easements across the properties. That  
2819 is primarily designed for the purpose of providing utilities to the rest of the lots.  
2820  
2821 Mr. Silber - So the covenants that speak to the successors or assigns, Mr. Malone  
2822 couldn't be those who bought lots in Bridlewood?  
2823  
2824 Mr. Bischoff - Well, when you are talking about the consent issue I think the answer is  
2825 no because the consent issue requires him and a majority. So I don't think you can say the two  
2826 of them have been (unintelligible) into one group where the intention of the document was to  
2827 have a consent by one group here which has the overall supervision of the subdivision, i.e. a  
2828 homeowners association as opposed to the majority of the homeowners themselves.  
2829  
2830 Mr. Jernigan - Mr. Bischoff, if the vote has been 14 to 1, what you are saying 14 for  
2831 and 1 against you would still have to have Mr. Malone's permission?  
2832  
2833 Mr. Bischoff - I think you do.  
2834  
2835 Mr. Jernigan - So in other words a majority vote doesn't matter.  
2836  
2837 Mr. Bischoff - No. I think...  
2838  
2839 Mr. Jernigan - Well, the vote doesn't matter period.  
2840  
2841 Mr. Bischoff - The way these restrictive covenants were drawn it requires both to  
2842 occur. Mr. Malone and a majority. Now I don't know what Mr. Malone's position would be if 14  
2843 came to him and said, "yes we want this", and one person held out. It may change his mind, but  
2844 you have got a division of 8 and 7 at this point. When you have a division of 8 and 7, you know,  
2845 Mr. Malone developed this subdivision as a big lot subdivision. That is the way these people  
2846 bought these homes. These people didn't buy these homes to have 1/2 acres lots setting in their  
2847 backyard and that is what is going to happen with this developer. So, Mr. Malone is certainly  
2848 concerned even though he is not a property owner any longer, he is certainly concerned about  
2849 the integrity of what he sold to these people.  
2850

2851 Mr. Marshall - Mr. Bischoff, would you not agree that the issue of whether Mr. Malone  
2852 has to sign or not is a legal issue and a legal question that is going, that someone other than the  
2853 Planning Commission needs to decide?  
2854

2855 Mr. Bischoff - Well, it is certainly a legal issue, but it becomes a very practical issue for  
2856 the 11 property owners who are trying to enforce their rights. I mean, it becomes a monetary  
2857 issue for them. It becomes a very practical day to day question of who bears the burden of  
2858 clearing up this issue before you grant approval on the rezoning. Because once you grant  
2859 approval of the rezoning then it is up to the 11 property owners to reach into their pockets and  
2860 come here and try to enforce the rights which everybody agreed to as opposed to putting the  
2861 cart where it belongs and that is the obligation of the applicant to get this straighten out before  
2862 zoning is approved.  
2863

2864 Thank you very much.  
2865

2866 Mr. Archer - Sir, before you leave I have a question. I don't know if I should be  
2867 asking you, maybe I should be asking someone else. I'm having a hard time trying to separate  
2868 in my mind where our obligation lies as a commission and what obligation we have at all to try  
2869 and interrupt the covenants. I think that is what Mr. Bittner was trying to allude to when he did  
2870 his presentation. Not that I disagree or agree with anything that you said, it all sounds  
2871 reasonable to me. You would have a simple majority instead of a larger number but what  
2872 happens if the zoning is approved, where in your mind does that fall in connection with the  
2873 covenants. If the zoning is approved then do the covenants still supercede the zoning matter.  
2874

2875 Mr. Bischoff - Yes, sir.  
2876

2877 Mr. Archer - Or is it the other way around.  
2878

2879 Mr. Bischoff - Yes, sir. No, sir. I think that the restrictive covenants would still be on  
2880 the properties and it would give each of the landowners the right to file suite for a declaratory  
2881 judgment to determine whether or not there has been a violation of those restrictive covenants.  
2882

2883 Mr. Archer - So even if the Commission recommended approval and the Board  
2884 approved the zoning case you are saying that the covenants would still supercede all of that and  
2885 nothing could be done until a ruling is made on the covenants.  
2886

2887 Mr. Bischoff - Well, assuming an action filed by the remaining property owners to  
2888 enforce their rights the court would certainly have the ability to enter an injunction against  
2889 anything being done until it reaches it declaration.  
2890

2891 Mr. Archer - So, in that instance then the zoning would be relatively harmless in  
2892 terms of...  
2893

2894 Mr. Bischoff - Not really.  
2895

2896 Mr. Archer - Well not harmless because again you said someone would have to bring  
2897 suite...  
2898

2899 Mr. Bischoff - Well, see the problem is that, what is happening in this case is the cost  
2900 of doing this business, the cost of doing this development is being transferred from the applicant,  
2901 where it belongs, to the remaining property owners who are protected by these protective  
2902 covenants. So the end result is if you approve this rezoning then they have got what they want  
2903 and they can stand back and thumb there noses at the remaining property owners and said, "ok

2904 if you want to do anything about it go to court", which the remaining property owners should  
2905 have to do that. They are protected by these covenants.  
2906  
2907 Mr. Archer - Ok.  
2908  
2909 Mr. Bischoff - And they shouldn't, in my humble view, they should not have to go to  
2910 court at their expense. This is a project expense and this should have been worked out long  
2911 before we got to this point.  
2912  
2913 Mr. Archer - Ok. I understand your thought process. Now I'm just trying to figure  
2914 out where we come into...  
2915  
2916 Mr. Bischoff - I understand.  
2917  
2918 Mr. Archer - That is the difficult part.  
2919  
2920 Mr. Bischoff - Thank you, very much.  
2921  
2922 Mr. Archer - Thank you, sir.  
2923  
2924 Mrs. Ware - Anymore opposition to speak. There is about 3 minutes. Do you come  
2925 up to the podium, please. Will you state your name for the record.  
2926  
2927 Mr. Tom Barnett - Yes ma'am. My name is Tom Barnett and I live on Hames Lane in  
2928 Bridlewood. The address is 11111, and I didn't stutter. Don't ask me how that happened.  
2929 Eighteen years ago, my bride and I were looking for quality housing and we fell upon Bridlewood  
2930 and we were amazed that in Henrico, of course west Henrico has changed a little bit since then,  
2931 but in Henrico we could have the quality to (unintelligible) for our family, but the privilege room,  
2932 it being protected. Country property is available in all the counties if you don't mind having a  
2933 double wide, and a shack, and a couple of pick-up trucks on cinder blocks next to you, but  
2934 protected clean property.  
2935  
2936 Mr. Archer you were kind enough a minute ago. You asked a question a moment ago, I would  
2937 like to think that the board's purpose is to take care of all of its tax paying residents and not just  
2938 half of the subdivision. I think Mr. Lincoln had said, "government is to the people, for the people,  
2939 by the people." I would interrupt that as, it is not just you'll job to zone, but to protect the other  
2940 half of us. It is 8 to 7 vote. One of the people who voted against it bought a piece of property  
2941 and he was not a resident when he bought it and he is still not a resident and probably will never  
2942 be a resident of that property. It was speculation property. So he voted as a speculator even  
2943 though he is an owner. He is not a resident, if that makes any difference in you'll mind. If you  
2944 want to talk residence it is 7/7. So it is 50/50. But I think we desire protection. I don't think the  
2945 county should throw it upon us, who bought protection. Mr. Malone was kind enough to design a  
2946 very unusual characteristic subdivision and we thought we had protection. We don't expect you'll  
2947 to be the police, but I don't think it is right for you'll to make it so we now have to dig into our  
2948 pockets to pay thousand of dollars to try to undo what may be done here tonight. It is not our  
2949 fault. Somebody else started this fight, we didn't. We just want to live there in peace. That is  
2950 what we came there for.  
2951  
2952 I find it interesting that a mere 3 years ago when another lot which use to belong to the  
2953 subdivision came up to be subdivided under case C-71C-00 and a letter was written to you all  
2954 and to Mr. Hank Wilton. It said, if I may, "Fourteen families of Bridlewood Subdivision have  
2955 reviewed the covenants and restrictions which were established to protect the value of our  
2956 individual homes as well as the character of our neighborhood. These protective covenants



2957 which are binding upon all owners and purchasers of lots, specifically states that no lot in  
2958 Bridlewood Subdivision shall be subdivided. The decisions to build or purchase our homes within  
2959 this neighborhood was made because these protective covenants, which assured us that our  
2960 neighborhood remain private in a unique Henrico County west end." They were working on lot  
2961 10 at that time, which was cut loose. Another paragraph, and I'll stop with this one, "In fact, the  
2962 request to vacate, subdivide and develop lot 10 appears to be good for everyone involved except  
2963 the families in Bridlewood. Instead of one home site we will now see and hear 15 or more.  
2964 Should we make the exception and allow lot 10 to be subdivided, to violate a protective  
2965 covenants, we will open the door for more land acquisitions throughout our neighborhood in the  
2966 future. The families of Bridlewood Subdivision will be the only ones to feel the negative impact  
2967 that this decision could have on the value of our home and the character of our neighborhood."  
2968 This was authored by one of the people that is going to get hundreds of thousands of dollars for  
2969 selling some acreage off the back of their lot. Has it changed that much in 3 years? That it is a  
2970 180 degree change. I don't think so. I think it is a flip flop over greed.

2971  
2972 There are others that want to speak so I will not tie up the podium, but I thought that we had  
2973 protection. You are not the police, but please don't sell us away. Please make this be decided  
2974 somewhere else before you make a decision. Nobody ever contacted Mr. Malone until, I think, in  
2975 the last week or two or 30 days, this year or whatever. They've had many, many months and  
2976 tried there very (unintelligible) to bypass him, including in the covenants that were, I guess,  
2977 recorded this week. If you read them you will see where there has been an obvious effort to  
2978 bypass him and keep him out of this system.

2979  
2980 Thank you.

2981  
2982 Mrs. Ware - Are there any questions?

2983  
2984 Mr. Jernigan - Mr. Barnett I have a question for you. Now you just said in that letter  
2985 that it said no lots could be subdivided. But apparently that's not what, because where did the 8  
2986 to 7 vote come in. I mean...

2987  
2988 Mr. Barnett - Lot 10 was, Mr. Malone or somebody can explain this better than I can,  
2989 but it was a lot that did not front on Hames Lane. It was back behind 2 lots, let me see if I can  
2990 get this thing to work, lot 10 was back in what is now this area in here (referring to rendering) as  
2991 I understand it. There was, and you can see there is a driveway here (referring to rendering),  
2992 this double line lead back to that lot and that was sold away for about, I think, \$85,000 far away  
2993 from what it is worth today, but its part of the Hampshire subdivision. So today there is an  
2994 attempt to re-subdivide what is subdivided. That lot again was cut away and this driveway here  
2995 (referring to rendering) had to be vacated and deeded away as I understand it to make that  
2996 possible. So that dropped it back to 14 homes.

2997  
2998 Mr. Jernigan - But on the rest of the restrictive covenants, you said if there is a majority  
2999 vote then you can sell, you can re-subdivide it.

3000  
3001 Mr. Barnett - I'm not an attorney to give you a reading on it. A part of that did  
3002 require Mr. Malone's approval, which was never sort that I know of until maybe today or  
3003 something.

3004  
3005 Mr. Jernigan - Well, my question is if it were just one subdivision, if you'll went in that  
3006 subdivision why would you draw up restrictive covenants that said that you could change by  
3007 majority vote and sell property.

3008  
3009 Mr. Barnett - We didn't do it. It was there when we bought in.

3010  
3011 Mr. Jernigan - I know, but what I'm saying is I can't see initially if you were going to  
3012 protect, if the neighborhood was going to protect itself why would they have restrictive  
3013 covenants saying that you could sell property with the majority vote and consent with Mr. Malone  
3014 if they hadn't planned on doing it in the future. I mean...  
3015  
3016 Mr. Barnett - I don't think a single person bought a lot in there with the intent to ever  
3017 subdivide. It is only when somebody comes up and said, "I'll give you \$90,000 an area", did this  
3018 thought ever cross their minds just a couple months ago.  
3019  
3020 Mr. Jernigan - I realize that, but what I'm saying is it looks like when the restrictive  
3021 covenants, to me it looks like when the restrictive covenants were drawn up they knew in the  
3022 future they may want to sell some property off.  
3023  
3024 Mr. Barnett - I think everybody looked at it as (unintelligible), privacy, elbow room, let  
3025 people go to the country and want 40 acres, well guess what here was 10 or 11 or whatever it  
3026 was close in. I never have until this day, I don't want to sell my land.  
3027  
3028 Mr. Jernigan - I know, but that is not the way the covenants were stated. That is what  
3029 I am saying. Somebody was looking 18 years down the road that they may want to sell that  
3030 property. If it had been my property I would have worded it, this property can never be  
3031 subdivided, re-subdivided and that would have protected it.  
3032  
3033 Mr. Barnett - There are other stipulations in the covenants, if you read them, I think  
3034 Russell Malone made a pretty good attempt to protect us. I know there is another section in  
3035 there, I think it is 1a, that deals with utilities and it was his attempt, as I see it, to try to prevent  
3036 any one landowner from tying up another one for being unable to have something made  
3037 available to him or to charge him for it or whatever. I think he did a, you know hindsight is  
3038 always 20/20. Having 20 year foresight is a little tougher to have. I see your point, but I think  
3039 when most people see a piece of land, see a home and they like it I think they dwell more on  
3040 living in the quality of life then they do to get hung up on a covenant in that one stipulation out  
3041 of twenty.  
3042  
3043 Mr. Jernigan - Ok.  
3044  
3045 Mrs. Ware - Thank you.  
3046  
3047 Mr. Barnett - Thank you. I appreciate the opportunity.  
3048  
3049 Mr. Marshall - Madam Chairman, I would like for Mr. Axelle to come and answer some  
3050 questions.  
3051  
3052 Mr. Ware - I just want to check and make sure that was the speaking for the  
3053 opposition.  
3054  
3055 Mr. Marshall - One more.  
3056  
3057 Mrs. Ware - One more. I can allow 2 minutes.  
3058  
3059 Mr. Frank Bishop - Madam Chairman, Members of the Commission, my name is Frank  
3060 Bishop. I live at 11011 Hames Lane and that is in the Bridlewood Subdivision. I think one point  
3061 that was raised about the covenants, the changing of the covenants referred to changing of any  
3062 covenant, not just the subdivided. It had to do with the siding on houses, had to do with what

3063 buildings could be put up, could you have 3 horses or 4 horses. So, you know, it just wasn't with  
3064 the subdividing.

3065

3066 I moved to Bridlewood in 1987, almost 17 years ago and I moved for the very some reason that  
3067 the gentleman spoke about earlier. An opportunity to have privacy where I could look out my  
3068 backdoor and not see another house. It is quiet and I understood what the covenants meant  
3069 when I went there. I had full understanding and I went there with no intent of selling off any,  
3070 changing the covenants or anything else. I felt at that time that it was one of the unique  
3071 subdivisions in the whole Richmond area. Today I know it is the most unique. I don't know of  
3072 another subdivision where you can find parcels the size of what we have there with one house on  
3073 each. You can ride down that street (unintelligible) and you can quite often not even see the  
3074 houses, they are that far off the road. Now if this is approved I will venture within 6 months or a  
3075 year they will be cherry picking every piece in there and there will be no more Bridlewood. There  
3076 will be a few houses but that subdivision will be gone and I will be very sad when that happens.  
3077 Thank you for the opportunity to speak.

3078

3079 Mrs. Ware - Thank you, Mr. Bishop. Mr. Axselle, rebuttal.

3080

3081 Mr. Axselle - One thing I will point out to you is that the map that is before you  
3082 (referring to map) shows the property to the north and the east. It shows those subdivisions  
3083 that have been platted, but the properties also to the north and the west were the subject matter  
3084 of a couple of zoning cases we had just recently, one by Pruitt and one by Windsor, Bain and  
3085 Wright. So in fact all of the area around there has in fact now been zoned for the R-2 or R-2A.

3086

3087 Mr. Bischoff said that this was going to destroy something, but did not object to a single proffer,  
3088 did not tell you why any of the proffers were inadequate, did not tell you why \$400,000 to  
3089 \$500,000 homes were not accurate. He keeps referring to 11. He represents one person. There  
3090 are others who share his view, but each of these people bought in Bridlewood knowing that the  
3091 majority of the people in Bridlewood could change the restrictive covenants and the majority in  
3092 Bridlewood have signed and it has been recorded changing the restrictive covenants.

3093

3094 Without getting into where, I don't think this Commission has no legal authority or practical  
3095 sense of going, that is talking about the restrictive covenants. We are of the opinion that Mr.  
3096 Malone's signature is not required. They obviously believe it is. The point I make to you is that,  
3097 the gentleman said he wants it for protection, but the people bought knowing that this could  
3098 change. iN 20 years a lot has changed and the mention was made of the property that  
3099 previously, lot 10, that lot 10 had been part of Bridlewood. That property was, in fact,  
3100 subdivided off. That property was, in fact, zoned the exact same thing that we are requesting  
3101 here today. The Planning Commission recommended the Board approve that. That has been  
3102 done. That is the (unintelligible), if you will. It has already been established. But even without  
3103 the (unintelligible), I suggest to you that it is your job, and you do it very well, is to look at the  
3104 terms and conditions and the use of the property in a case before you. It is consistent with the  
3105 adjacent properties all around. The proffers are consistent and we would ask that you approve  
3106 the case. I will be glad to respond to any questions that you might have.

3107

3108 Mrs. Ware - Are there any questions for Mr. Axselle.

3109

3110 Mr. Vanarsdall - I don't know what to ask.

3111

3112 Mrs. Ware - Thank you. Mr. Marshall.

3113

3114 Mr. Marshall - Madam Chairman, being a lawyer this is a tough spot for me because as  
3115 much as I would like to get into this legal issue I cannot. I feel that this is a, it is plain and

3116 simple, a legal issue that the people opposed to this case are bringing to this board and that is  
3117 the issue of whether Mr. Malone does or does not have to sign these covenants. That issue has  
3118 to go with whether or not the covenants and restrictions are valid or not. Those are not issues  
3119 for this body to decide. That is for a higher authority, the courts to decide. Our charge here is  
3120 to look at the zoning law and the zoning issues in the case on its merits. I will point out that the  
3121 4 property owners, I believe it is, that are choosing to sell they are the property owners that are  
3122 going to have homes constructed in their backyards. They are the ones that have decided to sell  
3123 and so many issues that one would have with homes being constructed directly adjacent to your  
3124 lot is mute in this case because the applicants basically have the consent of the adjacent property  
3125 owners for this subdivision. This is not a new subdivision, it is merely an addition to an adjoining  
3126 subdivision and by the staff report, I believe, the proffered conditions in this are as good or  
3127 better than the adjoining subdivision. So based on the land use issues and not getting into the  
3128 legal issues I think this is a good case and should be approved and I'm recommending it be  
3129 forwarded on with approval to the Board of Supervisors.

3130  
3131 Mrs. Ware - Second. Motion made by Mr. Marshall, seconded by Mrs. Ware, all in  
3132 favor, aye. All Opposed.

3133  
3134 Mr. Jernigan - Opposed.

3135  
3136 Mrs. Ware - The ayes have it, the motion is approved.

3137  
3138 **REASON:** Acting on a motion by Mr. Marshall, seconded by Mrs. Ware, the Planning Commission  
3139 voted 4-0 (one abstention and one absence) to recommend that the Board of Supervisors **grant**  
3140 the request because it represents a logical continuation of the one-family residential  
3141 development, which exists in the area.

3142  
3143 Mr. Silber - That case will be before the Board of Supervisors on February 10<sup>th</sup> at  
3144 7:00 p.m. That concludes the rezoning request.

3145  
3146 **DISCUSSION: CAPITAL IMPROVEMENT PROGRAM:** The Commission will discuss  
3147 scheduling a Public Hearing to consider the FY 2004 – 2005 through FY 2008 – 2009 Capital  
3148 Improvement Program for February 12, 2004 at 6:15 P.M.

3149  
3150 This involves the county's capital improvement program. With the exception of Mr. Marshall the  
3151 other Commission Members probably recall that this time of year the County is required to  
3152 prepare a capital improvements program for a 5 year period of time. That capital improvements  
3153 program has to be heard by the Planning Commission in a Public Hearing. So what I need  
3154 tonight is for the Planning Commission to set a Public Hearing for February 12<sup>th</sup> at 6:15. What  
3155 typically happens at these Public Hearings is that the County Manager presents the capital  
3156 improvements program to the Planning Commission. He brings with him all of the appropriate  
3157 department heads from the various agencies who are capable of answering any questions that  
3158 the Commission has. So, you will be provided a copy of the capital improvements program. Feel  
3159 free to go through it, become familiar with it and prepare yourself to ask questions of the County  
3160 Manager and staff on February 12<sup>th</sup>. What we need is a motion to set a Public Hearing and I was  
3161 also going to offer, if the Commission wishes, dinner that evening. If you like we could provide  
3162 you dinner before that, maybe like at 5:15 in time for the 6:15 public hearing.

3163  
3164 Mr. Vanarsdall - Mr. Secretary, I would like to offer the motion, but I'm wondering if 6:00  
3165 instead of 6:15. I remember how many we have been through and I don't remember we ever  
3166 running into a problem by 7:00 if we started at 6:15. Isn't that when we usually start, 6:15?  
3167

3168 Mr. Silber - Yes, sir. I think for the last 2 years. I think we use to start at 6 and we  
3169 found that it didn't quite take an hour, we found it was closer to 35/45 minutes.  
3170  
3171 Mr. Vanarsdall - Ok. What time would dinner be, 5?  
3172  
3173 Mr. Silber - I'm proposing 5:15.  
3174  
3175 Mr. Vanarsdall - Ok. I move that we set that date for the CIP as recommended by the  
3176 Secretary.  
3177  
3178 Mr. Marshall - Second.  
3179  
3180 Mrs. Ware - Motion made by Mr. Vanarsdall, seconded by Mr. Marshall. All in favor,  
3181 aye. All opposed. The motion passes.  
3182  
3183 The Planning Commission voted to approve a Public Hearing for the Capital Improvement  
3184 Program for February 12<sup>th</sup> at 6:15 p.m.  
3185  
3186 Mr. Vanarsdall - Dinner is at 5:15, you say.  
3187  
3188 Mr. Silber - Yes, sir.  
3189  
3190 Mr. Archer - Will that be in the Manager's Conference Room or...  
3191  
3192 Mr. Silber - I don't know Mr. Archer, It may be in our Conference Room.  
3193  
3194 Mr. Archer - Ok.  
3195  
3196 Mr. Silber - We will get that information out to you.  
3197  
3198 Mr. Archer - That will work.  
3199  
3200 Mr. Marshall - I'll have to check with my wife.  
3201  
3202 Mr. Silber - Ok, that is fine. Typically the freshman Planning Commission usually  
3203 brings dinner, but we can make an exception.  
3204  
3205 Mr. Archer - I'd forgotten about that.  
3206  
3207 Mr. Marshall - My daughters didn't want me to leave tonight.  
3208  
3209 Mr. Silber - Is that right.  
3210  
3211 Mrs. Ware - Are there any changes to the minutes. Shall we move on to the  
3212 minutes, I'm sorry.  
3213  
3214 Mr. Silber - Yes, that is ok.  
3215  
3216 **APPROVAL OF MINUTES:** Planning Commission December 11, 2003  
3217  
3218 Mr. Marshall - Abstain.  
3219  
3220 Mr. Jernigan - He doesn't have any minutes yet.

3221  
3222 Mr. Marshall - I did read them, though.  
3223  
3224 Mrs. Ware - Are there any changes?  
3225  
3226 Mr. Vanarsdall - No changes or if there are changes. I recommend that we approved the  
3227 December 11, 2003 minutes.  
3228  
3229 Mrs. Ware - Second. Motion made by Mr. Vanarsdall, seconded by Mrs. Ware. All in  
3230 favor, aye. All opposed. The motion passes.  
3231  
3232 The Planning Commission voted to approve the December 11, 2003 Minutes.  
3233  
3234 Mrs. Ware - Is there anything else.  
3235  
3236 Mr. Archer - Madam Chairman, before anything else comes up I move that the  
3237 meeting is adjournment.  
3238  
3239 Mr. Vanarsdall - I second the move.  
3240  
3241 Mrs. Ware - Meeting adjourned.  
3242

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3251

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Lisa Ware, C.P.C., Chairman

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Randall R. Silber, Acting Secretary