

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 13, 2005, Display Notice having been published in the
4 Richmond Times-Dispatch on December 23, 2004 and December 30, 2004.

5
6 Members Present: Mr. Ernest B. Vanarsdall, C.P.C., Chairperson, Brookland
7 Mr. C. W. Archer, C.P.C., Vice-Chairperson, Fairfield
8 Mrs. Lisa D. Ware, C.P.C., Chairperson, Tuckahoe
9 Mr. E. Ray Jernigan, C.P.C., Varina
10 Mr. John Marshall, Three Chopt
11 Mr. David A. Kaechele, Board of Supervisors, Three Chopt
12 Mr. Randall R. Silber, Director of Planning, Secretary
13

14 Others Present: Mr. Ralph J. Emerson, Assistant Director of Planning
15 Ms. Jean Moore, Principal Planner
16 Mr. Lee Tyson, County Planner
17 Ms. Rosemary Deemer, County Planner
18 Mr. Thomas Coleman, County Planner
19 Mr. Seth Humphreys, County Planner
20 Mr. Ted McGarry, County Planner
21 Ms. Debra Ripley, Recording Secretary
22

23 **Unless otherwise indicated, Mr. Kaechele abstained from voting on all zoning cases.**
24

25 Mrs. Ware - I'd like to welcome everyone to the rezoning meeting for January 13, 2005.
26 I will turn the meeting over to the Secretary, Mr. Silber.
27

28 Mr. Silber - Thank you, Madam Chairman, and members of the Commission. This is the
29 first meeting being conducted for the new year and with that we have at least one new face with
30 us tonight, and that is Mr. Dave Kaechele, who is on my far left. Mr. Kaechele is on the Board of
31 Supervisors and one member of the Board of Supervisors serves on the Planning Commission with
32 the Planning Commissioners, and Mr. Kaechele will be serving this year as a representative from
33 the Board of Supervisors from the Three Chopt District. We welcome Mr. Kaechele to the Planning
34 Commission for 2005.
35

36 Mr. Kaechele - Thank you, Mr. Silber. It is an honor to be selected by the Board to
37 represent them on this important Commission and it has been four or five years, I think, since I
38 served in this capacity and I welcome the opportunity to work with the Commission and I'd just like
39 to say to each and every member of this Commission that the service that you perform, not only for
40 our citizens, but directly for the Board of Supervisors is a great service, and it is a lot of time,
41 meetings and efforts goes into your activities, and I know a lot of the cases that you are involved
42 with are controversial and you can't make everybody happy, but you certainly do listen to citizens
43 and work with citizens, work with this office to try to override any discrepancies that arise, and so I
44 just want to thank each one of you personally for what you do. It makes our job much more
45 tolerable because you have ironed out an awful lot of problems. I would ask you to join me in
46 thanking this Commission for what they do. Not only that, Mr. Silber and his staff, his personal
47 staff, I know they make your jobs a lot easier. They do a great job and Henrico is pleased to have
48 this kind of representation. So, thank you, too, Mr. Silber.
49

50 Mr. Silber - Thank you, Mr. Kaechele. Next on the agenda would be to consider the
51 withdrawals and deferrals, but I don't know if you want to do that first or if you want to go ahead
52 and...
53

54 Mr. Vanarsdall - Let's do it.

55

56 Mr. Silber - OK. It looks like the Commission is willing to stick to the way we have the
57 agenda prepared, so if we could handle those on the agenda for withdrawals and deferrals we will
58 run through those, and we will move from there.

59

60 Ms. Moore - Good evening, Commissioners. We have a total of five requests. We just
61 received one, on which I will speak momentarily, and one request for withdrawal. The first is
62 request to withdraw.

63

64 **Deferred from the November 10, 2004 Meeting:**

65 **C-52C-03 Mr. And Mrs. Hung Yim:** Request to conditionally rezone from A-1
66 Agricultural District to B-3C Business District (Conditional), Parcel 735-763-5299, containing 1.922
67 acres, located on the north line of West Broad Street (U. S. Route 250) approximately 1,450 feet
68 east of N. Gayton Road. A restaurant is proposed. The use will be controlled by proffered
69 conditions and zoning ordinance regulations. The Land Use Plan recommends Mixed Use. The site
70 is also in the West Broad Street Overlay District.

71

72 Ms. Moore - No action is required by the Commission tonight.

73

74 **Deferred from the December 9, 2004 Meeting:**

75 **C-54C-04 Craig Erdmann for Chimilson Acres, LLC:** Request to rezone from M-1
76 Light Industrial District, R-4 One Family Residence District and B-1 Business District to RTHC
77 Residential Townhouse District (Conditional), part of Parcel 805-710-1834, containing
78 approximately 13.07 acres, located on the southwest line of Darbytown Road opposite Oregon
79 Avenue. Residential townhouses are proposed. The maximum density in the RTH District is nine
80 (9) units per acre. The use will be controlled by zoning ordinance regulations and proffered
81 conditions. The Land Use Plan recommends Multi-Family Residential, 6.8 to 19.8 units net density
82 per acre, Commercial Concentration, and Environmental Protection Area.

83

84 Ms. Moore - The deferral is requested to the March 10, 2005 meeting.

85

86 Mrs. Ware - Is there any opposition to the deferral of C-54C-04, Craig Erdmann for
87 Chimilson Acres, LLC, in the Varina District? There is no opposition.

88

89 Mr. Jernigan - Madam Chairman, I make a motion to defer Zoning Case C-54C-04, Craig
90 Erdmann for Chimilson Acres, LLC, to March 10, 2005, at request of the applicant.

91

92 Mr. Vanarsdall - Second.

93

94 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in favor
95 say aye. All opposed say no. The motion passes.

96

97 At the request of the applicant, the Planning Commission deferred Case C-54C-04, Craig Erdmann
98 for Chimilson Acres, LLC, to its meeting on March 10, 2005.

99

100 **Deferred from the December 9, 2004 Meeting:**

101 **C-61C-04 Dominion Land & Development Partnership:** Request to conditionally
102 rezone from A-1 Agricultural District to R-3C One Family Residence District (Conditional), Parcels
103 759-767-5161, 759-767-2638, 759-767-6934, 759-767-6516 and 758-767-8413, containing
104 approximately 14.2 acres, located on the west line of Francistown Road at Castle Point Road. The
105 applicant proffers to develop no more than thirty (30) single-family units. The R-3 District allows a

106 minimum lot size of 11,000 square feet. The Land Use Plan recommends Suburban Residential 1,
107 1.0 to 2.4 units net density per acre, and Environmental Protection Area.

108
109 Ms. Moore - The deferral is requested to the February 10, 2005 meeting.

110
111 Mrs. Ware - Is there any opposition to the deferral of Case C-61C-04, Dominion Land
112 and Development Partnership in the Brookland District? There is no opposition. Mr. Vanarsdall.

113
114 Mr. Vanarsdall - I move that Case C-61C-04 be deferred at the applicant's request to
115 February 10, 2005.

116
117 Mr. Marshall - Second.

118
119 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Archer. All in favor
120 say aye. All opposed say no. The motion passes.

121
122 At the request of the applicant, the Planning Commission deferred Case C-61C-04, Dominion Land
123 and Development Partnership, to its meeting on February 10, 2005.

124
125 **C-2C-05 Ralph Axelle, Jr. for LCL Company:** Request to amend proffered
126 conditions accepted with Rezoning Case C-36C-89, on Parcel 754-744-1970, containing
127 approximately 8.8 acres, located on the east line of N. Parham Road, approximately 650 feet north
128 of its intersection with Eastridge and Quioccasin Roads (Ridge Shopping Center). The amendment
129 deletes Proffer 1, relating to hours of service. The existing zoning is B-2C Business District
130 (Conditional). The Land Use Plan recommends Commercial Concentration and Suburban Residential
131 2, 2.4 to 3.4 units net density per acre.

132
133 Ms. Moore - The deferral is requested to the February 10, 2005 meeting.

134
135 Mrs. Ware - Is there any opposition to the deferral of Case C-2C-05, Ralph Axelle, Jr.
136 for LCL Company, in the Three Chopt District?

137
138 Mr. Marshall - Madam Chairman, I move that Case C-2C-05 be deferred to the February
139 10, 2005 meeting at the request of the applicant.

140
141 Mr. Vanarsdall - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
142 say aye. All opposed say no. The motion passes.

143
144 At the request of the applicant, the Planning Commission deferred Case C-2C-05, Ralph Axelle, Jr.
145 for LCL Company, to its meeting on February 10, 2005.

146
147 **P-19-04 Ralph Axelle, Jr. for LCL Company:** Request for a Provisional Use
148 Permit under Sections 24-58.2(a) and 24-122.1 of Chapter 24 of the County Code in order to allow
149 24 hour service to the general public for a retail business (Fed Ex/Kinkos Store in the Ridge
150 Shopping Center), on part of Parcel 754-744-1970, containing approximately 6,000 square feet,
151 located on the east line of N. Parham Road approximately 600 feet north of Eastridge Road. The
152 existing zoning is B-2C Business District (Conditional). The Land Use Plan recommends Commercial
153 Concentration.

154
155 Ms. Moore - The deferral is requested to the February 10, 2005 meeting.

156
157 Mrs. Ware - Is there any opposition to the deferral of P-19-04, Ralph Axelle, Jr. for
158 LCL Company, in the Three Chopt District? There is no opposition.

159
160 Mr. Marshall - Madam Chairman, I move that Case P-19-04 be deferred to the February
161 10, 2005 meeting at the request of the applicant.

162
163 Mr. Vanarsdall - Second.

164
165 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
166 say aye. All opposed say no. That motion passes.

167
168 At the request of the applicant, Case P-19-04, Ralph Axselle, Jr. for LCL Company, in the Three
169 Chopt District was deferred to February 10, 2005.

170
171 **P-1-05 David Redmond for Mid-Atlantic Commercial Properties, LLC:**
172 Request for a Provisional Use Permit under Sections 24-58.2(a) and 24-122.1 of Chapter 24 of the
173 County Code in order to operate a retail drug store 24 hours per day, on Parcels 816-714-4637 and
174 816-714-5217, containing 2.11 acres, located on the east line of S. Laburnum Avenue
175 approximately 300 feet north of Williamsburg Road (U. S. Route 60) and the north line of
176 Williamsburg Road (U. S. Route 60), approximately 170 feet east of S. Laburnum Avenue. The
177 existing zoning is B-1 and B-3 Business Districts and O-2 Office District. The Land Use Plan
178 recommends Commercial Arterial, Commercial Concentration and Suburban Residential 2, 2.4 to 3.4
179 units net density per acre. The site is in the Airport Safety Overlay District.

180
181 Ms. Moore - The deferral is requested to the March 10, 2005 meeting.

182
183 Mrs. Ware - Is there any opposition to the deferral of Case P-1-05, David Redmond for
184 Mid-Atlantic Commercial Properties, LLC, in the Varina District? There is no opposition.

185
186 Mr. Jernigan - Ms. Moore, what did you say the date was?

187
188 Ms. Moore - To March 10, 2005.

189
190 Mr. Jernigan - Madam Chairman, I move to defer Provisional Use Permit P-1-05, David
191 Redmond for Mid-Atlantic Commercial Properties, LLC, to March 10, 2005, by request of the
192 applicant.

193
194 Mr. Vanarsdall - Second.

195
196 Mrs. Moore - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in favor
197 say aye. All opposed say no. The motion passes.

198
199 That concludes my report of the deferrals and withdrawals.

200
201 Mr. Marshall - Madam Chairman, I have two deferrals. Page 4.

202
203 **Deferred from the November 10, 2004 Meeting:**

204 **C-42C-04 Skip Gelletly:** Request to conditionally rezone from A-1 Agricultural
205 District to R-5AC General Residence District (Conditional), Parcel 731-763-1648, containing
206 approximately 3.1 acres, located on the west line of Gayton Hills Lane approximately 200 feet south
207 of Graham Meadows Drive. A residential subdivision is proposed. The maximum density in the R-
208 5AC District is 7.7 units per acre. The use will be controlled by zoning ordinance regulations and
209 proffered conditions. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net
210 density per acre.

211

212 Mrs. Ware - Is there any opposition to the deferral of Case C-42C-04, Skip Gelletly, in
213 the Three Chopt District? There is no opposition.

214

215 Mr. Marshall - Madam Chairman, I move that Case C-42C-04 be deferred to the February
216 10, 2005 meeting at the request of the Commission.

217

218 Mr. Vanarsdall - Second.

219

220 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
221 say aye. All opposed say no. The motion passes.

222

223 At the request of the Commission, the Planning Commission deferred Case C-42C-04, Skip Gelletly,
224 to its meeting on February 10, 2005.

225

226 **Deferred from the December 9, 2004 Meeting:**

227 **C-44C-04 Andrew Condlin for David E. Cottrell:** Request to amend proffered
228 conditions accepted with Rezoning Case C-39C-95, on part of Parcel 740-765-2150, containing
229 1.4019 acres, located on the east line of Pouncey Tract Road, approximately 350 feet south of Twin
230 Hickory Lake Drive. The amendment is related to use restrictions and hours of operation and
231 would permit a car wash. The existing zoning is B-3C Business District (Conditional). The Land Use
232 Plan recommends Commercial Concentration, Office and Environmental Protection Area.

233

234 Mrs. Ware - Is there any opposition to the deferral of Case C-44C-04, Andrew Condlin
235 for David E. Cottrell, in the Three Chopt District? There is no opposition. Mr. Marshall.

236

237 Mr. Marshall - Madam Chairman, I move that Case C-44C-04, be deferred to February
238 10, 2005, at the request of the Commission.

239

240 Mr. Vanarsdall - Second.

241

242 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
243 say aye. All opposed say no. The motion passes.

244

245 The Planning Commission deferred Case C-44C-04, Andrew Condlin for David E. Cottrell, to its
246 meeting on February 10, 2005.

247

248 Mr. Archer - Madam Chair, I also have a deferral.

249

250 **Deferred from the November 10, 2004 Meeting:**

251 **C-58C-04 Loftis Real Estate & Development:** Request to conditionally rezone
252 from A-1 Agricultural District to RTHC Residential Townhouse District (Conditional), part of Parcel
253 800-730-7438, containing 6.981 acres, located at the north intersection of Elkridge Lane and 20th
254 Street, adjoining the northwest property line of the Oak Hill subdivision. Residential townhouses
255 are proposed. The maximum density in the RTH District is nine (9) units per acre. The Land Use
256 Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

257

258 Mrs. Ware - Is there any opposition to the deferral of Case C-58C-04, Loftis Real Estate
259 and Development, in the Fairfield District? There is no opposition.

260

261 Mr. Archer - I move to defer Case C-58C-04 to the March 10, 2005 meeting, at the
262 Commission's request.

263

264 Mr. Vanarsdall - Second.

265
266 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All in favor
267 say aye. All opposed say no. The motion passes.
268
269 The Planning Commission deferred Case C-58C-04, Loftis Real Estate & Development, to its
270 meeting on March 10, 2005.
271
272 Mr. Silber - That seemed to have whittled down the agenda a little bit. I am not
273 aware of any items on the expedited agenda tonight. Our move next would be the election of the
274 Chairman and Vice Chairman and it is my duty and honor each year to preside over the election of
275 Chairman and Vice Chairman of the Planning Commission at its first meeting in January each year.
276 So, with your permission, I'd like to start by opening the floor for nominations for Chairman of the
277 Planning Commission for 2005. Do I have a motion for a nomination?
278
279 Mr. Marshall - I move that we nominate Ernest Vanarsdall to be Chairman of the
280 Commission.
281
282 Mr. Jernigan - Second.
283
284 Mr. Silber - Are there any other nominations?
285
286 Mr. Marshall - I move that nominations be closed.
287
288 Mr. Jernigan - Second.
289
290 Mr. Silber - There being no further nominations, we need a vote on Mr. Vanarsdall
291 serving as the Chairman of the Planning Commission. Is there a motion?
292
293 Mr. Marshall - I make a motion that we elect Mr. Vanarsdall as Chairman.
294
295 Mr. Jernigan - Second.
296
297 Mr. Silber - With that, is there a vote? All in favor say aye. All opposed say no. The
298 motion passes. We have a new Chairman of the Planning Commission, Mr. Vanarsdall.
299
300 Now we move on next to the nominations for Vice Chairman of the Planning Commission for 2005.
301 Do we have any nominations?
302
303 Mrs. Ware - I nominate Chris Archer.
304
305 Mr. Marshall - Second.
306
307 Mr. Silber - Are there any other nominations?
308
309 Mr. Marshall - I move that the nominations be closed.
310
311 Mr. Vanarsdall - Second.
312
313 Mr. Silber - Being no further nominations, we need to vote on Mr. Archer as Vice-
314 Chairman.
315
316 Mrs. Ware - All in favor say aye. All opposed say no. The motion passes.
317

318 Mr. Silber - Thank you very much. Mr. Archer, congratulations. If we can ask
319 someone from staff to come down and change the name plates, depending on where they decide
320 to sit.
321
322 Mr. Kaechele - Mr. Silber, I neglected to mention earlier, but I am going to follow the
323 tradition of the Board of Supervisors' representative system and that is to abstain on voting on
324 zoning cases that eventually come before the Board of Supervisors.
325
326 Mr. Silber - We appreciate you noting that for the record.
327
328 Mr. Vanarsdall - Before we get started, first of all I want to thank my colleagues for
329 electing me Chairman for 2005 and I will try to fill a big pair of shoes that Lisa Ware. The only
330 thing I hate about that is she had heels on hers. I would like to also welcome Mr. Kaechele.
331
332 Mr. Kaechele - Thank you.
333
334 Mr. Vanarsdall - We have had Mr. Kaechele and we've always been delighted. I want to
335 honor the unsung heros of the staff who do all of the work for us. It is like when you eat a meal in
336 a restaurant, the cooks did all of the work in the back, so with that, Mr. Silber, you are up again,
337 and I have one very good delightful duty. I would call the former Chairman down to the podium.
338 Lisa, this is a token of appreciation from all of us to you, and I want to tell you that Lisa was a
339 wonderful Chairperson and I want to tell you that I have never seen anybody since I have been on
340 the Commission, no one from your district has ever been as part of a team as you have, and you
341 have been wonderful to work with, and it sounds like you are leaving, but you are not. We
342 appreciate all of your efforts.
343
344 Mrs. Ware - Thank you very much. Can I go ahead and open it? Oh, good. It is a gift
345 certificate to Barnes and Noble. Thank you very much. I am a big reader. It has been my
346 privilege and pleasure to serve as Chair for the Commission this past year, but we are moving into
347 the very capable hands of a very efficient seasoned veteran, Mr. Vanarsdall, so I know it is going to
348 be a very good 2005. I thank all of my fellow Commissioners, my Secretary, Mr. Silber, my
349 department expert, Mr. Emerson, back there who helps me, and all of staff, who has been a huge
350 help to me this year in so many ways as well as everyone else that I have worked with this past
351 year as a Commissioner, so thank you all very much.
352
353 Mr. Vanarsdall - Thank you, Lisa. In addition, Mr. Silber, who is the Director of Planning on
354 my left, and Secretary, we have a Deputy Secretary of Planning, Mr. Joe Emerson. Mr. Silber.
355
356 Mr. Silber - Yes, sir, Mr. Vanarsdall, thank you very much. Before we get into the next
357 item, I did want to take this opportunity to announce that we do have a new planner on board in
358 the Planning Department, and it always gives me pleasure to announce new staff, because there
359 are so many things going on in our department that we always look forward to a new staff person,
360 and I want to announce tonight to the Planning Commission that we have a new staff person by
361 the name of Rosemary Deemer. Rosemary, if you would stand, please. You may remember that
362 we had a staff planner by the name of Mark Bittner. He is gone. Seems like it has been a long
363 time, but Rosemary is replacing Mark as a Planner III, and she comes to us from the Winston-
364 Salem area of North Carolina, and has graduated from VCU with a Masters in Urban and Regional
365 Planning and has been very involved with APA in North Carolina, and comes to us with many skills
366 and expertise, and we look forward to filling that position and bringing good planning skills to
367 Henrico County. We want to welcome her tonight.
368
369 Mrs. Ware - Welcome.
370

371 Mr. Vanarsdall - Rosemary, one of our Planning Commissioners is from North Carolina, too.
372 Mrs. Ware. You all can talk at recess.

373
374 Mr. Silber - I also wanted to mention that Rosemary started, really her first day on the
375 job was today, so coming and working like a 12-13 hour day, I hope you won't think that is
376 everyday. Hopefully, she will come back, but it is nice. I have to share this with you. She started
377 today and then we have a four-day weekend, so it is a pretty good start to the job. I hope she will
378 come back on Tuesday. With that, we can maybe get into the agenda at this point.

379
380 **SUBDIVISION (Deferred from the December 15, 2004, Meeting)**

381 Sweetbay Hill **Jordan Consulting Engineers, P.C. for William C.**
(November 2004 Plan) **Schermerhorn, III and Atack Properties, Inc.:** The
97.69-acre site proposed for a subdivision of 56, single-family
homes is located adjacent to Magnolia Ridge subdivision
approximately 1,500 feet north of the intersection of
constructed Magnolia Ridge Drive and unimproved JEB Stuart
Parkway on parcels 780-772-9071, 781-773-3186, 780-773-
2718 and 780-773-3673. The zoning is A-1, Agricultural
District. Public water and septic tank/drainfield. **(Fairfield) 56**
Lots

382
383 Mr. Silber - Mr. McGarry.

384
385 Mr. Vanarsdall - Anyone in the audience in opposition to this case, Sweetbay Hill, in
386 Fairfield. OK. Thank you.

387
388 Mr. McGarry - Good evening, Mr. Chairman, members of the Commission, Mr. Kaechele.
389 According to the applicant, a revised layout will not be available on this case, so the November 12,
390 2004 plan has been annotated and a color copy of that is what is being handed out to you now.
391 The two outstanding issues for this plan layout include the appropriate number of stub roads to
392 abutting undeveloped A-1 parcels and the creation of a reserve parcel abutting Magnolia Ridge
393 Subdivision. A comprehensive plan residential policy, subparagraph No. 8, references new
394 development. It lists as a goal: Should provide stub roads to adjacent vacant property to facilitate
395 the future extension of roads.

396
397 There are five additional conditions on your agenda on the second page, Nos. 11 through 15. The
398 applicant is not in agreement with all of this, especially No. 14, or the annotated plan for the
399 reserved area next to Magnolia Ridge. The other document handed out to you is a four-page letter
400 and a marked-up plan by Mr. Jinette and he supports most of what the staff is recommending. I
401 don't want to get into too much detail on this, but I don't want to give you too little either.
402 Essentially, the developer has agreed to certain things that have been annotated on the plan. The
403 first one is that Road A will stub through to one of the parcels of the adjacent property that is
404 vacant, labeled on your plan as Natalie. Secondly, the cul-de-sac that was abutting Lots 40 and 41
405 will be replaced by a road connection to Woodman Road, Road B on your plan. The common areas
406 for preservation of environmentally-sensitive areas and abutting Woodman Road will remain.
407 Lastly, the applicant has agreed to provide no access into Magnolia Ridge Subdivision. I believe
408 that the two issues that concern the applicant are the staff recommendation in Condition No. 14, to
409 stub a road to an abutting parcel controlled by Mr. Jinette and the removal of the odd-shaped road
410 next to Magnolia Ridge. That road does not meet Public Works' design standards and staff would
411 replace that with a reserve for a future development area. I'd be happy to answer any questions.

412
413 Mr. Vanarsdall - Any questions by Commission members for Mr. McGarry?

414
415 Mr. Archer - Mr. McGarry, for the benefit of the rest of the Commission and me also,
416 could you expand a little bit on the last statement you made about the design standards and the
417 parcel adjoining Magnolia Ridge? Did you say that it does not meet Public Works' requirements?
418
419 Mr. McGarry - Requirements for a road connection, and so since there are so much
420 wetlands on the parcel, staff was recommending this be put in the reserve and have it made
421 available for future development both for the applicant and the abutting property owner.
422
423 Mr. Silber - Mr. Archer, I believe the issue is that there is a small piece of property on
424 the other side of the south side of Woodman Road or JEB Stuart Parkway that is difficult to
425 anticipate how that might lay out. There have been several different layouts, all of which have
426 some challenges and difficulties. It is not a situation where you should tie it in to Magnolia Ridge in
427 the fashion we have seen. We think it may be best to just simply put this in as a reserved area and
428 when the adjacent properties can be acquired or put together, then it would most efficiently occur
429 with that piece of property. It is not unusual to take a parcel of land that does not easily layout by
430 itself and then save it and have a reserve and utilize in a more efficient fashion. That is simply
431 what is being recommended.
432
433 Mr. Archer - OK, and I had one more question, and I think I know the answer to this,
434 but just for the benefit of everybody, the staff's recommendation that the road be constructed to
435 the Jinette property. What are our legal obligations as a Commission with regard to the applicant
436 having to do that?
437
438 Mr. Silber - Mr. Archer, I believe from a legal standpoint the developer is not required
439 to provide access to all of these parcels adjacent on the western property line. This piece of
440 property does not currently have road frontage and it is not necessary from a legal standpoint for
441 the developer to provide that access or that stub. We believe that, from a Planning perspective, it
442 does make sense to provide an adequate number of access points or stub streets on the western
443 property line so that it will allow for a future development connection between the development.
444 From a legal perspective, it is not required that we provide access to that property because it does
445 not currently have public road access.
446
447 Mr. Archer - I think you and I discussed this. The legal requirement would be if there
448 were already public access available, it would have to be continued throughout this case.
449
450 Mr. Silber - Yes. If they had public road access and this development was proposed
451 and cut off their access, that would have a legal implication.
452
453 Mr. Archer - I just wanted to make sure that everybody understood that. All right.
454 That is all I have for now. Thank you.
455
456 Mr. Vanarsdall - Thank you. Any more questions for Mr. McGarry? All right. Thank you, Mr.
457 McGarry. Would you like to hear from the applicant?
458
459 Mr. Theobald - Good evening, Mr. Chairman, ladies and gentlemen. Happy New Year to
460 everybody. I am here, Jim Theobald, on behalf of the applicant. As Mr. McGarry stated, we are in
461 opposition to proposed Condition No. 14 regarding providing an additional stub road from Road C,
462 as you will recall, we did agree at the last Planning Commission hearing to provide a stub road in
463 the back of the property closer to the river for other parcels to access in the future through there,
464 as I think Mr. Silber adequately accurately pointed out. There is no legal requirement in your
465 ordinance to require additional stub roads and so we are not in favor of stubbing to every
466 Schermerhorn parcel over there. We believe that they do have an opportunity to achieve access

467 ultimately back through where we are stubbing, the same as we did, come out to Woodman Road
468 and build those facilities. The only other issue is the one with the three lots on the other side of
469 the road. We had hoped to be able to convince staff to put a condition regarding those three lots,
470 whereby, for having given up the ability to connect back through Magnolia Ridge, and so we had
471 planned a cul-de-sac road through there to access those three lots off of Woodman Road, and had
472 approved the condition that had in essence said that we would have that road alignment for that
473 cul-de-sac lot meet the requirements and approval of the Director of Public Works. We were
474 apprised late this afternoon that apparently the Planning staff was not in favor of that, so we would
475 like to eliminate Condition No. 14 and we would ask that you consider providing an additional
476 condition that would allow those three lots on the other side with the right of the Director of Public
477 Works to approve the road alignment, and with that I'd be happy to answer any questions.

478

479 Mr. Vanarsdall - Any questions for Mr. Theobald?

480

481 Mr. Archer - Mr. Theobald, can you explain to us again what it is that you are trying to
482 do with the three-lot section?

483

484 Mr. Theobald - Well, you will recall that we were originally trying to connect back to
485 Magnolia Ridge Subdivision in lieu of building JEB Stuart Parkway and connecting back up. We
486 agreed with Public Works just prior to the last meeting that we would build two lanes of JEB Stuart
487 Parkway and then two lanes with the 90 degree connector road, Grenville, and we would also
488 contribute to the ultimate extension of JEB Stuart across the wetlands, and so once we obtained
489 access that way, then we no longer needed to connect through Magnolia Ridge, and so we agreed
490 to a condition saying we wouldn't go that way. That leaves us with a potential three lots on that
491 side of the road, which we can't put in a little cul-de-sac road and so that is the issue. Staff is
492 suggesting that that be shown as a reserve area and we are saying that that is three lots that can
493 help us pay for JEB Stuart Parkway, and we will meet the design criteria required by Public Works,
494 whatever that might be. If I don't meet those standards, then they are not three lots.

495

496 Mr. Archer - Well, I get this but I have a little bit of a hang up because Mr. McGarry in
497 his report indicated that what you want to do does not meet the design standards.

498

499 Mr. Theobald - Well, that is why I was....because we did not have time to submit an
500 additional plan. That is why we had hoped to go with a condition that we will meet the criteria that
501 you all and Public Works would require.

502

503 Mr. Silber - Mr. Theobald, what would be the situation if Public Works comes back and
504 says that the road plans that you all offer and maybe some alternatives still don't work, and the
505 most you can get out of it might be two lots that simply front on JEB Stuart Parkway? Sometimes
506 we don't know just where things stand.

507

508 Mr. Theobald - Yes. That is a possibility. I thought that would be our risk. We would
509 have to wait or we'd have to do it in a way that would satisfy Public Works. We are prepared to do
510 that, and apparently just leaving it as a reserve lot now, which is basically nothing, you have to
511 come back and do a three-lot subdivision.

512

513 Mr. Archer - Mr. Secretary, can we condition that somehow because I'm willing to have
514 some assurance that Public Works can be satisfied with what you do, and it doesn't sound like we
515 can resolve this tonight, unless we can condition it in a way that says they would be willing to do it.

516

517 Mr. Silber - Mr. Archer, I think it is really up to the Commission. I think there are two
518 fundamental ways of doing this and Mr. Theobald has laid those out. One is simply to follow staff's
519 recommendation and that is reserve the area south of that road and deal with it more

520 comprehensively at a later date. The second alternative is to prepare a condition that would be
521 accepted by the Planning Commission that would say that there would be – three lots would be
522 acceptable on this piece of property with the road layout being acceptable to the Director of Public
523 Works.

524

525 Mr. Theobald - And frankly, you end up in the same place. Because if I come back with a
526 three-lot subdivision, then all we do is go through staff time and another filing fee, etc. In essence
527 what we are doing is saying, and keep in mind this is a tentative, this is not final. And so what we
528 would be saying is we still have to satisfy you just like we'd have to satisfy you if we brought the
529 whole thing back for just three lots, so I don't believe you have any downside approaching it that
530 way.

531

532 Mr. Archer - Well, Mr. Theobald, I did hear you use the terminology that you said you
533 are willing to take the risk if Public Works does not approve what it is you try to do to alleviate us
534 from moving those three lots.

535

536 Mr. Theobald - Correct.

537

538 Mr. Marshall - So then you would end up with just a reserve lot anyway and the
539 Department of Public Works would be satisfied.

540

541 Mr. Archer - We are trying to be fair here.

542

543 Mr. Theobald - I understand. Just trying to get us a little further down the road without
544 anymore time.

545

546 Mr. Vanarsdall - Anymore questions?

547

548 Mr. Archer - Mr. Secretary, it seems like to me that it might be a reasonable
549 alternative. Can we word the condition so that we can have it included tonight?

550

551 Mr. Silber - Yes, sir. I think we can do that.

552

553 Mr. Archer - OK. And we've got opposition. Anything else to add, Mr. Theobald?

554

555 Mr. Theobald - No.

556

557 Mr. Archer - Let's hear from the opposition. Who wants to be first in the opposition? I
558 will ask Mr. Secretary to explain the rules on this.

559

560 Mr. Silber - This will be handled similar to the way we handle zoning cases, and that is
561 the applicant has 10 minutes to present their case and the opposition has 10 minutes to present
562 their case, as a whole. And the applicant then has some time that he may want to save in the
563 form of rebuttal. The Commission can extend that 10 minute allocation, but we try to do this to
564 move the meeting along quickly.

565

566 Mr. Vanarsdall - Good evening.

567

568 Mrs. Pauline Ewald - Good evening. My name is Pauline Ewald. I represent Natalie
569 Schermerhorn who owns about 40 acres directly adjacent and west of the proposed Sweetbay Hill
570 Subdivision. She is a member of a family that owns a block of about 100 acres that are lying in
571 that area. For many, many years, these folks have been paying taxes on this largely unused
572 undeveloped property, based on the County's plan for that area as a future residential subdivision.

573 The land has been nothing more than a tax burden to them for these years because there was no
574 access. There were all kinds of problems of road access as well as access to public utilities for that
575 area. The proposed Sweetbay Hill Subdivision gives us an opportunity to unlock this land and
576 resolve some of these access problems. The Schermerhorn family and the Schermerhorn stake
577 holders have provided a plan that basically allows for opening up all of the western areas that are
578 adjacent to Sweetbay Hill and we would like to thank the Planning staff and Mr. McGarry for
579 meeting with us, considering and today recommending that plan to you, and I am just here to urge
580 you to adopt the recommended plan, that, in fact, does provide for the future development of the
581 area that has always been contemplated both to the west and the east of these properties. I urge
582 you very much to adopt that to allow this land to go to the highest and best use and allow it to
583 come in to the tax base of Henrico County and also get the highest and best use for the taxpayers.
584 Thank you.

585

586 Mr. Vanarsdall - Thank you. Any questions by Commission members?

587

588 Mr. Archer - I don't think so.

589

590 Mr. Jinette - Good evening, Planning Commission members. My name is David Jinette
591 and I live on Pemberton Road in Henrico County, and my interest in the subdivision is that I am a
592 contractor on the Schermerhorn's 12.28-acre parcel directly adjacent to the proposed new
593 subdivision. I have been asked to speak tonight to a certain extent on behalf of a few of the
594 Schermerhorn members. Porter Schermerhorn is here this evening. Jim Schermerhorn and Natalie
595 Schermerhorn, as well as Lois Schermerhorn, who could not be here tonight. We collectively
596 represent approximately 82 acres tonight that is directly adjacent to this proposed new subdivision.
597 The Schermerhorns and I have significant concerns regarding the negative impact the proposed
598 new subdivision will have towards our land value due to the lack of access provided by the new
599 proposed subdivision. In particular, Lois Schermerhorn's property is the landlocked parcel and is
600 part of why we are asking for access tonight. We cannot get title insurance at this time on that
601 property. We are here tonight to ask for road access to Lois' property in the form of a stub road
602 from the proposed new subdivision. In meeting with Leslie News and Ted McGarry of Henrico
603 Planning staff, I am assured that the staff will support an access to Lois Schermerhorn's property.
604 Should the applicant and/or the Planning Commission provide that access? Currently, there is no
605 access provided. The only road continuation to the east is unimproved Woodman Road. None of
606 the Schermerhorn's represented by me here tonight own land adjacent to Woodman Road and,
607 therefore, have no right to connect or have access to Woodman Road, now or in the future. Nor
608 do we have a reasonable assurance that there will be access provided by the future developer of
609 that land. The applicant told me that he has been in touch with the land owner of this property,
610 through which Woodman Road will one day be extended. The Schermerhorns here represented
611 here tonight have considerable concern that since they are having problems getting access tonight,
612 they expect to have potential problems getting access if and when Woodman Road ever is
613 extended. A stub road has been provided to Natalie Schermerhorn's property as the applicant
614 pointed out and as Mr. McGarry pointed out. My understanding is this would allow possibly 25 lots,
615 due to limitations on the current road proposed, to service 83 acres of land, approximately. This is
616 clearly not enough of a lot yield to uphold the expectations of land value based on 82 acres in an
617 area that is designated on Henrico County's land use plan as R-1, Residential Subdivision and
618 generally expected to yield two or more lots per acre. So, for 83 acres, 25 lots does not go very
619 far. The Schermerhorns are paying a high tax rate. I believe the class is Residential. They are not
620 paying an A-1 rate and haven't for years, to my knowledge. Therefore, they feel and I feel entitled
621 to be considered and certainly not ignored when new roads are planned adjacent to and directly
622 affecting their land, especially when that proposed road comes within 300 feet of their property. In
623 addition, there are two instances of deeded access roads that cross the applicant's property and the
624 property of Lois Schermerhorn. These access roads were guaranteed by a deed when the parent
625 track was subdivided by Grandfather Schermerhorn. I apologize. I don't have his name right now,

626 so I will just call him Grandfather Schermerhorn. I hope that is OK. I have indicated to Mr.
627 McGarry and Leslie News that I have a plan to vacate these two title concerns in the event new
628 access is provided. One of the title concerns is the 12-foot access road that is half on the
629 applicant's property and half on Lois's and is not shown on the plan. We ask that the applicant be
630 required by the Planning Commission to add the additional access point to the 12-acre parcel of
631 Lois Schermerhorn. I have hired Balzer and Associates, a professional engineering firm, to review
632 the plan and determine the monetary affect this road would have upon Mr. Atack's proposed new
633 subdivision tonight. There is no cost to the applicant. We are not asking them to spend money,
634 because a road is cheaper at a stub than it is as the current cul-de-sac as shown. And additionally,
635 no lots will be lost by the applicant should he grant our request tonight for a stub road to Lois
636 Schermerhorn's property. These facts were presented to the applicant yesterday by myself and
637 Balzer at the offices of Bob Atack to Bob Atack. Once again, this proposed stub road was shown to
638 Mr. McGarry and Leslie News yesterday, as well. They indicated they would support a looping of
639 the Natalie Schermerhorn road which has been provided with our proposed stub road, and they
640 would consider that good planning, and I believe that I mentioned that a moment ago. I feel like
641 good planning is important. I think that is why we are here tonight. The applicant has indicated he
642 does not intend to provide access to Lois Schermerhorn's property. His explanation was, "Why
643 should I?" He is not obligated. The County has no authority to make me. I have to bring road
644 access to this property. Why should the Schermerhorns be provided free access? To this I reply,
645 who developed Route 1, if the developer of Route 1 in that corridor had left no access to you, there
646 would be no Magnolia Ridge; there would be no Sweetbay Hill. In other words, there is always
647 somebody who comes first when it comes to developing a new area, and it is my understanding
648 that the County will typically require that new applications consider adjacent parcels in terms of
649 road access, especially in the event a parcel is landlocked. The applicant responded but not in an
650 A-1 by right subdivision where the County has no authority to require access. I am not sure,
651 because the difference between having an obligation and a right, I would not be here tonight if I
652 didn't hope that the County has the right to require that. I understand from a moment ago that
653 they don't have the obligation to require that. I have been told by two engineering firms that they
654 are virtually always forced to provide access to the next parcel in the event of a land lock. It is
655 clearly a precedent set by the County in the minds of these engineers that the County typically
656 requires access. One particular engineer stated that if this passes as it is tonight, he expected his
657 client and his future clients will direct him in the future to leave these accesses off of their future
658 plans. When the County asks for those accesses, they will cite this case as to why they do not
659 have to add it on to their future plans. They will indicate that it appears that a new precedent has
660 been put in place. I ask the Commission is this your intention here tonight to change your
661 precedent requiring access typically?

662
663 Mr. Vanarsdall - David, let me interrupt you. You have less than one minute to finish.
664

665 Mr. JINETTE - I think I can make it. Thank you. Set a new example which people like
666 Porter Schermerhorn can complete a sale of his own mother's land and pay for her nursing home
667 costs, because his mother's land is going to remain landlocked. The land value is going to be
668 reduced due to lack of access. I feel like that is a poor precedent. I have personally \$52,000
669 invested in the Schermerhorn's property and I have been unable to close on the land due to this
670 land lock issue. Who knows if and when that land will ever be served from another point? How
671 long is she expected to wait? I believe she has been waiting 20 years. I feel like it would be a
672 shame to bring this road within 300 feet of Lois Schermerhorn's property and not allow her access,
673 and, by the way, Porter Schermerhorn, Jim Schermerhorn and Lois cannot develop their land unless
674 this is provided. It is important also to note that this applicant has Case C-6C-05, in which the
675 applicant has applied for rezoning of the same property to a higher density. I believe that is going
676 to be heard February 10. And that current A-1 plan the applicant has already stubbed the road to
677 Lois Schermerhorn's property. We are here tonight to ask you that you require that on this plan.
678 That way either plan he goes with, these adjacent landowners can divide their land. Once again, it

679 does appear that staff supports our request. I ask the Commission to consider the stub road be
680 added to the plan provided, providing road and utility access to Lois Schermerhorn's property as
681 well as opening access to Porter Schermerhorn's property, Jim Schermerhorn's property and Natalie
682 Schermerhorn's property. Thank you very much for your time.

683

684 Mr. Archer - Thank you. Mr. Jinette, before you sit down, do you have any rendering
685 or anything which would indicate what the engineering firm you hired could make this plan look
686 like?

687

688 Mr. Jinette - You should have a plan in front of you. I gave a copy to Ted McGarry. He
689 drew it in. It showed that there would be no loss of lots, and we all know that cul-de-sacs are not
690 cheap, so we feel like a stub road would be a wash or possibly in favor of Mr. Atack.

691

692 Mr. Archer - Does everybody have this, by the way?

693

694 Mr. Jinette - And I'd like to say just one more time that Natalie Schermerhorn gets 25
695 lots. If she rezones her property, you have got a Comprehensive Plan that shows R-1, Residential,
696 for proposed future use. Twenty-five lots does not go a long way on her 40-acre parcel. We have
697 got 83 acres total. Without that access, Jim Schermerhorn would never be able to develop his
698 land. Lois Schermerhorn never, Porter never, and I just wanted to point that out.

699

700 Mr. Marshall - Mr. Jinette, I've got some questions for you. You use this word never,
701 that they will never be able to develop their property. Isn't there a remaining property between the
702 James and Lois Schermerhorn properties to Woodman Road?

703

704 Mr. Jinette - Well, as I pointed out, that is owned by somebody not represented here
705 tonight.

706

707 Mr. Marshall - OK. But there is land there that would allow it at some future point road
708 access.

709

710 Mr. Jinette - It is my understanding the applicant here tonight will be controlling that
711 land and so we will be asking the same question. But no, I shouldn't have used the word never. I
712 apologize.

713

714 Mr. Marshall - I understand it and the next question. You said you are a contract
715 purchaser. What are you intending to do with Ms. Schermerhorn's, Lois Schermerhorn's property?

716

717 Mr. Jinette - I am a home builder. One day I would like to build some houses there.

718

719 Mr. Marshall - How many lots have you...

720

721 Mr. Jinette - I have not gone that far. I have been around the block long enough to
722 know that a few lots is worth a lot more than one, and right now you can't put one house on it.

723

724 Mr. Marshall - Did the developer offer, if you were willing to share in some of the road
725 costs that he was going to incur to run to this property, did he offer, if you would agree to enter
726 into an agreement to pay a pro ratio share of that that he would consider the stub road?

727

728 Mr. Jinette - Yes. I don't consider that a reasonable offer, but he did.

729

730 Mr. Marshall - OK.

731

732 Mr. Vanarsdall - Any more questions by Commission members? I think you want to say
733 something. Can you make it short? We are out of time.

734

735 Mr. Schermerhorn - That you for letting me speak. My name is Porter Schermerhorn. I live at
736 11330 Winfrey Road and I actually happen to own that parcel even though the County tax
737 assessment has my mother, Lois Schermerhorn, on it. I have a mortgage on that land and have
738 had it for five years. That is just how they do it. Anyway, I am representing my mother, Lois G.
739 Schermerhorn and myself. I have a triangular shaped piece of land, also, towards the end of
740 where the proposed development will take Woodman Road and I just wanted to reiterate a little bit
741 of what Mr. Jinette said. He has the contract on my mother, Lois Schermerhorn's property, and
742 according to the title insurance company, he is landlocked and he cannot get access. I know the
743 County has a Comprehensive Plan and that it calls for development in my area. I also think the
744 County doesn't necessarily want to leave people high and dry as far as development is concerned
745 and unable to develop when it is only a few feet away from the next property. I feel like to
746 facilitate the Comprehensive Plan, the County could recommend access and already has done it. I
747 appreciate what the staff has already done in meeting with us and the Planning Commission for
748 deferring this. I really appreciate that. I really do. I think the County could recommend access
749 from the proposed Sweetbay Hill to my mother's land, and also to my triangular piece of land on
750 the Woodman Road right of way, which may have already been granted, but I do not know. As of
751 7:00, I couldn't quite get the answer and it appears that the Little Five Azalea Farm to the east is
752 getting a stub and it has, I would say, hundreds of feet of road frontage on Route 1, which is
753 unlimited access. All we are asking is for is to be able to have some access so that my mother can
754 sell her land. She is in a nursing home. She needs the money to be honest with you. She is 89
755 years old. Also, I believe that good planning facilitates the Comprehensive Plan and this will help
756 facilitate that. So, thank you very much.

757

758 Mr. Archer - Thank you, Mr. Schermerhorn. I need to ask Mr. Theobald a couple more
759 questions, but I also need to try to get some legal clarification, too. Let me just preface this by
760 saying to Mr. Jinette and Mr. Schermerhorn, I don't think anybody that sits on this Commission is
761 interested in deliberately trying to landlock anyone's property. We have never done that and
762 instances where we could avoid it, and we don't look favorably on having to do that. By the same
763 token, Mr. Jinette's remark and I am trying to get Mr. Theobald to address this. You used the
764 terminology, and I might not be quite correct, having to do with policy and requirement in terms of
765 what we have to do as a Commission or what the County has to do in avoiding parcels being
766 landlocked, and Mr. Secretary, if you can help out a little bit, I think you answered this initially
767 when we first started, but can you clarify that again? I think you used the word obligation, did you
768 not?

769

770 Mr. Jinette - Obligation versus right.

771

772 Mr. Archer - Where do we stand on this with regard to landlocking a person's property?
773 My understanding again is that in cases like this, if there is no pre-existing easement right, then the
774 applicant is not obligated to provide another, and I don't know if the County has any legal basis for
775 requiring they do so.

776

777 Mr. Jinette - There are two deeded accesses across the applicant's property. I brought
778 that up. I knew I was short on time. I briefly mentioned that, and I asked Leslie and Ted McGarry
779 about it. I tried to get the County Attorney on the phone and they said it was a question for him ,
780 but there is twice, if not three times, 1907, 1880 when Grandfather Schermerhorn originally
781 subdivided this land he guaranteed access across the applicant's property across Lois's property,
782 and we can provide that documentation to you. And I have a plat here showing one of them that
783 is the lesser of the two actually, where it shows 1/2 of a deeded road on the applicant's property
784 and half on the other. That is somewhat of a medium type title exception that I understand will

785 need to be cleared up. I am not sure I can speak for Jim Schermerhorn, but he may have the
786 more important document where the access was guaranteed directly across the land. I apologize.
787 We can provide that to you. In the letter that you got from Mr. McGarry beginning this evening, we
788 put in there we were supposed to fill in the deed book when it was recorded, and as you probably
789 realize this little short note that we found out this subdivision was happening, we weren't able to
790 get all the documentation into that letter before hand, but those are deeded accesses. There is a
791 deeded access that goes, that states the Schermerhorns have a right to cross the applicant's
792 property, across Lois' property, across Jim Schermerhorn's property, and he has that
793 documentation and I have seen it.

794
795 Mr. Silber - How is the access currently provided to Lois Schermerhorn's property?
796

797 Mr. JINETTE - From the other direction off of Winfrey Road, there is a 12-foot gravel
798 driveway. There is a title exception to that driveway. Half of that driveway ends up going on to
799 the applicant's property. The applicant hasn't shown that and hasn't shown how he is going to
800 yield that title. My understanding is the planners do not typically like to see people driving across
801 the back of new lots. I go and buy a lot at Sweetbay Hill and I see some guy driving across the
802 back of my lot, I am calling the County. He tells me he has a right to drive across my property.
803 That is one title concern that needs to be cleared up at some point. And I apologize. I did make a
804 strong effort to get in touch with the County Attorney and bring these to his attention, and I did
805 mention them to Leslie News and Ted McGarry and they said I would need to work that out with
806 the County Attorney.

807
808 Mr. Silber - We often enter into situations where there are access easements and title
809 situations that cross people's property to access the property, but I think in this particular case,
810 there is access to these properties from Winfrey Road, and so there is currently access there. What
811 you are raising is a good point. The title issue will have to be resolved at some point in time before
812 this plat goes to record, but I am not so sure that that has to be reason for a public road access
813 being provided to the subject properties.

814
815 Mr. JINETTE - You are not so sure or you are not sure?
816

817 Mr. Marshall - I can tell you that I am pretty sure that the title issues don't come into
818 play in what we decide on, and my fellow Commission members may remember the case we had
819 over in, I think it was Bridlewood. And those title concerns were raised and they weren't for us to
820 rule on, and ultimately went to court to be tried, and those title issues, if indeed the answer to your
821 questions is twofold. If indeed you have deeded access across that property, then you don't need
822 us to provide you with a stub road, because you have proved that you have access, and No. 2, if
823 you do have that access, then the applicant will have to address that with their development, but
824 that is a legal question and it doesn't come into play as far as the subdivision law and rules and
825 regulations. That comes into play if you choose to pursue your title issue as far as access or
826 easement through the courts. It is not for us to decide or rule on whether you have a valid deeded
827 access easement or not. That is a legal question.

828
829 Mr. Silber - Mr. Marshall, it also has come into play in a situation like this if the access,
830 the sole access to their property, was across the subject property and that was the only way of
831 getting there, then the developer could offer through the public road network access to the subject
832 property to your property, and that is not the case that we have before us. So, I really believe there
833 is no legal requirement for this developer to have to provide that stub road access. That being
834 said, that is not our recommendation. The staff is recommending that there be an access there,
835 and I may not have all of the Commissioner's convinced of that, but from a planning perspective,
836 not from a legal perspective, not that they have to provide you access, but from a planning
837 perspective it makes sense to have an interconnection of roads. I will point out that from

838 Woodman Road back to the proposed stub back by the creek is about half a mile distance. That is
839 a long distance to have no stub streets, so we believe that it is appropriate to have a stub street
840 there, but not for the reasons that they are arguing.
841
842 Mr. Archer - Mr. Silber, in looking at the plan that was handed out tonight by Mr.
843 Jinette and the proposed road C that shows up on that handout, would that be something that
844 would satisfy the Commission?
845
846 Mr. Silber - That is staff's recommendation that there be a stub road that is provided
847 as shown on that layout, Mr. Archer. Road C is what staff supports.
848
849 Mr. Jinette - Mr. Archer, if I could comment, on February 10 the applicant has a
850 rezoning case showing that very same exact road in that very same place. That is partly why we
851 put it there.
852
853 Mr. Archer - OK. I understand that, but we can't deal with that tonight. OK. Mr.
854 Theobald, I am sorry I called you up earlier.
855
856 Mr. Jernigan - I want to remind Mr. Jinette of something, you know that this is just a
857 conceptual plan. This is the preliminary. This is not a final. What is coming through tonight is the
858 first hit on it. It is conceptual. It has to go through all of the agencies before it can receive final,
859 so it is a ways out. You have time to seek the legal course on what you want.
860
861 Mr. Silber - Mr. Jernigan, I think that needs to be clarified. If this is approved with
862 one stub road to the western property line, I don't think that when the final subdivision comes up,
863 I, as the Director of Planning, have the right to require another stub road.
864
865 Mr. Jernigan - But we don't have the right to require it now.
866
867 Mr. Silber - What is before you tonight is a proposed subdivision with a staff
868 recommendation for two stub roads to the west.
869
870 Mr. Jernigan - What did you say that the legal team says?
871
872 Mr. Marshall - Legally we can't require it. They are just recommending it.
873
874 Mr. Vanarsdall - All right. Thank you.
875
876 Mr. Silber - If you are confused, I don't want you to be. I think there is a fundamental
877 difference here between what is legally required with this stub road. Mr. Theobald is correct.
878 Legally it is not required to provide access to Schermerhorn's property. They are currently
879 landlocked and there is no obligation on the developer's end to have to provide that stub road.
880 From a planning perspective, it is good planning to have interconnection of roads between
881 developments, and I recommend that there be two stub roads to the western property line.
882
883 Mr. Archer - So, Mr. Secretary, in this instance, we approve the plan as conditioned and
884 annotated. Does that give the applicant the right to pursue it further beyond what we approved
885 tonight?
886
887 Mr. Silber - Sure.
888
889 Mr. Theobald - This one doesn't go up to the Board. This one goes straight to the cooler.
890

891 Mr. Archer - Mr. Theobald, since I've got you up here, I called you earlier, have you
892 seen the plan that Mr. Jinette passed out?
893
894 Mr. Theobald - I have not and we are not here, frankly, to approve Mr. Jinette's plan.
895
896 Mr. Archer - Well, I understand, but I want you to see it. Would you look at it?
897
898 Mr. Theobald - Sure.
899
900 Mr. Archer - Does somebody have one that they can either put up or give him? OK,
901 you are an attorney, and given we understand what all of the legal ramifications are and what we
902 can do legally, and, of course, we wouldn't try to do anything illegally. We talked about what policy
903 and what is the requirement, and what is the obligation. And looking at this plan, which does not
904 differ dramatically from the one that has been submitted, can you see how this could work?
905
906 Mr. Theobald - I can see how it can work if we are successful with the rezoning case.
907
908 Mr. Archer - Well, given that plan that you have in front of you...
909
910 Mr. Theobald - I mean I wasn't being flip, but you know as well as I do that I've got to
911 get the zoning with more lots and the economics change...
912
913 Mr. Archer - I think you can afford to figure that out, Mr. Theobald.
914
915 Mr. Theobald - I can do lots of things.
916
917 Mr. Archer - What I am asking you is this, given that this Commission and staff
918 certainly does not have any desire to land lock anybody's property, and given that we have all been
919 over what the legal requirements are, what we can do and what we cannot do, and we don't want
920 to see anybody have to go to court just to get anything done, but in Mr. Jinette's remark he
921 indicated that, and the engineer has said that this could be done at no cost to anybody. I don't
922 know if you would agree to that or not.
923
924 Mr. Theobald - I certainly wouldn't agree with that. Please keep in mind that what Mr.
925 Atack offered Mr. Jinette was a stub road if he was prepared to pay his pro rata share of the JEB
926 Stuart improvements, which certainly seemed imminent fair, but as you heard, he didn't think that
927 was a reasonable request. I am not sure why it wouldn't be. I am not sure why he gets it for free
928 and we get to pay all the way out to JEB Stuart Parkway, so this is, I think we are beating
929 ourselves to death over a tentative subdivision plan for an A-1 Subdivision. If, we have given
930 access across the back. I don't know why anybody contracted to buy a landlocked piece of
931 property, but apparently they have, and we are not obligated to punch the road in to fix the
932 problem for buying a landlocked piece of property. We are prepared, if we are successful with our
933 R-2 zoning, to punch that in down there, but that is just a whole different set of economics and a
934 lot of road to build. So, what I am saying is sure, it can be done and hopefully if we are successful
935 with our request, then it will be done, but I am not in a position to offer it to you through the A-1
936 Subdivision.
937
938 Mr. Archer - OK. I guess that is what I want to hear you say.
939
940 Mr. Vanarsdall - Thank you. Any more questions for Mr. Theobald?
941

942 Mr. Silber - I was going to say if you were interested we have a condition that I
943 believe addresses the Planning Commission's interests on the property on the south side of
944 Woodman Road.
945
946 Mr. Archer - OK. If you would read it so that we can have it on the record, I would
947 appreciate it.
948
949 Mr. Silber - And this can be modified if the Planning Commission so desires. The
950 proffer reads: The parcel lying south of Woodman Road will support no more than three lots and
951 any road across or through the property must meet the design standards of the Department of
952 Public Works.
953
954 Mr. Archer - That sounds fair to me. OK. Well, I am sort of beating a dead horse to
955 death here.
956
957 Mr. Vanarsdall - All right. It is up to you, Mr. Archer.
958
959 Mr. Archer - This is not the way I envisioned starting off the year. It seems as though
960 there is enough interest in this from both sides that I don't think it is going to end here tonight, but
961 in any event, I have got to make a recommendation to this Commission to vote on. The staff is
962 very adamant in its conclusion that there should be an additional stub road to the parcel that we
963 were talking about, and, of course, the applicant has the right to pursue that further beyond what
964 we do here. My recommendation would be to revise No. 15 as was just read and then to approve
965 staff's plan with staff's recommendation subject to the standard conditions for subdivisions not
966 served by Public Utilities and the additional conditions Nos. 11 through 14 with revised 15, as Mr.
967 Secretary just read.
968
969 Mr. Marshall - Mr. Archer, before we act on this case, I want to say something. I have
970 had my share of stub road issues in the short amount of time I have been on here, and the issue to
971 me is a fundamental one of when we first had this case, there were no stub roads, and I believe by
972 law, by the Subdivision law and legally the applicant had a right to submit it that way, and to get a
973 one acre subdivision approved without any stub roads. However, the applicant chose to voluntarily
974 give a stub road to the parcel that was the furthest away from public road access. The question
975 can be asked if there were 20 different parcels along this edge of this property, would we need to
976 require that he give a stub road to everyone of them to make sure all of them had an economically
977 viable piece of property. In a perfect world, that would be great, but I don't think legally we can
978 require that, and I don't think the courts would require that and recognize that.
979
980 Mr. Silber noted that these parcels do currently have access through Winfrey Road, although it is
981 somewhat limited access, they do have access through the back to Winfrey Road that they are
982 currently using now. They are merely seeking an improved access which would allow them to have
983 a more economically viable piece of property, and I asked the question about the road sharing,
984 because I thought if their property was going to be economically viable now, because they want
985 better access and the applicant is going to be paying for that, then they should be willing to share
986 in that cost to compromise to maybe get the applicant to agree to that, but if we require, if we
987 were legally able to require Road C, we could also require one to the James Schermerhorn piece
988 and then also the piece next to it. So, I think that sometimes the applicants meet people half way
989 and sometimes they don't, but I don't think legally we can require them to go further than they
990 have to. They have gone with one stub road and I don't know that we can make them go further.
991
992 Mr. Archer - Well, my understanding, before I finish my motion, is what we vote on
993 tonight is not in essence a requirement, we are simply agreeing with what the staff's
994 recommendation is.

995
996 Mr. Marshall - It is a legal requirement, my understanding, Mr. Silber, you correct me if I
997 am wrong, but these conditions would mean that the subdivision could not go through unless these
998 conditions were met, which then the applicant chose to, they would have to be reviewed by the
999 Circuit Court in Henrico County.
1000
1001 Mr. Silber - Yes, the subdivision process is basically a three-step process. First is a
1002 conditional subdivision plan that is approved by the Planning Commission and that is what is before
1003 you. It doesn't have all of the details of final subdivision approval, but carries with it construction
1004 drawings, but this that is before you is the conceptual layout that represents the road layout. So,
1005 when they come in with their final subdivision plan, that is approved by the Director of Planning
1006 based on the approval of the Planning Commission that granted it. In this particular case, you
1007 would be granting this subdivision, if you follow our recommendation, you will be granting this
1008 subdivision with two stub roads to the west as shown on this plan, and it will be conditioned that
1009 way and we would require that in accordance with the way you approved it. So, if it is going to be
1010 challenged, Mr. Archer, it would be to Circuit Court.
1011
1012 Mr. Archer - This is what I really want to avoid, but I don't know any way that I can.
1013 Are you saying that we can't legally include Condition 14?
1014
1015 Mr. Silber - No. I am saying that...
1016
1017 Mr. Marshall - He is saying we can include it. It is not legally enforceable. It won't stand
1018 up in court.
1019
1020 Mr. Archer - I think I am understanding that. I guess my question is then why would
1021 we have to vote on a condition that we can't enforce?
1022
1023 Mr. Silber - I think maybe we may be mixing apples with oranges. The Planning office
1024 can recommend it and the Planning Commission can approve a layout that is represented in this
1025 fashion with two stub streets. You can approve that and I believe that legally will stand in court
1026 and I believe it will be defended. What Mr. Theobald is arguing is that the Schermerhorns state
1027 that they have to have public road access provided to them. They have a legal right to have that
1028 access and I don't agree with that. They don't have to have legal access provided to them. The
1029 Planning staff believes that to fulfill the future development obligation and responsibilities of the
1030 plan adjacent to this, it is good planning sense to provide these two stub streets. There is no legal
1031 requirement to do so, but it is sound planning and that is what I am basing it on.
1032
1033 Mr. Marshall - It is basically a recommendation, but legally if it is challenged...
1034
1035 Mr. Theobald - Well, it is not that though. It is basically you are saying I can't have
1036 subdivision approval unless I provide the access to my next-door neighbor and that exceeds your
1037 authority under State law and County law, so I understand that you would be imposing a condition
1038 that you cannot legally require, so if you do that then my remedy is to say you exceeded your
1039 authority and go to Circuit Court and you will not win that. That is just fundamental basic
1040 subdivision law. And I just don't believe I have ever seen a Planning Commission knowingly
1041 approve something beyond their legal authority. What a horrible thing to do.
1042
1043 Mr. Silber - Well, Mr. Theobald, I guess I would have to question that. If the Planning
1044 Commission was requiring a stub street to every single property owner along this side, I would
1045 agree with you.
1046

1047 Mr. Theobald - All you have got to do is point me to one ordinance section, Mr. Silber,
1048 that says you have the right to require me to stub a road into an adjacent property owner. Show
1049 me the Henrico Subdivision Ordinance of the State Code, because there isn't one.
1050
1051 Mr. Silber - But you are providing a stub road to an adjacent property owner.
1052
1053 Mr. Theobald - Voluntarily.
1054
1055 Mr. Silber - Voluntarily.
1056
1057 Mr. Theobald - And I will be happy to remove it if it makes you happy.
1058
1059 Mr. Silber - No. I think you are doing a fine job. You are doing so well that I think it
1060 might make sense to have that one.
1061
1062 Mr. Theobald - OK, but Mr. Archer is wrestling with the notion that what is it he is doing if
1063 he makes a motion to impose a stub road, and I want to make sure that, and you can disagree
1064 with my position, but what I am suggesting is that he is exceeding his authority under the
1065 Subdivision law to impose a requirement that I connect to anybody else's property. OK. Pure and
1066 simple. So, if you make that then all spend, my money, everybody's money paying lawyers and
1067 defending stuff and the Judge is not going to be happy with a case like this because it is just that
1068 simple. It is not a brain burner.
1069
1070 Mr. Silber - I need to say one other thing, Mr. Theobald. I don't want you to lead Mr.
1071 Archer to believe that his acceptance of this recommendation and Condition #14 is legally
1072 unacceptable. That is not true. He has the right to approve this subdivision with this stub
1073 connection, both stub connections, and that can be decided in court. Legally he has the right.
1074
1075 Mr. Theobald - No, he doesn't. Well, you know, legally I have the right to go punch
1076 somebody, too, until somebody sues me in court.
1077
1078 Mr. Marshall - Mr. Silber, one more thing. I agree with you that we legally can do this,
1079 but I also believe as Mr. Theobald said that when it gets to Circuit Court it will be struck for that
1080 condition as not being allowed under the Subdivision ordinance, because that is just what the law
1081 is.
1082
1083 Mr. Vanarsdall - OK. I think we have heard enough from both sides and we are getting
1084 into, I appreciate your input, but we are getting into like a court. So, Mr. Archer, you are in the
1085 middle of a motion and do you want to start all over?
1086
1087 Mr. Archer - I don't even remember where I started now, Mr. Vanarsdall. I can finish
1088 this. I am in a position and this really creates a quandary for me. I don't believe in having to
1089 waste anybody's time going to a court case that we can't win. At the same time, I am always
1090 adverse to going against the recommendations of staff, because we depend on them to tell us what
1091 our rights, what our legalities are. I don't know how the Judge would decide on anything in this
1092 instance, but it appears to me, from my better judgment and listening to a learned scholar over
1093 there, whom I am glad we have an attorney on staff, is that we are just whistling in the wind if we
1094 approve this with Condition #14 because it is ultimately going to be overturned and it would simply
1095 cause a lot of lost time and money. So, then I think I will make my motion, and there are some
1096 other issues that both sides of this have agreed on, and I appreciate that from the applicant and
1097 from the Planning Department. My motion would be again to approve this with the standard
1098 conditions for subdivisions not served by public utilities, the additional conditions Nos. 11, 12, 13
1099 and the revised 15 and new condition 16, and remove 14 from the conditions.

1100
1101 Mr. Marshall - Second.
1102
1103 Mr. McGarry - The new condition that is going to be created is No. 16.
1104
1105 Mr. Archer - Does everyone understand what Mr. McGarry said about No. 16? It is not
1106 15, No. 16 is a new condition.
1107
1108 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All in favor
1109 say aye. All opposed say no. The ayes have it. The motion passes.
1110
1111 The Planning Commission approved Subdivision Sweetbay Hill, subject to the standard conditions
1112 for subdivisions not served by public utilities, and the following additional conditions:
1113
1114 11. The detailed plant list and specifications for the landscaping to be provided within the 25-
1115 foot-wide planting strip easement along JEB Stuart Parkway shall be submitted to the
1116 Department of Planning for review and approval prior to recordation of the plat.
1117 12. Block A, Lots 12 and 17 shall be redesigned to meet the requirements for standard lots.
1118 13. The owner shall petition the Board to initiate the process to abandon and offer for sale the
1119 unneeded portion of Woodman Road abutting this development prior to final approval.
1120 14. Access shall be provided by Woodman Road and Grenville Road. Developer will build ½
1121 Woodman Road and ½ Grenville Road plus a 12-foot lane in the opposite direction. A
1122 financial contribution will be escrowed for the remainder of JEB Stuart Parkway, the
1123 amount of which will be approved by the Director of Public Works. There may be no
1124 connection to Pruett Court in Magnolia Ridge.
1125 15. The parcel lying south of Woodman Road will support no more than three lots and any
1126 road across or through the property must meet the design standards of the Department of
1127 Public Works.
1128
1129 ***Deferred from the December 9, 2004 Meeting:***
1130 **C-36C-04 The Episcopal Diocese of Virginia:** Request to conditionally rezone
1131 from O-3C Office District (Conditional) and B-2C Business District (Conditional) to R-0C One Family
1132 Residence District (Conditional), Parcel 737-750-7485 and part of Parcel 737-751-4601, containing
1133 7.577 acres, located at the northwest intersection of Ridgefield Green Drive and Ridgefield
1134 Parkway. A church is proposed. The use will be controlled by zoning ordinance regulations and
1135 proffered conditions. The Land Use Plan recommends Urban Residential, 3.4 to 6.8 units net
1136 density per acre, and Office.
1137
1138 Mr. Vanarsdall - Is anyone in the audience in opposition to this case, in the Tuckahoe
1139 District, C-36C-04? No opposition. Good evening, Mr. Coleman.
1140
1141 Mr. Coleman - Mr. Chairman, members of the Commission, this request would rezone 7.5
1142 acres from O-3C to R-0C to construct a church. Although the property is designated Urban
1143 Residential (UR) and Office (OF) on the 2010 Land Use Plan, its development as a church was an
1144 important consideration during the review and approval of case C-25C-03. That case, approved by
1145 the Board in May 2004, permits a future retail pharmacy at the northeast corner of Ridgefield and
1146 John Rolfe Parkways.
1147
1148 With its close proximity to residential neighborhoods and frontage along three public rights-of-way,
1149 future development on this site will be highly visible. And due to its shape and existing steep
1150 slopes, the site also poses design challenges.
1151

1152 The applicant held a community meeting on November 30, 2004, and issues raised at that meeting
1153 included the need for a substantial buffer along Ridgefield Green Drive, prohibiting construction
1154 traffic on Ridgefield Green Drive, and concerns about outdoor activities. The proffers address these
1155 matters and include several other positive elements, including:

- 1156
- 1157 ♦ A site plan;
- 1158 ♦ Prohibiting access to Ridgefield Green Drive;
- 1159 ♦ A 35' Transitional Buffer along Ridgefield Green Drive;
- 1160 ♦ 25' Transitional Buffers along Ridgefield and John Rolfe Parkways;
- 1161 ♦ Limiting use of the property to a church and church-related activities;
- 1162 ♦ Limits on construction, maintenance, and outdoor activities;
- 1163 ♦ Elevations;
- 1164 ♦ Quality building materials; and
- 1165 ♦ Other items.
- 1166

1167 Accepting these proffers will require waiving the time limit.

1168

1169 The church could be a compatible land use if it exhibits high quality site and building design
1170 including supplemental landscaping and buffering and attractive architectural features. Staff
1171 believes the applicant has accomplished this, and recommends approval of this request.

1172

1173 That concludes my presentation. I would be happy to answer any questions.

1174

1175 Mr. Vanarsdall - Any questions for Mr. Coleman? There is no opposition, Mrs. Ware. Do
1176 you want to hear from the applicant?

1177

1178 Mrs. Ware - Unless the applicant would like to address everyone, I am fine to go ahead
1179 and make a motion. Well, first I would like to say St. Claire's is going to be a wonderful addition to
1180 this neighborhood as well as the district. The Episcopal Diocese has been wonderful to work with.
1181 Thank you so very much, and Mr. Homiller you have done a wonderful job as well and I have
1182 enjoyed working with you. And staff, you all have done a great job as always.

1183

1184 First, I would like to make a motion to waive the time limits.

1185

1186 Mr. Marshall - Second.

1187

1188 Mr. Vanarsdall - Motion made by Mrs. Ware and seconded by Mr. Marshall. All in favor say
1189 aye. All opposed say no. The ayes have it. The time limit is waived.

1190

1191 Mrs. Ware - And I would like to make a motion to recommend approval to the Board of
1192 Supervisors of Case C-36C-04, Episcopal Diocese of Virginia.

1193

1194 Mr. Marshall - Second.

1195

1196 Mr. Vanarsdall - Motion made by Mrs. Ware and seconded by Mr. Marshall. All in favor say
1197 aye. All opposed say no. The ayes have it. The motion is passed.

1198

1199 **REASON:** Acting on a motion by Mrs. Ware, seconded by Mr. Marshall, the Planning Commission
1200 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
1201 the church use is reasonable and will provide an appropriate transition between the adjacent
1202 residential and commercial developments. In addition, the proffered conditions should minimize
1203 the potential impacts on the surrounding area.

1204

1205 **Deferred from the December 9, 2004 Meeting:**
1206 **C-47C-04** **Garry Gallagher:** Request to conditionally rezone from O-2C Office
1207 District (Conditional) to B-2C Business District (Conditional), Parcel 834-714-1831, containing 2.307
1208 acres, located at the eastern corner of the intersection of Williamsburg Road (U.S. Route 60) and
1209 Whiteside Road. The applicant proposes a retail use. The use will be controlled by zoning
1210 ordinance regulations and proffered conditions. The Land Use Plan recommends Office. The site is
1211 in the Airport Safety Overlay District.
1212
1213 Mr. Vanarsdall - Is anyone in the audience in opposition to this case? This is Case C-47C-
1214 04, in the Varina District. Opposition. You mean you are not sure you are in opposition or not?
1215
1216 Mr. Jernigan - We will give you a chance to come up and speak, so we will just take it as
1217 you have opposition and give you a chance to come up and see what you want to do. OK?
1218
1219 Mr. Vanarsdall - Go ahead, Mr. Coleman.
1220
1221 Mr. Coleman - Mister Chairman, Members of the Commission, the applicant is requesting
1222 to rezone 2.3 acres from O-2C to B-2C. The office zoning was approved in 2001 and POD-71-01
1223 for a 15,000 sq. ft. medical office building was subsequently approved but never built. Both the
1224 2010 Land Use Plan and the Williamsburg Road/Technology Boulevard Corridor Study recommend
1225 an office use.
1226
1227 However, the adjacent 8.5 acres to the east was rezoned to B-2C in August 2004 for a shopping
1228 center to be anchored by a Food Lion. This request could be appropriate if development of the site
1229 is coordinated with the shopping center and provides a level of quality that meets or exceeds the
1230 shopping center.
1231
1232 The Traffic Engineer indicated that coordinating access between the two properties would decrease
1233 the amount of traffic that would otherwise be expected.
1234
1235 The applicant submitted proffers dated January 11, 2005, which require waiving the time limit. The
1236 proffers address concerns stated in the staff report, and include several positive elements including:
1237
1238 • A site plan showing necessary connectivity with the site to the east;
1239 • Transitional buffers with supplemental landscaping on all sides;
1240 • A substantial list of prohibited uses;
1241 • A monument style sign;
1242 • An elevation;
1243 • Quality building materials; and
1244 • Other items.
1245 This retail center could provide an acceptable alternative to the land use plan designation if it
1246 exhibits quality site and building design and attractive architectural features. Staff believes the
1247 applicant has accomplished this, and recommends approval of this request.
1248
1249 That concludes my presentation. I would be happy to answer any questions.
1250
1251 Mr. Vanarsdall - Are there any questions for Mr. Coleman? All right. Do you want to hear
1252 from the applicant?
1253
1254 Mr. Jernigan - Yes, please.
1255
1256 Mr. Vanarsdall - All right.
1257

1258 Mr. Gallagher - Good evening, members of the Board. Gary Gallagher, the applicant in
1259 this case. We have worked with Mr. Jernigan and staff extensively to try to address their concerns
1260 over the past couple of months of how to coordinate and make this a quality addition to the
1261 rezoning next door, and how to make it coordinate with that shopping center activity. I believe we
1262 have demonstrated that we are going to use top quality design elements. We culled out all of the
1263 undesirable uses and we believe this is a case that could and should be approved here this evening
1264 and we respectfully request that. I am willing to answer any questions that you might have.
1265
1266 Mr. Vanarsdall - Any questions for Mr. Gallagher from Commission members?
1267
1268 Mr. Jernigan - No, I think we have kind of worked this out. What I would like to do is
1269 hear from the opposition and just stay close by so we can address any of his questions.
1270
1271 Mr. Ron Weekly - I am Ron Weekly. I am the only residential owner that actually lives
1272 adjacent to this and the only questions I have are the conditions that were originally set by staff,
1273 are you going to need those? In other words, is the back of your building going to be block or
1274 brick.
1275
1276 Mr. Gallagher - I didn't go through in detail what each proffer says, but staff had asked
1277 that we do four-sided architecture on these buildings, and we have agreed to do that. We have
1278 agreed to 60% brick with accent materials of block and EIFS and typical commercial construction
1279 materials. The elevation demonstrates that we intend to build a building of the highest quality, we
1280 believe significantly higher quality than the shopping center next door. The site plan demonstrates
1281 a feeling of two distinct buildings. We show a financial institution and a smaller retail building. We
1282 believe one of the selling points was this is going to look more office somewhat instead of the
1283 original office zoning, and again presenting a nice comfortable feel as you drive down Williamsburg
1284 Road. It is not a typical strip-mall development. It is going to appear a little more like a boutique,
1285 if you will.
1286
1287 Mr. Weekly - It will be better than a McDonald's anyway.
1288
1289 Mr. Gallagher - We have worked extensively to work with the recommendations of Mr.
1290 Jernigan and staff just to make it fit in with the neighborhood and be a good neighbor for you.
1291
1292 Mr. Weekly - The other thing that the staff identified was ingress/egress route. Are you
1293 only going to...
1294
1295 Mr. Gallagher - We show one access point on Whiteside Road as far back on the property
1296 as we can, because of the traffic concerns being too close to Route 60, and we do show cross
1297 connections, potential for cross connections to the shops and that will have to be worked out
1298 legally between the two entities, but we are very willing to entertain that cross access and we will
1299 work to make that happen.
1300
1301 Mr. Jernigan - Mr. Weekly, I wanted that, too, because Route 60 is a limited access
1302 highway.
1303
1304 Mr. Weekly - Right. I understand. I read the staff report on that and they couldn't add
1305 another route into there. They'd either have to come off of Whiteside on their end and on the other
1306 end it is Drybridge.
1307
1308 Mr. Jernigan - So that is the reason we wanted the interconnectivity between these sites.
1309

1310 Mr. Weekly - My understanding from Robert Gooch, the original owner of this land and
1311 sold both of these parcels is that Food Lion has withdrawn from that piece of development. Does
1312 that affect any of this?
1313

1314 Mr. Jernigan - That I have not heard, but their attorney is here.
1315

1316 Mr. Weekly - I just heard that from Robert Gooch, not from anybody representing... I
1317 was talking to Mr. Gooch about some other things.
1318

1319 Mr. Gallagher - I have no knowledge of what is going on next door and I don't believe it
1320 affects the outcome of this rezoning hearing. The property will be available to Food Lion should
1321 they want it or to any other grocer or retail developer that wants to go in there, but I have not
1322 been made aware of that.
1323

1324 Mr. Jernigan - Mr. Weekly, let me pass this by you. When I zoned that property O a
1325 couple of years ago, there was a lot of dissention in the neighborhood because the building was so
1326 huge. It was 15,000 sq. ft. dental office, and I did have some people that they were OK with it
1327 being office, but they thought that the building was kind of large. So, Dr. Stanovich, the dentist,
1328 has that property, and since that time he and his partner have broken up and there definitely won't
1329 be a dental office there. With the East End growing a little bit, and with the Food Lion project next
1330 door, I figure maybe we could get jump started down through Route 60 to put something in there
1331 that the residents that are local would be able to use. The small B-1 businesses that would be in
1332 here may be something, it may be a Subway, it may be something along that line that you all could
1333 use rather than just having it as office. At this point right now, we have office space in the Varina
1334 District, which has not been rented. There are a lot of offices sitting vacant right now, so I am
1335 trying to kind of maybe help along this Route 60 corridor and have a little bit of retail out there, but
1336 make sure it is done in a good fashion.
1337

1338 Ms. Gabriel - I am Ron's fiancé and we bought the property. My name is Kelly
1339 Gabriel. Will there be, our property is going to up behind it. We are putting a pool in the backyard
1340 and I love the trees and the privacy. Will there be still a buffer between us?
1341

1342 Mr. Weekly - There is a 25-foot buffer that the County requires. Is that like 25 feet of
1343 open land? With trees? Because it is an interesting thing about the way the property lines go,
1344 because this was all one family, the Gooch family originally. There land is cleared and where
1345 property lines are often has nothing to do with each other. The 25-feet of clear land beyond our
1346 property, 25 foot of land behind our property is cleared. It is not trees. It would not be much of a
1347 buffer.
1348

1349 Mrs. Ware - (Unintelligible)
1350

1351 Mr. Jernigan - Bear something in mind, too. This is a zoning case. This is just to show
1352 what we can do with the land. They have proffered the materials and all that they will use, but this
1353 comes back for the plan of development, also, where we have to take and approve the buildings
1354 and the landscaping and lighting that goes with it. It comes back for a second...
1355

1356 Mr. Weekly - Right. And I was reading the original plans and your staff originally
1357 recommended that the building be all brick. I was kind of hoping it would stay that way, but we
1358 can't stop progress.
1359

1360 Mr. Jernigan - Well, it is not going to be plain block. It may be split block.
1361

1362 Mr. Weekly - Right. OK. That was a little down from the original recommendation. The
1363 area, I know that you would like to grow it. When I moved to the area, the Metropolitan area in
1364 1967 it was going to be the next big area of development, and you notice that didn't happen.
1365 Sandston and Seven Pines are almost the way it was when I moved here, and that is kind of
1366 interesting, and a lot of development now is happening a ways from there. Right there are 64 and
1367 295.
1368
1369 Mr. Jernigan - I can count the new buildings on my hand.
1370
1371 Mr. Weekly - It is definitely surprising.
1372
1373 Mr. Jernigan - OK, well, are you OK with this project now?
1374
1375 Mr. Weekly - Yes. I have no problem with that.
1376
1377 Mr. Vanarsdall - Anything else, Gary?
1378
1379 Mr. Gallagher - Mr. Jernigan, I am sure that any concerns that the neighbor might have
1380 we can address as part of the POD as well. If we need a little extra buffering, the length of
1381 property exposed to him is limited. If a fence is required, we can work something out here.
1382
1383 Mr. Jernigan - Get with him and get his name, and you all make contact between now
1384 and then.
1385
1386 Mr. Silber - Mr. Gallagher, that may be something we need to work on between now
1387 and the Board meeting, because 20 feet is not a great amount. It is a small area that is adjacent
1388 to their property that might be able to be improved.
1389
1390 Mr. Gallagher - I always want to work with being a good neighbor, so it is a small
1391 increment to make that happen.
1392
1393 Mr. Silber - Mr. Jernigan, you had indicated earlier that that could be reduced with a
1394 fence. That can't be reduced. If it is proffered at 20 feet, it will have to be 20 feet. It says it will
1395 be planted equivalent to a landscape buffer. Planted to a certain type of plant material, but that
1396 would have to be a 20 foot minimum width.
1397
1398 Mr. Jernigan - OK, what I was thinking before, when you have a transitional buffer
1399 deviation, if you put up a fence and you can diminish it by 50%.
1400
1401 Mr. Gallagher - We worked with staff to make it a landscape buffer as opposed to a
1402 transitional buffer, so we can't alter it. We agree now to what we are going to do.
1403
1404 Mr. Jernigan - You would be willing to put up a fence if they liked that?
1405
1406 Mr. Gallagher - Absolutely.
1407
1408 Mr. Weekly - The best thing that we could do is actually give me your card and get
1409 together, because you can discuss this here, but when it is a picture there, it doesn't quite come
1410 across the same way it would if you were standing there.
1411
1412 Mr. Jernigan - Oh, they are going to have to give us elevations.
1413

1414 Mr. Gallagher - You really have to see it to understand, but we can get together and
1415 discuss it.
1416
1417 Mr. Jernigan - You have, have you seen the staff report?
1418
1419 Mr. Weekly - I have seen the land and he has some problems as well.
1420
1421 Mr. Vanarsdall - One of the staff members can show you the staff report. Thank you. If
1422 there are no more questions, then I need a motion, Mr. Jernigan.
1423
1424 Mr. Jernigan - With that, I will make a motion to approve zoning case C-47C-04, Gary
1425 Gallagher.
1426
1427 Mr. Archer - Second.
1428
1429 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mr. Archer. All in favor say
1430 aye. All opposed say no. The ayes have it. The motion is passed.
1431
1432 Mr. Jernigan - We have to waive the time limits, too. I make a motion to waive the time
1433 limits.
1434
1435 Mrs. Ware - Second.
1436
1437 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mrs. Ware. All in favor say
1438 aye. All opposed say no. The motion passes.
1439
1440 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr. Archer, the Planning Commission
1441 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
1442 the commercial use continues a form of zoning consistent with the area and would assist in
1443 achieving a more cohesive and appropriate development with the adjoining business zoned
1444 property.
1445
1446 ***Deferred from the December 9, 2004 Meeting:***
1447 **C-66C-04 Todd Borden for FON-SAW LLC:** Request to conditionally rezone from
1448 A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcel 820-686-4881
1449 and part of Parcel 821-687-2291, containing approximately 12.73 acres, located at the eastern
1450 terminus of Goldeneye Lane. The applicant proposes a density of no more than two (2) units per
1451 acre. The R-2A District allows a minimum lot size of 13,500 square feet. The Land Use Plan
1452 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre and Environmental
1453 Protection Area. The site is in the Airport Safety Overlay District.
1454
1455 Mr. Vanarsdall - Is there anyone in the audience in opposition to this case, C-66C-04 in the
1456 Varina District? No opposition. Mr. Coleman.
1457
1458 Mr. Coleman - Thank you, Mister Chair, Members of the Commission.
1459
1460 The subject property is located adjacent to Four Mile Run subdivision and will tie into Four Mile Run
1461 to the west through Goldeneye Lane and into a future section to the north. The first rezoning
1462 application for Four Mile Run was approved in 1993 for up to 260 dwellings. A second application
1463 was approved in 1997 for up to 172 units. Approval of this request would permit up to an additional
1464 25 units.
1465
1466 The proffers submitted with this case are similar to proffers approved for Four Mile Run, and

- 1467 include:
- 1468 • All dwelling units will have at least 1,600 square feet of finished floor, and
 - 1469 • 70% of the units will have at least 2,000 square feet, 2.0 units/acre;
 - 1470 • At least 35% of the homes will have brick fronts;
 - 1471 • A 225' wide Dominion Virginia Power easement traverses the property, and a 35' buffer will
 - 1472 be provided on lots contiguous to this power line easement;
 - 1473 • Sidewalks will be installed connecting the subject property to Four Mile Run;
 - 1474 • At least two trees will be installed or retained on each lot;
 - 1475 • Floodplain will be rezoned to C-1; and
 - 1476 • A \$12,000 cash proffer has been offered.

1477
 1478 Additional proffers address building materials, brick foundations, cantilevers, curbs and gutters,
 1479 underground utilities, restrictive covenants, garages, an Architectural Review Committee, and other
 1480 items.

1481
 1482 In summary, the proposed single-family use is an appropriate for this area and would be a logical
 1483 extension of Four Mile Run. The use and density are consistent with the SR 1 designation, and the
 1484 applicant has offered assurances of quality development. Staff can recommend approval of this
 1485 request.

1486
 1487 This concludes my presentation. Although, I will add that today, the representative for the
 1488 applicant indicated her intention to increase the min. house size to 1,800 sq. ft.

1489
 1490 With that, I would be happy to answer any questions.

1491
 1492 Mr. Vanarsdall - Any questions for Mr. Coleman by Commission members?

1493
 1494 Mr. Jernigan - That was the only change, Mr. Chairman. That was the only change that
 1495 we had on this. This is basically a housekeeping case. The proffers and everything were consistent
 1496 with the subdivision that was already there.

1497
 1498 Mr. Vanarsdall - Do you want to hear from the applicant?

1499
 1500 Mr. Jernigan - No.

1501
 1502 Mr. Vanarsdall - No opposition.

1503
 1504 Mr. Jernigan - But I did have them increase the square footage from 1600 to 1800 and
 1505 70% of the homes still remain to be 2000 sq. ft.

1506
 1507 Mr. Vanarsdall - OK. I will entertain a motion.

1508
 1509 Mr. Jernigan - With that I will make a motion to approve Zoning Case C-66C-04, Todd
 1510 Borden for FON-SAW LLC, Four Mile Run Subdivision.

1511
 1512 Mr. Marshall - Second.

1513
 1514 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mr. Marshall. All in favor
 1515 say aye. All opposed say no. The ayes have it. The motion passes.

1516
 1517 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr. Marshall, the Planning Commission
 1518 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because

1519 it represents a logical continuation of the one-family residential development that exists in the area
1520 and it conforms to the recommendations of the Land Use Plan.

1521

1522 **C-1C-05 David Redmond for Mid-Atlantic Commercial Properties, LLC:**
1523 Request to conditionally rezone from B-1 and B-3 Business Districts and O-2 Office District to B-2C
1524 Business District (Conditional), Parcels 816-714-4637 and 816-714-5217, containing 2.11 acres,
1525 located on the east line of S. Laburnum Avenue approximately 300 feet north of Williamsburg Road
1526 (U. S. Route 60) and the north line of Williamsburg Road (U. S. Route 60), approximately 170 feet
1527 east of S. Laburnum Avenue. A 24-hour retail drug store is proposed. The use will be controlled by
1528 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends
1529 Commercial Arterial, Commercial Concentration and Suburban Residential 2, 2.4 to 3.4 units net
1530 density per acre. The site is in the Airport Safety Overlay District.

1531

1532 Mr. Vanarsdall - Is anyone in the audience in opposition to this case? No opposition. Mr.
1533 Tyson.

1534

1535 Mr. Lee Tyson - Mr. Chairman, Mr. Kaechele, members of the Commission, Mr. Secretary,
1536 good evening. This is a request to rezone approximately 2.11 acres located 300 feet north of the
1537 intersection of Laburnum Avenue and Williamsburg Road from B-1, Business, B-3, Business, and O-
1538 2, Office District to B-2C, Business District, Conditional. The applicant proposes a retail drug store.
1539 The applicant has also submitted a Provisional Use Permit (P-1-05) to permit 24-hour operation of
1540 the business, however, that has been deferred.

1541

1542 The Land Use Plan recommends Commercial Arterial, Commercial Concentration, and S-R 2,
1543 Suburban Residential use for this parcel. The proposed project is consistent with the Commercial
1544 designations contained in the 2010 Land Use Plan. The parcel is in the Airport Safety Overlay
1545 District in that horizontal zone.

1546

1547 The applicant has proffered these elevations for the proposed building. The elevations specify
1548 building materials such as brick veneer, split face block, pre-finished aluminum, and limestone
1549 accents. These materials exhibit a willingness to construct the building out of quality materials that
1550 will be a positive contribution to the area.

1551

1552 The staff is concerned that the proposed drive-thru serving the business is located on the east
1553 elevation of the building, which puts it in close proximity to the Virginia Heights neighborhood. In
1554 an effort to mitigate potential impacts to this neighborhood, the applicant has proffered that an 8'
1555 masonry wall will be installed along the property line, shared with the residential units to the east,
1556 and Japanese evergreens will also be installed to provide an additional buffer along this property
1557 line.

1558

1559 The applicant is also proposing to install a 20' free-standing sign with a changeable message board
1560 to identify the property. The B-2, Business zoning district regulations permit a free-standing sign
1561 not exceeding 30' in height.

1562

1563 Staff is concerned that the sign may add to the visual clutter in the area and may be screened from
1564 view when the street trees as required by the landscaping ordinance are installed. There are a
1565 number of signs in the immediate vicinity that are in various states of repair and of various heights
1566 and designs. Staff believes that a 20' sign at this location will add to the chaotic situation that
1567 presently exists.

1568

1569 The applicant has submitted a proffer statement with the application materials. In addition to the
1570 proffered elevations already seen, the applicant is also proffering:

- 1571 • A landscaped area 10' in width along the Laburnum Avenue frontage consisting of trees
1572 and shrubs, such landscape strip to be reviewed and approved at the time of POD
1573 approval.
- 1574 • Prohibition of uses, including but not limited to:
- 1575 ○ Adult businesses;
- 1576 ○ Private club, meeting hall, or fraternal organization;
- 1577 ○ Recycling and collection facilities;
- 1578 ○ Bars;
- 1579 ○ Check cashing and payday loan establishments;
- 1580 • Parking lot lighting to be from concealed sources and not exceeding 20' in height, and
1581 under canopy lighting that will not shine directly onto adjacent properties;
- 1582 • Screening of HVAC systems;
- 1583 • An intercom system that is typically used with a bank or pharmacy, and which should not
1584 be audible beyond the property line.
- 1585 • A dumpster enclosure that will be constructed of brick and with a wood fence.
- 1586 • Lighting that will not shine directly onto adjacent properties.

1587 The applicant will demolish two currently vacant buildings, and will revitalize a portion of the
1588 Laburnum corridor. Staff encourages the development of properties along the Laburnum Avenue
1589 corridor, provided that they are done in a manner that enhances the area. Staff believes that the
1590 applicant has made a good effort at addressing many of its initial concerns; however, staff is
1591 concerned that the proximity of the drive-thru could have a negative impact on the adjacent
1592 residential properties, that the signage is excessive for the site, and that the 24-hour operation for
1593 the use is unreasonable given the property's close proximity to the Virginia Heights neighborhood.
1594 If these issues could be addressed, staff could be more supportive of the application. Staff
1595 recommends that if extended hours of operation are determined to be appropriate for this location,
1596 that the hours of operation for the drive through do not extend between the hours of 1:00 a.m.
1597 and 6:00 a.m.

1598
1599 This concludes my presentation, I would be happy to try to answer any questions you may have.

1600
1601 Mr. Jernigan - Lee, did you have a chance to look up the BB&T proffers and see what I
1602 held the signage to there.

1603
1604 Mr. Tyson - I didn't look at the proffers. I did ride out up the corridor and I didn't get
1605 a picture of the BB&T. I don't think it probably exceeds 6 to 7 feet.

1606
1607 Mr. Jernigan - I think it is 8 feet.

1608
1609 Mr. Tyson - Again, our concern with the signage is that in this corridor there are signs
1610 of varying height up and down. This one, for instance, is completely vacant at the present time.
1611 There isn't any consistent signage in the area. A 25 foot sign in the area would just contribute to
1612 the clutter that is already there.

1613
1614 Mr. Jernigan - Clear me up on one thing. On the architecturals, the right portion where
1615 the Walgreen's name is, what material is that?

1616
1617 Mr. Tyson - I believe it shows up as pre-finished aluminum and then limestone.

1618
1619 Mr. Jernigan - Because I know when this case originally came around the Walgreen's on
1620 Nuckols Road had just been built and I was told that this would be the same building architecture,
1621 but the size is a little different, so I will let the applicant answer. This may be the 2005 version.
1622 OK. So, other than the signage and the provisional use permit for the 24 hours which is in limbo at
1623 this time.

1624
1625 Mr. Tyson - Staff originally expressed some concern with the location of the drive-thru
1626 isle. I can pull the site plan up. The drive-thru isle and service window is located here on the east
1627 side of the property, which is directly abutting this residential neighborhood. They have proffered
1628 an 8-ft. wall and Japanese evergreens to extend along in this landscape area. I will leave it to the
1629 Commission to decide whether that mitigates staff's concern with the location.
1630
1631 Mr. Jernigan - When we met with the residents earlier, they were OK with this concept in
1632 itself. They were just not for, did anybody say after I left anything about the position of the...
1633
1634 Mr. Tyson - No, generally at the meeting, and I don't mean to speak for the
1635 neighborhood, but at the meeting I attend there wasn't opposition to the use. The opposition was
1636 to the hours of operation.
1637
1638 Mr. Jernigan - I think they all left. They have all left. They were all sitting right there,
1639 but after the PUP was deferred they left. After I left the meeting, there was no discussion of the
1640 drive-thru window?
1641
1642 Mr. Tyson - No, not on the location.
1643
1644 Mr. Jernigan - Thank you. That is all I had.
1645
1646 Mr. Vanarsdall - Any more questions for Mr. Tyson? You didn't have any opposition, did
1647 you?
1648
1649 Mr. Jernigan - No, not that I saw. I do want to hear from Mr. Redmond.
1650
1651 Mr. Redmond - Mr. Chairman, members of the Commission, my name is David Redmond
1652 and I am the attorney for Mid-Atlantic Commercial Properties, the developer on the site. It sounds
1653 as though we have two issues. I think the drive-thru we have mitigated any potential influence
1654 through the neighborhood with an 8-foot concrete wall, plus plantings of Japanese cedars staff had
1655 recommended. I understand those are dense, tall plants, so that will be in a transitional buffer.
1656 Again, as Mr. Jernigan pointed out, when we met with the neighbors, and in fact the one person
1657 that is directly behind, one of the two people that actually abuts this site has no problem with our
1658 plan. Mr. Jernigan and I spoke through his daughter to him as well, so I don't think there is an
1659 issue with the drive-thru as far as the community is concerned, and, frankly, the drive-thru location
1660 is dictated by the Walgreen's prototype. They need it in that particular location. We can talk about
1661 other forms of mitigation on it, but I think that is what we attempted to do and I trust we have
1662 done it. The other types of concern, like lighting and all, I think have been well handled at this
1663 point. The only issue I think that is remaining, at least from my perspective is signage. From what
1664 I hear there is a hodge-podge out there. There is no question about that is in the immediate
1665 vicinity of this, other than the BB&T, are signs, based on our limited ability to judge, in the range of
1666 18 to 22 feet the sign which is being proffered is a standard Walgreen's sign and it has a reader
1667 board, not unlike the CVS which is almost catty-cornered with this site. It is consistent with the
1668 Wachovia sign, the Exxon sign, the Laburnum Square sign, the Captain D's sign, and then it has a
1669 very high sign at Hardee's, which is obviously obtrusive. So, from a competitive standpoint, I think
1670 we would like to have the signage that is otherwise authorized. The Code allows 30-foot signs and
1671 we would reduce that by 10 feet to 20, and I think you will find that because of the nature of the
1672 traffic patterns and the way the intersections meet, a sign of that nature is going to be far more
1673 visible and acceptable to the traffic than just a low rise sign that is attempting to identify the site.
1674 So, our view is that it is reasonable under the circumstances to have a sign of that nature. I
1675 acknowledge the fact that further north, on Laburnum, the Bank of America and the doctor's offices
1676 and all, they do have lighted signs at those locations. I acknowledge that. But again, we are at the

1677 intersection with the other ones and the BP gas station has them. They all have them up there,
1678 and we think to be seen we have got to be at the same elevation of the others in the vicinity. And
1679 I guess in some respects, beauty is in the eye of the beholder.

1680
1681 Mr. Jernigan - Well, Dave, the sign is on the side of the building, too.

1682
1683 Mr. Redmond - Oh, I wasn't concerned. Staff didn't say anything about that sign as an
1684 issue. You are saying that physically Walgreen's has a statement on the building.

1685
1686 Mr. Jernigan - On the side of the building. I will tell you my position on signs. I did the
1687 same thing with BB&T and that is more than a 20-foot sign, too, but these signs need to come
1688 down. We don't need them stuck way up in the air, and I am going to limit that sign to 10 feet.
1689 Now, that is pushing it. I actually think the monumental signs that are up in the granite, coming up
1690 four or five feet, look better and people know where you are because they can't miss the building.
1691 Walgreen's is on the side of the building. Once people are in there and know where it is at, they
1692 automatically turn right in there anyway. We are looking to get these sign reductions all up and
1693 down. Any zoning case that comes through is going to have a sign reduction on it.

1694
1695 Mr. Redmond - We have a gentlemen who represented Walgreen's here and also the
1696 developers are here. If they have some comment on the 10-foot sign, I would welcome anybody.

1697
1698 Mr. Jernigan - Yes, anybody that wants to come up, come on up. Let's clear this up.

1699
1700 Mr. Redmond - This is George Morgan, who is President of Mid-Atlantic.

1701
1702 Mr. Morgan - I am George Morgan with Mid-Atlantic Commercial Properties. I think one
1703 of the things to keep in mind here is that this store is off the corner. We are doing what is
1704 commonly referred to as a wrap here, and in other words, we are wrapping a corner. We are not
1705 hard on the corner. The Captain D's is on the corner, so the visibility for people from Williamsburg
1706 Road is somewhat limited, as opposed to being hard on the corner, such as CVS which sits across
1707 the street. We did agree to, because you are allowed a second sign on the other road frontage, to
1708 keep that at a monument level height, so we are sensitive to that issue if we were hard on the
1709 corner, but we are off the corner here and that is why we were going for something. We reduced
1710 it by a third to come down to 20 feet, so is not that we are insensitive to that. The Hardee's sign
1711 that is next to us is 30 feet in the air, so, again, we are not trying to be difficult. We are just trying
1712 to remain competitive with the other party, and that gets to the issue of 24 hours, which we are
1713 still addressing with the neighborhood and the staff and those things we have to think about. The
1714 one other issue that came up is the location of the drive-thru and the alternative is to put the
1715 loading area to that side. We thought that would be more objectionable to have your loading area
1716 to the rear of that store as opposed to having it on the loading area to the rear of that store, as
1717 opposed to having it on the east side, so, again, those issues were talked about with the
1718 neighborhood association and there was absolutely no discomfort or discussion negative to what
1719 we had planned there. Again, because of the wall, which they were concerned about from a
1720 security standpoint, as well as for buffering, just the commercial activity that will happen in any
1721 development that is there. I think currently there is about a 6-foot wall on a portion of the
1722 property. We are talking about an 8-foot wall the whole length of the residential property. So, we
1723 just ask you forbearance in the idea of the sign, and I understand the idea of trying to reduce
1724 signs. No one wants to be the first guy to have to do that.

1725
1726 Mr. Jernigan - I know, and those other signs around there are taller, but I didn't approve
1727 those. They came through before me.

1728
1729 Mr. Redmond - Is there something in-between that we could agree with?

1730
1731 Mr. Jernigan - I was going to go 8 feet, but really, I am serious. Mr. Donati and I have
1732 discussed this and there have been talks about signs and zoning regulations have been around for
1733 years, and times changes. These times are changing. We don't want those big, tall signs out there.
1734 You are going to have a nice looking store, a tall store. Your name is on the side of the building. I
1735 don't feel that you have to have a massive sign, so we will have to cut that to 10 feet, it that is
1736 acceptable to you. It is going to have to be. This will be part of the case.
1737
1738 Mr. Redmond - And as I said, we did defer the 24-hour situation for 60 days, so we can
1739 meet with the homeowners and get further with that.
1740
1741 Mr. Jernigan - The second question I had was, and I think Randall told me at the time
1742 that the Walgreen's you just built on Nuckols Road.
1743
1744 Mr. Redmond - We built the one on Brook Road and Virginia Center Parkway, brand new,
1745 right up near the Virginia Center Shopping Mall.
1746
1747 Mr. Jernigan - I was thinking you put one on Nuckols.
1748
1749 Mr. Redmond - We didn't. There was one.
1750
1751 Mr. Jernigan - Excuse me. Walgreen's is on Nuckols. I was told that it would be of that
1752 design. Now this looks different than the one on Nuckols. The one on Nuckols, I believe, is all
1753 brick.
1754
1755 Mr. Redmond - Right. This is a combination of brick and stucco finishes.
1756
1757 Mr. Jernigan - Is that EIFS there? Is that stucco?
1758
1759 Mr. Redmond - Well, EIFS is the decorative bands, but the wall itself is block and stucco.
1760 In other words, if you do like a cornice, that is what we refer to as the EIFS part.
1761
1762 Mr. Jernigan - All right, you said limestone.
1763
1764 Mr. Redmond - That is referring to the fact that that part, call it stucco, call it plaster, call
1765 it whatever, I am just saying that EIFS refers to the trim.
1766
1767 Mr. Jernigan - Yes, but I want to know is that like, it is an EIFS finish with Styrofoam.
1768
1769 Mr. Redmond - No. It is not Styrofoam. EIFS is only like you do a cornice. It is mold at
1770 the type. That is where you see the Styrofoam and they put the fiberglass material on top of it and
1771 then they stucco over it. This is not that.
1772
1773 Mrs. Ware - What is that?
1774
1775 Mr. Redmond - This is block work – you take block and you can face it with brick and you
1776 can take block and face it with stucco, so this is a combination of that.
1777
1778 Mr. Jernigan - That is block?
1779
1780 Mrs. Ware - What material is the Walgreen's on your building attached to?
1781
1782 Mr. Redmond - It is attached to a stucco wall. It is not frame.

1783
1784 Mr. Jernigan - Is this a 2005 model?
1785
1786 Mr. Redmond - Yes, sir. It is the latest and greatest.
1787
1788 Mr. Jernigan - I just wanted to make sure that wasn't a vinyl.
1789
1790 Mr. Redmond - Oh, no.
1791
1792 Mr. Marshall - We don't even have that in Three Chopt, Mr. Jernigan.
1793
1794 Mr. Jernigan - We are getting the new model out here in Varina. OK. That is all I
1795 needed to clear was that material and the 10-foot sign. OK. Are you acceptable of that?
1796
1797 Mr. Redmond - Yes, sir.
1798
1799 Mr. Vanarsdall - Thank you. All right.
1800
1801 Mr. Jernigan - I don't have anything else. With that, Mr. Chairman, I move for approval
1802 of Zoning Case C-1C-05, Mid-Atlantic Commercial Properties, LLC.
1803
1804 Mrs. Ware - Second.
1805
1806 Mr. Silber - Mr. Jernigan, can I ask, just for clarification. You indicated that you had a
1807 concern with the 20-foot height. It is proffered 20 feet. You can't change that to 10-feet.
1808
1809 Mr. Jernigan - Are you proffering that it is going to be a 10-foot sign?
1810
1811 Mr. Silber - They need to come up and do that in the file and initial that.
1812
1813 Mr. Jernigan - You need to sign off on that. That is right. I forgot.
1814
1815 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mrs. Ware. All in favor say
1816 aye. All opposed say no. The ayes have it. The motion is passed.
1817
1818 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mrs. Ware, the Planning Commission
1819 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
1820 the proposed retail use conforms to the Land Use Plan's recommendation for Commercial
1821 Concentration. In addition, the proffered conditions will assure a level of development otherwise
1822 not possible.
1823
1824 ***Deferred from the November 10, 2004 Meeting:***
1825 **C-21C-04 James Theobald for Eric L. Walker:** Request to conditionally rezone
1826 from A-1 Agricultural District to O-2C Office District (Conditional), part of Parcel 807-733-6105,
1827 containing 18.563 acres, located at the southeast intersection of N. Laburnum Avenue and Harvie
1828 Road. Office uses are proposed. The use will be controlled by zoning ordinance regulations and
1829 proffered conditions. The Land Use Plan recommends Office. The site is in the Airport Safety
1830 Overlay District.
1831
1832 Mr. Vanarsdall - Is anyone in the audience in opposition to this case? This is C-21C-04 in
1833 the Fairfield District. Is there any opposition? I don't see any hands. Good evening, Mr.
1834 Humphreys.
1835

1836 Mr. Humphreys - Thank you Mr. Secretary. Good evening Mr. Chairman and members of the
1837 Planning Commission.
1838
1839 The applicant has submitted a revised application for this property to request O-2C. This is a
1840 change from the applicant's previous request for R-5AC, which would have allowed them to
1841 construct up to 78 single-family homes.
1842
1843 The current request would allow for one and two story office buildings, and is similar in content to
1844 C-20C-04 located on the opposite side of Laburnum Avenue, as shown on this slide. Previously you
1845 have recommended approval for C-20C-04 and it is to be heard before the Board of Supervisors in
1846 the March agenda.
1847
1848 This request is consistent with the recommendation for Office (OF) in the 2010 Land Use Plan and
1849 is within the Airport Safety Overlay District. The site is also listed as a Prime Economic
1850 Development Site for Office uses in the 2010 Land Use Plan.
1851
1852 The applicant has submitted revised proffers dated January 13, 2005, which address several
1853 concerns previously outlined in the staff report including landscaping, buffers, architectural
1854 treatments, lighting, signage, sidewalks, and aerated BMPs. These revised proffers have just been
1855 handed out to you. The time limits for these proffers would have to be waived.
1856
1857 Additionally, the applicant has submitted sample elevations for the office buildings, shown here.
1858 The majority of the material used on these would be brick and the other materials have been
1859 described in the proffers handed out.
1860
1861 The applicant has also submitted a conceptual plan showing offices for this case in conjunction with
1862 Case C-20C-04, shown here on this slide. C-21C-04 would be in this area here and C-20C-04,
1863 previously recommended would be over here.
1864
1865 While this request along with the submitted proffers and exhibits is more acceptable than previous
1866 requests by the applicant for this property, staff still has concerns regarding the treatment of the
1867 northern property line along Harvie Road. When Harvie Road is extended through to Creighton
1868 Road by the County, this development will be within one mile of Arthur Ashe Elementary School.
1869 Due to this, it is recommended the applicant proffer a sidewalk similar to the one proffered on
1870 Laburnum Avenue on Harvie Road.
1871
1872 Overall, the revised request could be appropriate for this area. If the applicant could fully address
1873 the previously outlined concerns, staff could recommend approval.
1874
1875 This concludes my presentation. I would be happy to try to answer any questions you may have.
1876
1877 Mr. Vanarsdall - Are there any questions for Mr. Humphreys?
1878
1879 Mr. Archer - Mr. Humphreys, how long does that sidewalk have to run, to the total
1880 edge of this property?
1881
1882 Mr. Humphreys - We would recommend that, yes. The entire property would be within one
1883 mile of the school.
1884
1885 Mr. Archer - Were there other issues? There were some issues in the initial staff report
1886 that you had. Was everything else satisfied?
1887

1888 Mr. Humphreys - Yes, sir. The applicant has provided an additional buffer along the
1889 property line adjacent to the multi-family uses to the south, and they have also proffered
1890 landscaping along Harvie Road, and several of the others were previously addressed as well.
1891
1892 Mr. Vanarsdall - Mr. Archer, do you want to hear from the applicant?
1893
1894 Mr. Archer - I believe for just a moment, sir.
1895
1896 Mr. Theobald - I hope this will be easier. Mr. Chairman, ladies and gentlemen, my name
1897 is Jim Theobald and I am here on behalf of the applicant. I think having acted upon the request on
1898 the other side of Laburnum a month or so ago, you are fully familiar with the background of this
1899 case. I think we tried every zoning classification other than UMU on this particular piece. This is
1900 consistent with your Land Use Plan. We have tried to address the issues set forth in the staff
1901 report, the proffers in this case meet or exceed those that were found to be acceptable by you on
1902 the other case, and again, it is consistent with your Land Use Plan. We have offered to build a
1903 sidewalk along Laburnum Avenue that is just under 2,000 feet, linear feet of sidewalk. We have
1904 not agreed to provide sidewalk along Harvie Avenue. That is an additional 1,000 feet of sidewalk
1905 and functionally goes no where at this point, and obviously we are not generating any school-age
1906 children with this development. I understand we may be discussing this again at the time of POD,
1907 Mr. Archer, but I ask that you approve the case consistent with the proffers submitted today, and
1908 I'd be happy to answer any questions.
1909
1910 Mr. Archer - Now, Mr. Theobald, you know that eventually that road will be completed
1911 through to Arthur Ashe and it is our policy to have sidewalks when that occurs.
1912
1913 Mr. Theobald - I am aware of that.
1914
1915 Mr. Archer - Can you do that?
1916
1917 Mr. Theobald - I am expecting that to be a condition at the time of POD. I am not in a
1918 position to proffer that this evening.
1919
1920 Mr. Archer - Well, the other thing I had to ask you was, you know that little farm house
1921 that sits up in the corner. Is that a part of this case?
1922
1923 Mr. Theobald - It is not a part of this case. I understand the applicant has approached
1924 that individual and they were unwilling to sell, only willing to sell at a rate that is not acceptable to
1925 Mr. Atack, so we basically, we will provide a buffer around it until such time as that property is no
1926 longer used for residential purposes.
1927
1928 Mr. Archer - I was serious about that. It is a little hard to say whether or not that
1929 house is occupied.
1930
1931 Mr. Theobald - I am afraid I don't know.
1932
1933 Mr. Archer - It looks like it isn't sometime and sometimes it doesn't. Mr. Theobald, I
1934 would think that by the time we reach the Board with this, you might have to rethink the sidewalk
1935 before we get the POD.
1936
1937 Mr. Theobald - I thought that might be your wish, Mr. Archer.
1938
1939 Mr. Archer - I am just telling you.
1940

1941 Mr. Theobald - I do appreciate it.
1942
1943 Mr. Archer - So you will know where we are. Anybody else have any questions?
1944
1945 Mr. Vanarsdall - Any more questions for Mr. Theobald by Commission members? No
1946 questions. I will entertain a motion.
1947
1948 Mr. Archer - First I will have to move to accept the proffers that are dated today.
1949
1950 Mr. Marshall - Second.
1951
1952 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Marshall. All in favor say
1953 aye. All opposed say no. The ayes have it. The motion passes.
1954
1955 Mr. Archer - Then I will move for approval of Case C-21C-04, James Theobald for Eric
1956 L. Walker.
1957
1958 Mr. Marshall - Second.
1959
1960 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Marshall. All in favor say
1961 aye. All opposed say no. The ayes have it. The motion passes.
1962
1963 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Marshall, the Planning Commission
1964 voted 4-0 (one abstention and one absence) to recommend that the Board of Supervisors **grant**
1965 the request because it conforms to the recommendation of the Land Use Plan and the proffered
1966 conditions will assure a level of development otherwise not possible.
1967
1968 **C-3C-05 Henry Wilton for Wilton Development Corp.:** Request to
1969 conditionally rezone from A-1 Agricultural District to R-2AC One Family Residence District
1970 (Conditional), Parcels 737-771-5614 and 737-770-2642, containing approximately 47.9 acres,
1971 located on the west line of Pouncey Tract Road approximately 500 feet north of Shady Grove Road.
1972 The applicant proposes the maximum density not to exceed 2.0 units per acre. The R-2A District
1973 allows a minimum lot size of 13,500 square feet. The Land Use Plan recommends Suburban
1974 Residential 1, 1.0 to 2.4 units net density per acre.
1975
1976 Mr. Jernigan - Is anyone in the audience in opposition to this case? Any opposition? OK.
1977 Thank you. Mr. Coleman.
1978
1979 Mr. Coleman - Mister Chairman, Members of the Commission, this request is to rezone 48
1980 acres to R-2AC to develop a single-family subdivision. The applicant submitted an unproffered lot
1981 layout showing 72 building lots.
1982
1983 The subject property is located along the west line of Pouncey Tract Road, and in this area,
1984 Pouncey Tract provides a distinct geographic boundary between the quickly developing areas east
1985 of the roadway and the lower density and rural areas to the west. Approval of this request would
1986 be the first approved for a One Family Residential District west of Pouncey Tract.
1987
1988 Recreation and Parks identified the Leake House, which is listed in the Virginia Department of
1989 Historic Resources and the County's *Inventory of Early Architecture and History and Architectural*
1990 *Sites* and is one of the largest log structures in the County. The applicant has committed to try to
1991 preserve the structure, or otherwise allow County staff to photograph or retain artifacts from the
1992 site.
1993

1994 The applicant submitted revised proffers today, which will require waiving the time limit. The
1995 proffers include several positive features, including:
1996 • An attractive entrance feature;
1997 • A density of 2.0 units/acre;
1998 • Minimum finished floor of 2,800 square feet;
1999 • *Garages:* - All homes except model homes would have a two car garage;
2000 - 75% of the garages would have be rear/side loading;
2001 • *Exterior Materials:* - At least 50% of the dwellings will have at least 50% of the front
2002 exterior constructed of brick, stone, concrete board, or EIFS;
2003 - All units will incorporate design elements such as keystones, ornamental
2004 windows, and quoin treatments.
2005 • All lots will have a lot width of 85', and 90% would have a lot width of 90';
2006 • Lots with yards adjacent to Pouncey Tract Road will have a min. lot depth of 180';
2007 • A 35' buffer planted as a 25' Transitional Buffer will be provided along Pouncey Tract; and
2008 • A cash proffer of \$14,800 has been offered.
2009

2010 Additional proffers address sodded and irrigated yards, a phasing plan, curbs and gutters sidewalks,
2011 planting/retaining trees, chimneys, lot clearing, underground utilities, floodplain, restrictive
2012 covenants and other matters.
2013

2014 There are issues remaining concerning the placement of wetland areas on individual lots vs.
2015 common area and the potential location of project entrances along Pouncey Tract Road. However,
2016 these items may be examined more closely during the review of subdivision applications.
2017

2018 In summary, single-family development is appropriate; the proposed use and density are consistent
2019 with the SR1 designation on the Land Use Plan; and the proffers include assurances of quality
2020 development. Staff recommends approval of this request.
2021

2022 That concludes my presentation, and I would happy to answer any questions.
2023

2024 Mr. Marshall - Thank you, Mr. Coleman.
2025

2026 Mr. Vanarsdall - Any questions for Mr. Coleman. No questions. Do you want to hear from
2027 the applicant, Mr. Marshall?
2028

2029 Mr. Marshall - Since there is opposition, he may want to speak.
2030

2031 Mr. Vanarsdall - OK. They are all back there waiting. They have been here a long time. I
2032 ask that you come to the microphone.
2033

2034
2035 Ms. Verna - Chairman, Planning Commission, I am Sandra Verna, representing Wilton
2036 Development. I want to begin by saying that we have made many additional changes to this case
2037 in order to accommodate staff's comments as far as entrances to the subdivision and also along
2038 with the subdivision across the street, which we plan to resolve at the time of subdivision review.
2039 We have also added proffers that all of the lots on Pouncey Tract Road, all of the houses will face
2040 Pouncey Tract Road so that you won't have backyards backing up to Pouncey Tract Road. The
2041 other thing that we will have adjacent to Pouncey Tract Road is a bermed landscape berm. The
2042 land is very flat adjacent to this property, so we plan to build it up to screen our neighborhood.
2043 This subdivision will be similar to the subdivisions on Nuckols Road with very large homes, and we
2044 did sent out a notice to the adjacent neighbors and actually most of the people that were close to
2045 Pouncey Tract Road and asked anyone if they had any questions or problems that we'd be happy

2046 to meet with them. I talked to a few of them on the telephone, and as of tonight we are not aware
2047 of any opposition to this case, but we'd be happy to address any questions that the neighborhood
2048 has, but with this I would hope that you followed staff's recommendation for approval. And I can
2049 answer any questions that you may have.
2050
2051 Mr. Vanarsdall - All right. Any questions for Ms. Verna?
2052
2053 Mr. Silber - Actually I have a question, Mrs. Verna. Maybe I haven't looked at these
2054 proffers close enough, but reading them as you were talking, there is a proffer that speaks to the
2055 buffer, a 35-foot buffer along Pouncey Tract Road. Does that, would that buffer be a common
2056 area?
2057
2058 Ms. Verna - I worked with your staff with that and I believe that buffer is part. Yes, in
2059 Proffer No. 13...
2060
2061 Mr. Silber - It says, "In addition, this buffer shall be identified as common area as
2062 shown on the plat and there will be an addition to lot depth stipulated in No. 14."
2063
2064 Ms. Verna - Right. That will be common area but it will not show the lot depth is in
2065 addition to 35 feet. So it is 35 feet and 180 feet.
2066
2067 Mr. Silber - Then you have the 180?
2068
2069 Ms. Verna - Yes.
2070
2071 Mr. Silber - OK. And then, attached to the proffers provided to us is layout and then it
2072 shows the proposed roads that may exist.
2073
2074 Ms. Verna - And that is not a proffered layout and that is not even really going to be
2075 the layout for this.
2076
2077 Mr. Silber - If the Commission takes action on this tonight, since it is on the Board, I
2078 would like to see another layout that represents the lots fronting on Pouncey Tract Road.
2079
2080 Ms. Verna - Actually it was our intention that there wouldn't even be a layout with this
2081 submittal, just the proffered conditions. That was just a conceptual, but we haven't proffered it,
2082 and there aren't any proffers here that even speak to that particular layout.
2083
2084 Mr. Silber - Right. I guess because it is somewhat different than what we normally
2085 see, it might be appropriate just to do a layout. It doesn't have to be proffered...
2086
2087 Ms. Verna - Just so you could see what it looked like. We have talked about the
2088 different scenarios as far as how the houses would actually face Pouncey Tract Road with maybe
2089 an alley way in the rear or possibly a road, so we could do that prior to the Board of Supervisors
2090 meeting.
2091
2092 Mr. Vanarsdall - Thank you, Ms. Verna. All right. We will hear from the opposition now.
2093 Welcome and state your name, please.
2094
2095 Ann Noel - Good evening. My name is Ann Noel and I am speaking for Christ Church
2096 Episcopal, which is directly adjacent to this property, and we have some definite concerns about
2097 this development. First of all, I'd like to say that Christ Church Episcopal has between 1600 and
2098 1800 full-time members, representing about 800 families, and most of those folks are at Christ

2099 Church either on the Saturday evening service or the Sunday morning service. Our first concern
2100 relative to this proposal is the lack of a buffer, so there is no buffer proposed our church and this
2101 subdivision and we consider it to be undesirable to be looking at the back of these houses. So, we
2102 would request that there be a buffer included, I think 25 ft. is fairly common, between this housing
2103 development and our church property, so I would like to say that I am on the church building and
2104 grounds committee and so more members of that committee are here this evening, and none of us
2105 have been contacted by this developer, so I think it is fairly safe to say that to the best of our
2106 knowledge, this developer has not contacted the church.

2107
2108 The second concern that we have relative to this development is the sewer. We understand that
2109 they are going to use the sewer hookup from the subdivision across the street. Christ Church is
2110 growing rapidly and we also would like to have access to sewer hookup, and our understanding is
2111 development is going to take all available capacity to sewer, utilities, and that there would be no
2112 available sewer hookup left for Christ Church. We are in a building in development mode, so that is
2113 a great concern to us. And then our last concern is around traffic. So, the Methodist, which are
2114 just down the street from us, have to hire a traffic cop on Sunday mornings because the traffic is
2115 so bad. We do that at certain times, as well. So, we have a significant concern about the
2116 additional traffic that this development would bring to an already congested area, and speaking for
2117 someone who lives in this area, it is pretty hard to get up and down Pouncey Tract Road on our
2118 best day. I think that about covers it. I also have a query about, I believe it is in the document,
2119 something about building the North Gayton Road Extension, and that would be, my question is
2120 really, is that going to be done prior to this development being built or what is the timing of that.
2121 Is there any kind of contingency?

2122
2123 Mr. Marshall - The pace and how much of this development can be done is all dictated
2124 by the sewer. Sewer is not going to be available to do this entire development, because my
2125 understanding is that only a portion of this property in the sewer shed across Pouncey Tract that
2126 allows sewer to flow the other way. Of course, at you know, if the church doesn't have sewer, the
2127 other sewer has to come from the other direction down by 64, and it hasn't come that way, so this
2128 property will not be able to be fully developed until sewer gets to the back of this property or
2129 comes from the other direction, because that is only a very minimal part of actually would have
2130 sewer. It was decided to try the sewer. We haven't seen the plans or there has been nothing in
2131 this case about them running sewer.

2132
2133 Ms. Noel - I believe it is referenced in the materials here.

2134
2135 Mr. Marshall - Right. I believe that is one of the options, but we haven't seen anything
2136 from the developer indicating that is what they are going to do, because, as I said, even if they
2137 would do that, it would not sewer the entire property because it would be a different water shed.

2138
2139 Ms. Noel - OK. So our understanding is that they are going to be taking the capacity
2140 that is available and we have an objection to that.

2141
2142 Mr. Kaechele - That is not the case, really.

2143
2144 Mr. Marshall - That is not the case.

2145
2146 Mr. Vanarsdall - Thank you.

2147
2148 Mr. Marshall - Can you answer the question about the sewer issue and what portion of
2149 the property is in the water shed?

2150

2151 Ms. Noel - Actually, I am going to refer that question to Mark Kalowski who is also
2152 here tonight representing Wilton Development. I will address the question of the buffers.
2153
2154 Mr. Marshall - Are you willing to do a buffer along here?
2155
2156 Ms. Noel - Yes. We certainly are and we will also be happy to meet, and we did send
2157 probably just one letter to the church and maybe it wasn't circulated as far as...but we will be
2158 happy to meet with anybody from the church.
2159
2160 Mr. Marshall - So, you are willing to do a 25-foot buffer along the church property line?
2161
2162 Ms. Noel - Yes, we are. We certainly will and I will proffer that.
2163
2164 Mr. Vanarsdall - Are you going to proffer that?
2165
2166 Ms. Noel - Yes. We can proffer that between now and the Supervisor's meeting, and
2167 the Supervisor is here, and we can do that, and we will be happy to meet with you between now
2168 and the Supervisors meeting to work anything out, and then I am going to turn all of the
2169 engineering questions to Mark.
2170
2171 Mark Kakowski - My name is Mark Kakowski and I am here as the representative of Wilton
2172 Development. In response to the engineering question, we really haven't worked out the whole
2173 engineering, about the second cul-de-sac coming down will gravity seek across Pouncey Tract to
2174 the Grey Oaks Subdivision. But the exact details and engineering haven't been completely worked
2175 out. I think we estimate about 50% of the subdivision could be sewered physically, gravity flowing
2176 in that direction. We haven't gotten to all of the engineering.
2177
2178 Mr. Marshall - Have you looked into any of the capacity issues?
2179
2180 Mr. Kakowski - Capacity hasn't been a consideration, because the lower half of the
2181 property gravity flow will not go across. We haven't looked at that.
2182
2183 Mr. Vanarsdall - Thank you, Mark.
2184
2185 Mr. Kaechele - There is plenty capacity on the tool shed on the other side of Pouncey
2186 Tract, but the lots behind that natural flow will have to wait for sewer coming up from 64 on Broad
2187 Street. Is that right?
2188
2189 Mr. Kakowski - Well, the engineering right now that we are looking at is gravity flowing
2190 across the street to Pouncey Tract, and the other scenario is that when the trunk line comes up
2191 from 64 and filters that whole water shed at Kain Road, the balance of the development could be
2192 serviced that way.
2193
2194 Mr. Silber - Mr. Kaechele, I believe also the church, for Ms. Noel's benefit, the church
2195 is in, I believe, the sewer shed. They would sewer back down toward 64. When sewer comes up
2196 from that direction, then there will be plenty of capacity for the church and the balance of their
2197 development. So, I don't see that the church has a capacity problem with what they propose to
2198 do.
2199
2200 Mr. Vanarsdall - All right. Did you want to come down, sir? Did you want to say
2201 something?
2202

2203 Mr. Fitzgerald - Yes. M. Chairman, Commissioners, my name is Donald Fitzgerald and I live
2204 in the West Ridge Subdivision, which is at the end of Kain Road, and one of the issues that has not
2205 been brought up with this request is notification to the residents and people in that area. This
2206 proposal shows that the road is potentially going to be expanded and connected into Kain, and the
2207 people that are currently traveling up and down Kain Road don't have a clue that this is even
2208 coming close to the Kain Road area. You can drive down Pouncey Tract and look at the sign and
2209 you think it is miles away, and that it is not in your back yard, but the fact of the matter is curving
2210 right around into and about half-way down Kain Road, which is about a mile down the road, so
2211 ultimately the traffic will be diverted on to Kain Road, which is already an undeveloped road is
2212 going to be impacted, so that is one issue. I think the people in that area need to get notification
2213 that this development is happening and what the impact could be on them ultimately. I'd like to
2214 also talk about what Mrs. Noel talked about, which was the traffic, and the Planning report really
2215 does a good job talking about the Major Thoroughfare Plan and the traffic impact on overcrowded
2216 Pouncey Tract Road. Quite frankly, this type of report is missing from some of the other reports
2217 that are being submitted on Pouncey Tract, but what it points out very clearly here is that Planning
2218 is saying that without the infrastructure of the other planned roadways, nothing else should be built
2219 to handle additional development along Pouncey Tract Road. It also talks about the developers
2220 going to widen Pouncey Tract Road, but we don't have an idea of what that means, when that is
2221 going to take place or how it is going to impact the through way all the way up to West Broad
2222 Street and Pouncey Tract, so my question for you is a procedural question is, how do we get the
2223 horse before the cart? How do we get our road and our traffic able to bear the traffic to have this
2224 additional expansion, or are we going to build it first and just let it continue to clog everything up.
2225 So that is a procedural question I have for you. I also have a question about the layout of the
2226 property. If you will notice in the sketch, there is a creek that runs right through the middle of the
2227 property. When it rains, the water flows down hill in that creek and over floods the pond at the
2228 end of Kain Road, and we are already going through one and a half to two feet of water on very
2229 bad days. We have had additional development up hill that has altered the water flow and they
2230 have already had to come in and put new drainage pipes into Kain. My concern is that some
2231 consideration has to taken when they develop this property as to what is going to happen to the
2232 water diversion and how it is going to empty down stream.

2233
2234 Mr. Marshall - I will try to take them in the order I can remember them. As to the
2235 stream and the impact that this will have, that will all be reviewed whenever they decide to come in
2236 with an actual layout. As they told you, this layout that is before you now is temporary in nature
2237 and does not reflect, probably and ultimately will be developed. Actually, we got a new one tonight
2238 to reflect some of the concerns that we had about the houses being backed up on Pouncey Tract
2239 Road, so as far as the flow of the water and how it is developed and the impact on the stream, that
2240 will all come at a later time and be looked at by Public Works and so forth when the actual
2241 development of this is proposed. Right now what we have before you, what you see there is
2242 probably not going to be developed. This is just a conceptual, I guess you would say, the optimum
2243 view would be. As to the Kain Road issue, it is really not an issue right now, as you sat here and
2244 heard that the County staff sometimes requests developers that they provide stub roads in the
2245 event that later on properties between theirs and thoroughfares are obtained or come in for zoning,
2246 then we could require someone to connect to that road to provide connectivity. It may be that that
2247 road never comes into play and is never used, and this particular one, there are three different stub
2248 roads on here to try to provide access to people. It may be that this never gets connected to Kain
2249 Road. We are all very hopeful that VDOT will follow through on their promise at Pouncey Tract
2250 Road. Mr. Foster indicated to me that he had a discussion with VDOT and someone there said that
2251 they believe they will begin construction, that has been promised for three years now on Pouncey
2252 Tract Road this year. It has been one of the top priorities for VDOT for over three years and they
2253 keep promising to build it and they haven't built it. This development, as you heard, because of the
2254 sewer issue, especially the portion that you are concerned with down by Kain Road, it cannot be
2255 developed until such time as the sewer is brought from 64 further down by the mall. Until that is

2256 brought up to here, this cannot be built. At least, as he indicated, the bottom, I guess two-thirds of
2257 that property will not have sewer, so, therefore, with the R-2 zoning, it will not be able to be
2258 developed.
2259
2260 Mr. Fitzgerald - I am confused by that. I thought the sewer was coming from across the
2261 road to the others.
2262
2263 Mr. Marshall - That will only serve the upper third of the property. The bottom two-
2264 thirds of the property is in the water shed that your property is in that is intended to have to be
2265 served by the sewer line that comes from under 64. Two different water sheds.
2266
2267 Mr. Fitzgerald - Two different water sheds. I understand.
2268
2269 Mr. Marshall - The line happens to run through there, and as for the church, as Mr. Silber
2270 said, they are unfortunate in that they also fall in the lower water shed that is going to be served
2271 by the sewer whenever it comes from under 64. So, this development that you see here is
2272 impossible, and it may take five years for the sewer to get there. It may take longer. We don't
2273 know, so the bottom two-thirds can't be developed because it is in a different water shed.
2274
2275 Mr. Fitzgerald - We say that because we know that certain development of the utilities is
2276 going to take place and we have a pretty good idea of how long that is going to take. Right.
2277 Because you control that in the County.
2278
2279 Mr. Marshall - No, we don't know because the County, to this point, does not run water
2280 and sewer. Developers run the water and sewer.
2281
2282 Mr. Fitzgerald - So if they pay for it they can do it?
2283
2284 Mr. Marshall - No, it is not that simple because the County doesn't condemn right of
2285 ways. In other words, they can't come to your property and say, whether you like it or not, I am
2286 going to run this sewer line through here, so that is what makes it challenging for developers and
2287 why the sewer has not gotten there yet. It has to be brought by developers and they have to
2288 either accumulate the land to run the sewer line across or buy easements from individuals to allow
2289 them to go across their property, so that it why it may take we don't know how long for the sewer
2290 to come that way.
2291
2292 Mr. Fitzgerald - What is your guesstimate then on the highway situation?
2293
2294 Mr. Kaechele - Part of the solution to Pouncey Tract Road congestion is the construction
2295 of Shady Grove Extension over to North Gayton, and that issue is going to be on the Bond
2296 Referendum March 8 for the voters to approve that, and that is a six to eight-year time frame to
2297 build that road, and so the rest of the development of Pouncey Tract Road is contingent upon (1)
2298 getting sewer and (2) having the capacity to get people out of there. So, that is a six to eight year
2299 time frame. Even if they get sewer out there, there is going to be a limit on how much more
2300 development can be approved before Pouncey Tract or Shady Grove are improved, and Mr.
2301 Marshall said earlier that VDOT, first of all, was scheduled to build Pouncey Tract up to Bacova in
2302 the year 2004, the one we just left, and now they have postponed it to 2006, and perhaps coming
2303 back to this year.
2304
2305 Mr. Fitzgerald - But not to Broad? You said to Bacova, but not to Broad or from Broad?
2306 Are we going to have four lanes across the bridge?
2307

2308 Mr. Kaechele - It is already four lanes from the bridge, four lanes divided all the way to
2309 Bacova and then another phase would extend four lane all the way up to Nuckols, but that is
2310 beyond, so there are going to be a lot of issues here and timing in how quickly this area can
2311 develop, and it has got to be sewer and roads.
2312

2313 Mr. Fitzgerald - From what I am hearing you say, I probably shouldn't see any trees come
2314 down. I probably shouldn't see any development of the property for at least five years. Is that
2315 what you are saying?
2316

2317 Mr. Marshall - The top third of the property if the developer so chooses to spend the
2318 money despite the fact that they cannot develop the bottom two-thirds of the property. The
2319 developer could develop the top third and then basically stop and wait for sewer to come to do the
2320 rest.
2321

2322 Mr. Fitzgerald - Well, how can you do that with half-acre lots?
2323

2324 Mr. Kaechele - Pouncey Tract Road is kind of the dividing line between the land west of
2325 Pouncey Tract and sewer back towards Broad Street...
2326

2327 Mr. Fitzgerald - You said the upper section there will get the sewer from across the road?
2328

2329 Mr. Marshall - Right. They could do that if they chose to spend the money to do
2330 basically just a small portion of the development and then sit back and wait. I don't know. They
2331 may choose to, the phrase is "land bank this project" and just wait for the sewer to come so they
2332 can do the whole thing at one time and not incur the expense of having two separate systems, if
2333 you will, in the same development.
2334

2335 Mr. Fitzgerald - From somebody that lives in the area, I'd rather be able to drive on the
2336 road than worry about whether we can flush our commodes. Because I am going to have to drive
2337 through that area, and if it is a matter of which we wait for first, we really need to get the relief on
2338 Pouncey Tract before we get any new development there. So, if we get the sewer there for a third
2339 of this, it is not going to relieve the traffic problem.
2340

2341 Mr. Vanarsdall - We have someone else who wants to speak. I don't mean to cut you off,
2342 but I think they have already told you the whole situation. So, we'd like to have somebody else
2343 because we are running out of time. Thank you.
2344

2345 Mr. Fitzgerald - You are welcome.
2346

2347 Mr. Vanarsdall - How many more people want to speak on this case? Just one. Good
2348 evening.
2349

2350 Ms. Stephanie Hunt - Good evening. My name is Stephanie Hunt and I have lived in Twin
2351 Hickory for about five years now. I have seen explosive growth in this corridor and I would like for
2352 you all to be aware of the fact that the elementary school that my children attend is right at
2353 capacity. The physical capacity of Twin Hickory Elementary is 752 students. Next year's
2354 projections are expected to be anywhere from 775 on up to 825 students, so they are already
2355 planning to have trailers next year at Twin Hickory Elementary School, and I believe that will be the
2356 fourth year that school has been open. I know that Shady Grove Elementary School is also at a
2357 functional capacity as well. I think by bringing in more and more development in this northwest
2358 corridor, the schools are at capacity and over capacity next year. It is not really a quality of life for
2359 my children and myself. I, frankly, paid a premium to live where I live and my schools are at
2360 capacity, my roads are at capacity or over capacity, and I think that we need to stop and think that

2361 if VDOT is not going to come through and widen this road, are we going to allow development after
2362 development to come into this area? It doesn't make sense to me. I think it is important that we
2363 think about our schools being at capacity and over capacity, and what are we going to do about
2364 that, because you are talking how many children in this neighborhood are going to be going to
2365 these schools.
2366
2367 Mr. Jernigan - Can I ask you something while you are discussing that. They give us the
2368 reports from the school board and it says Twin Hickory Elementary has a membership of 681 and a
2369 capacity of 736. They show that there would be 33 kids coming out of here. But if you feel that
2370 school is at capacity...
2371
2372 Ms. Hunt - The capacity of the school is 752. The first week the children were back in
2373 school after winter break they had eight new students register for school at Twin Hickory
2374 Elementary. I am not sure if that 681...
2375
2376 Mr. Jernigan - You say they have 752 now?
2377
2378 Ms. Hunt - That is the functional capacity. The current enrollment is, I want to say it
2379 is right around the 720 mark. We are definitely over 700 students, but ...
2380
2381 Mr. Marshall - Are you aware that the County has purchased a piece of land on Pouncey
2382 Tract and it is scheduled, I believe, in two years from now, 2006, there will be a brand new
2383 elementary school.
2384
2385 Ms. Hunt - But I would reiterate to you next year, 2005, 2006, the projected
2386 enrollment for my school that my children attend is 775 to 825. The capacity is 752, the figure that
2387 I have.
2388
2389 Mr. Marshall - But the time frame on this development, there shouldn't be any houses
2390 constructed...
2391
2392 Ms. Hunt - But we are not taking into account Grey Oaks and other developments
2393 that are coming in, especially Twin Hickory, because it is not done.
2394
2395 Mr. Marshall - I understand, but as Mr. Jernigan said, the report from the school board
2396 said that there is not a big capacity and with the new school coming on line in probably two years,
2397 that will probably be the time frame, close to when...
2398
2399 Ms. Hunt - But that is two years of school that my children will attend and will be over
2400 capacity with trailers.
2401
2402 Mr. Marshall - I understand, but it won't be because of this development.
2403
2404 Ms. Hunt - That will be from what has already been approved.
2405
2406 Mr. Marshall - I understand that, and that is why the new school is coming.
2407
2408 Ms. Hunt - I think we need to take this into consideration before we allow more
2409 development to come along this area. Thank you for your time.
2410
2411 Mr. Vanarsdall - Thank you. All right. Mr. Marshall, what do you want to do?
2412

2413 Mr. Marshall - Mr. Chairman, I don't need a rebuttal. Mr. Chairman, I live out here, too,
2414 and I know what the stresses are.
2415
2416 Mr. Vanarsdall - You have to waive the time limits.
2417
2418 Mr. Marshall - I will in a minute. Your situation is that this is a development that meets
2419 what the Land Use Plan recommends. In fact, under the Land Use Plan it could exceed, I believe,
2420 about 100 units, 100 lots would be allowable under the Land Use Plan, and what has been
2421 proffered is 72. I don't believe that ultimately when you see the final subdivision on this parcel,
2422 because of the requirements with the houses have to face Pouncey Tract instead of having the
2423 back of them face Pouncey Tract, that it will not be that many lots ultimately. The road issue and
2424 the school issue both were the reason for the developer offering the \$14,800 proffer per unit that
2425 will go toward roads and schools. We do have a new school coming on. But one comfort level on
2426 this case is the fact that it does not have the access to the sewer that it needs to be built out,
2427 meaning that the developer is going to have to make an economic decision about whether it is
2428 worthwhile to pay the expense of running sewer to just a third of this property and just have the
2429 other two-thirds sit there and wait for a totally different sewer system to arrive. They have agreed
2430 to proffer at the Board level the buffer, the 25-foot buffer along the church property. I think the
2431 entrance feature is nice and the fact that we have the 35-foot buffer along the front in addition to
2432 the 180-foot deep lots, which will give you 115 feet depth out near the ultimate right of way on
2433 Pouncey Tract. The developer did try to address the concerns with aligning the street with Grey
2434 Oaks, but there is a wetland area, two acres of wetlands. That made it difficult, but they have in
2435 the revision that we got basically said they would dedicate that wetlands as right of way if the
2436 County could maybe convince the Army Corps of Engineers, I guess, to allow them to put that road
2437 through there. It would create that alignment that the County desires to provide an access to
2438 Nuckols Road ultimately and he said that they would construct that road, if indeed it came to that.
2439 So, for those reasons, I am going to recommend approval of this case to the Board of Supervisors,
2440 and I will ask first to waive the time limits on the revised proffers.
2441
2442 Mr. Archer - Second the motion on the time limits.
2443
2444 Mr. Vanarsdall - Motion made by Mr. Marshall and seconded by Mr. Archer. All in favor say
2445 aye. All opposed say no. The motion passes.
2446
2447 Mr. Marshall - And I will recommend approval of Case C-3C-05 to the Board of
2448 Supervisors.
2449
2450 Mr. Archer - Second.
2451
2452 Mr. Vanarsdall - Motion made by Mr. Marshall and seconded by Mr. Archer. All in favor say
2453 aye. All opposed say no. The ayes have it. The motion passes.
2454
2455 **REASON:** Acting on a motion by Mr. Marshall, seconded by Mr. Archer, the Planning Commission
2456 voted 4-0 (one abstention and one absence) to recommend that the Board of Supervisors **grant**
2457 the request because it continues a similar level of single-family residential zoning as currently exists
2458 in the area, conforms with the recommendations of the Land Use Plan, and the proffers assure a
2459 high quality development in keeping with the surrounding developments.
2460
2461 Mr. Vanarsdall - Thank everyone for coming.
2462
2463 Mr. Silber - Members of the Commission, we do have two discussion items tonight and
2464 approval of the minutes. The first item for discussion is to set a work session. Staff would like to
2465 just spend about 10 minutes. We would like to have the Commission set a work session. It is a

2466 status update on where we are with the Comprehensive Plan Update. That would be at 5:00 p.m.
2467 on February 10, and following that we would be happy to provide you dinner. Dinner is at 5 to
2468 5:15.
2469
2470 Mr. Vanarsdall - I have a problem with that, Mr. Silber. We are going to start at 6:00 for
2471 the CIP and we are going to have everybody in the County, including the Manager, down here
2472 waiting on us, and we don't want to be upstairs a long time.
2473
2474 Mr. Archer - We would have to adjust the agenda then I would hope then so we could
2475 get through by 10 minutes of.
2476
2477 Mr. Vanarsdall - We can eat while you talk.
2478
2479 Mr. Silber - OK, so you would like to make sure we are not late for the 6:00 meeting
2480 and get dinner early. We are still OK with the work session at 5:00 or do you want to start the
2481 work session earlier?
2482
2483 Mr. Vanarsdall - Five is OK, 5:00 p.m.
2484
2485 Mr. Silber - I will need a motion to set that work session, please.
2486
2487 Mr. Archer - So moved to set the work session at 5:00.
2488
2489 Mr. Marshall - Second.
2490
2491 Mr. Silber - And then we would need to set a public hearing for the CIP. The CIP, as
2492 Mr. Vanarsdall indicated, the County Manager comes and the Department heads explain the CIP,
2493 and it is an opportunity for the Planning Commission to hold a public hearing and ask questions.
2494 We will need to have a motion to set the public hearing for February 10 at 6:00 p.m.
2495
2496 Mr. Jernigan - So moved, Mr. Chairman.
2497
2498 Mr. Vanarsdall - Second.
2499
2500 Mr. Silber - Last on the agenda would be the approval of minutes. This would be the
2501 Planning Commission's December 9, 2004 minutes.
2502
2503 Mr. Archer - I did have one correction, sir. On page 59, line 2100, should read stations
2504 and not spaces.
2505
2506 Mr. Silber - Stations. Any other changes or corrections?
2507
2508 Mr. Vanarsdall - If not, we need a motion.
2509
2510 Mr. Archer - I move to approve the minutes as corrected.
2511
2512 Mr. Jernigan - Second.
2513
2514 Mr. Vanarsdall - Motion by Mr. Archer and second by Mr. Jernigan. All in favor say aye. All
2515 not in favor say no. The minutes are approved.
2516

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Mr. Archer -

I second the motion for adjournment.

Ernest B. Vanarsdall, C.P.C., Chairman

Randall R. Silber, Secretary