

1 Minutes of the regular monthly meeting of the Planning Commission of the  
2 County of Henrico held in the County Administration Building in the Government  
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. January  
4 12, 2012. Display Notice having been published in the Richmond Times-Dispatch  
5 on December 26, 2011 and January 2, 2012.  
6

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

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

7  
8 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains**  
9 **on all cases unless otherwise noted.**  
10

11 Mr. Archer - Good evening everyone. Welcome to the first  
12 Rezoning meeting of the year, January 12, 2012. I'd like to remind everyone that  
13 if you've not done so already please turn off or mute your cell phones so that  
14 they won't be a disturbance to the meeting. And with that, let us all stand, please,  
15 and pledge allegiance to the Flag.  
16

17 It is that time of the meeting where we recognize anyone from the news media  
18 who may be present. Is there anyone present? Okay.  
19

20 All right, Mr. Secretary. I'll turn it over to you.  
21

22 Mr. Emerson - Thank you, Mr. Chairman. I guess I would first like to  
23 welcome our three new members to the Commission. Mr. Thornton from the  
24 Board of Supervisors, and Mr. Leabough from the Varina District, and Mr. Witte  
25 from the Brookland District. We look forward to working with you gentlemen, and  
26 the commission as a whole, from staff's perspective, over this next year.  
27

28 Mr. Archer - Gentlemen, welcome to all of you. I give you that  
29 applause because that's probably the last applause you'll ever get.

30  
31 Mr. Branin - Mr. Chairman, I am excited that we have two new  
32 members because Mrs. Jones and I came in on the same year. And we've been  
33 newbies now for how long? Nine years? Eight years?  
34  
35 Mrs. Jones - Six. It just goes on and on.  
36  
37 Mr. Branin - For a long time. So we're glad that we're not the  
38 newbies anymore.  
39  
40 Mr. Archer - That makes me the old guy.  
41  
42 Mr. Emerson - The senior member.  
43  
44 Mr. Archer - If I could pause just for a minute. I have to say it does  
45 seem a little strange, with all deference to Mr. Witte, not seeing Mr. Vanarsdall  
46 here. He'd been here for twenty-four years, and all of the seventeen years that I  
47 have served. But we know, sir, that you will do a good job in his stead and we're  
48 glad to have you.  
49  
50 Mr. Witte - Thank you. Mr. Vanarsdall, I've known him for about  
51 twenty years myself. He's always been a wealth of information for me.  
52  
53 Mr. Archer - We all learn from him.  
54  
55 Mr. Witte - I think I'll continue for a while to learn from him.  
56  
57 Mr. Archer - All right, Mr. Secretary, let's move on.  
58  
59 Mr. Emerson - Mr. Chairman, the first item on your agenda are the  
60 requests for withdrawals and deferrals. Those will be presented by Mr. Jim  
61 Strauss.  
62  
63 Mr. Archer - Good evening, Mr. Strauss.  
64  
65 Mr. Strauss - Good evening members of the Commission. The only  
66 withdrawal tonight is in the Tuckaloo District on page three of your agenda. This  
67 is P-2-12, Parham Development Company. The applicant is withdrawing this  
68 case.  
69  
70 **P-2-12 Jeffrey D. Mahler for Parham Development**  
71 **Company:** Request for a Provisional Use Permit under Sections 24-58.2(c), 24-  
72 120 and 24-122.1 of Chapter 24 of the County Code in order to allow auto parts  
73 sales in an existing commercial building, on part of Parcel 753-745-5901 located  
74 on the west line of N. Parham Road approximately 600 feet south of its  
75 intersection with Fargo Road. The existing zoning is B-2 Business District. The

76 2026 Comprehensive Plan recommends Commercial Arterial. The site is in the  
77 Enterprise Zone.

78  
79 Mr. Emerson - This does not require any action by the Commission.

80  
81 Mr. Archer - Thank you, Mr. Strauss.

82  
83 Mr. Emerson - I believe we do have one deferral, correct Mr.  
84 Strauss?

85  
86 Mr. Strauss - Yes sir. The request for deferral is in the Three Chopl  
87 District, page two of the agenda. That would be case C-8C-11. The applicant is  
88 requesting a deferral to the February 9, 2012 meeting.

89  
90 **Deferred from the October 13, 2011 Meeting.**

91 **C-8C-11 Webb Tyler for Dalton Park Land Development**  
92 **Company:** Request to conditionally rezone from R-3C One-Family Residence  
93 District (Conditional) to RTHC Residential Townhouse District (Conditional) parts  
94 of Parcels 743-763-3572, -3527, 743-764-4622 and -8363, containing 14.3 acres  
95 (Parcels 1 and 3) located on the east line of Interstate 295 approximately 630  
96 feet west of the southern terminus of Allenbend Road and on the east line of  
97 Interstate 295 approximately 350 feet west of the western terminus of Edinburgh  
98 Road and from R-3C One-Family Residence District (Conditional) to R-5AC  
99 General Residence District (Conditional) Parcels 743-763-8655, -9269, and 744-  
100 763-1578 and parts of Parcels 743-763-3527, -3572, 744-764-4443, -3831,  
101 -3317, -2703, 744-763-2190 and 743-764-4622, containing 21.5 acres (Parcel 2)  
102 located between the west line of Belfast Road and the northeast intersection of  
103 Interstates 64 and 285. The applicant proposes a residential development of no  
104 more than 180 units. The RTH District allows a maximum density of nine (9)  
105 units per acre. The R-5A District allows a minimum lot size of 5,625 square feet  
106 and a maximum density of six (6) units per acre. The uses will be controlled by  
107 zoning ordinance regulations and proffered conditions. The 2026 Comprehensive  
108 Plan recommends Traditional Neighborhood Development to support a mixture of  
109 residential, nonresidential and open space uses with 60% of the land consisting  
110 of residential uses at a density not to exceed 12 units per acre; however, the site  
111 is also within the Innsbrook Area Study which recommends a maximum density  
112 of 8 units per acre for residential uses.

113  
114 Mr. Archer - Is there anyone present who is opposed to the  
115 deferral of this case, C-8C-11, Webb Tyler for Dalton Park Land Development  
116 Company? You are opposed to the deferral, sir?

117  
118 Mr. Laseter - [Off microphone.] They're putting it off until a later  
119 date? Is that what they're doing?

120  
121 Mr. Archer - That is what deferral means, yes.

122  
123 Mr. Laseter - [Off microphone.] They deferred it last time.  
124  
125 Mr. Archer - Well it's not unusual; it happens.  
126  
127 Mr. Laseter - [Off microphone; inaudible.] He has endless  
128 deferrals?  
129  
130 Mr. Archer - Well I won't say endless, but he does have the  
131 privilege to defer.  
132  
133 Mr. Laseter - [Off microphone.] Okay.  
134  
135 Mr. Archer - He has to pay for them, too.  
136  
137 Mr. Laseter - [Off microphone.] So—well there you go. So we're  
138 done for tonight on that issue.  
139  
140 Mr. Branin - Sir, can you come down to the microphone  
141  
142 Mr. Laseter - [Off microphone.] We're done with that issue for  
143 tonight?  
144  
145 Mr. Archer - Give us your name for the record, if you would,  
146 please?  
147  
148 Mr. Laseter - My name is John Laseter. I'm a resident and owner in  
149 the property immediately adjacent, 4301 Belfast Road. He deferred at the last  
150 meeting. I can keep coming down here and we can keep going through the  
151 expenses of deferral. It's fine with me. I just wanted to know if this concludes  
152 business on anything to do with this matter at this time.  
153  
154 Mr. Branin- It will, but I have a question for you.  
155  
156 Mr. Laseter - Yes sir.  
157  
158 Mr. Branin - Were you at the last community meeting?  
159  
160 Mr. Laseter - No sir. I was working and unable to attend. I  
161 understand the development and I understand the direction and what's being  
162 asked. We're basically going to allow the builder and developer to place more  
163 units on the same amount of land. I've seen the plans, which we're deciding  
164 issues on property and zoning issues on property that the petitioner doesn't even  
165 own yet, which I thought was kind of unusual. I'm not sure how often that's done  
166 or if that's something that is done all the time. But the petitioner doesn't own all  
167 the property which we're making decisions on at this time. He owns part of it, but

168 not all of it. I've seen the plans that overlay my property. And I've seen the  
169 footprint of the developer.  
170

171 I say this just because they didn't have to do it. I have a 100-year-old tulip poplar  
172 sitting right in the middle of two acres. And even if it dies in ten years, there's a  
173 six-inch railroad spike stuck in it, so the timber value of the tree is destroyed,  
174 even if I wanted to cut the tree down and sell it as timber. The surveyors didn't  
175 have to do that, and it's my understanding that the developer and the surveyors  
176 are the same group.  
177

178 Mr. Archer - Mr. Laseter, I hate to interrupt you, sir, but we have to  
179 deal with the deferral right now.  
180

181 Mr. Branin - Sir, the reason I asked you to come down is this case  
182 has changed shape quite a bit since it originally came in.  
183

184 Mr. Laseter - Oh, very good.  
185

186 Mr. Branin - And it is a work in progress. It's being deferred  
187 because the original case that was brought in was nowhere near the standards  
188 it's gotten to today. It's not ready yet. The developer has the right to defer it or we  
189 can hear it and it could possibly be denied. So that's why he's deferring it. There  
190 probably will be another neighborhood meeting. If you get with the lady with her  
191 hand up in the back, she will get your name and make sure that you're notified  
192 for the next neighborhood meeting. Hopefully you'll be able to make it. If not,  
193 there is a gentleman right behind you with his hand up. If you give him your name  
194 as well, he can give you an update if you miss that meeting, or you can get it  
195 from your neighbors. I've been working very, very closely with your neighbors for  
196 about three months now.  
197

198 Mr. Laseter - Yes sir.  
199

200 Mr. Branin - Okay?  
201

202 Mr. Laseter - Okay. Very good.  
203

204 Mr. Branin - To answer your original question, after I make this  
205 deferral, we're done with this case tonight.  
206

207 Mr. Laseter - Okay.  
208

209 Mr. Archer - Thank you, sir, for coming in. Is there anyone else  
210 opposed to the deferment? All right, Mr. Branin.  
211

212 Mr. Branin - Mr. Chairman, I'd like to move that C-8C-11, Webb  
213 Tyler for Dalton Park Land Development Company, be deferred to the February  
214 9<sup>th</sup> meeting, per the applicant's request.

215  
216 Mrs. Jones - Second.

217  
218 Mr. Archer - Motion by Mr. Branin, seconded by Mrs. Jones. All in  
219 favor of the motion say aye. All opposed say no. The ayes have it: the deferral is  
220 granted.

221  
222 At the request of the applicant, the Planning Commission deferred C-8C-11,  
223 Webb Tyler for Dalton Park Land Development Company, to its meeting on  
224 February 9, 2012.

225  
226 Mr. Emerson - Mr. Chairman, there are no requests for expedited  
227 items this evening, so that takes us to the reorganization for the 2012 calendar  
228 year. If you're ready to relinquish the chair I will—

229  
230 Mr. Archer - I am ready to relinquish the chair.

231  
232 Mr. Emerson - I'll be privileged to open the floor for nominations for  
233 Chairman for the year 2012.

234  
235 Mrs. Jones - Mr. Secretary, I would like to put in a nomination in  
236 the name of Tommy Branin for Chairman of the Planning Commission for 2012.

237  
238 Mr. Archer - I'll second it.

239  
240 Mr. Emerson - We have a nomination and a second to that  
241 nomination. Are there any other nominations for Chairman?

242  
243 Mr. Archer - Move to close the nomination.

244  
245 Mr. Emerson - Do we have a second to that motion?

246  
247 Mrs. Jones - Second.

248  
249 Mr. Emerson - All in favor? Okay, that was the action to close the  
250 nominations. Now I need a motion to elect Mr. Branin Chairman of the  
251 Commission for calendar year 2012.

252  
253 Mrs. Jones - I so move.

254  
255 Mr. Archer - Second.

256

257 Mr. Emerson - All in favor? All opposed? Mr. Branin,  
 258 congratulations.  
 259  
 260 Mr. Branin - Mr. Secretary, can we move on to the election of vice  
 261 chair?  
 262  
 263 Mr. Emerson - Yes sir, Mr. Chairman. The election of vice chair is  
 264 next on your agenda. And you will conduct that, I believe.  
 265  
 266 Mr. Branin - Then I would entertain a motion for election of the  
 267 vice chair of the Planning Commission for year 2012.  
 268  
 269 Mr. Archer - I nominate Mrs. Bonnie-Leigh Jones for Vice Chair.  
 270  
 271 Mr. Wittle - I second.  
 272  
 273 Mr. Branin - Nomination by Mr. Archer and a second by Mr. Wittle.  
 274 All in favor? All opposed? Congratulation, Mrs. Jones.  
 275  
 276 Mrs. Jones - Well thank you.  
 277  
 278 Mr. Branin - Do we need to go through the second process of it for  
 279 Vice Chair?  
 280  
 281 Mr. Emerson - You should, yes, because that was a nomination.  
 282  
 283 Mr. Branin - Okay.  
 284  
 285 Mr. Archer - I move that Mrs. Jones be elected vice chair.  
 286  
 287 Mr. Branin - Second. All in favor? Nomination by Mr. Archer,  
 288 second by Mr. Branin. Any nos? We're good.  
 289  
 290 Mrs. Jones - Must be official.  
 291  
 292 Mr. Branin - This is the best part of the evening for everybody. Mr.  
 293 Archer, if you'd come down, please. On behalf of all the Commissioners who  
 294 have served for 2011. The leadership that Mr. Archer has shown for many  
 295 years—and speaking for myself, the lessons that I have learned from Mr. Archer  
 296 as a fellow Commissioner and as a leader, as a Chair—is unmatched. I'm sure I  
 297 speak for the gentlemen who are not here this evening, as well as Mrs. Jones.  
 298 Great job. Thank you. And I enjoyed serving under you.  
 299  
 300 Mr. Archer - Thank you so much. I appreciate it.  
 301  
 302 Mr. Branin - Here's a gift for our appreciation.

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Mr. Archer - Do I have to open it now?

Mrs. Jones - Yes.

Mr. Archer - Oh, okay. Titleist, can't beat it. Thank you so much. I have enjoyed serving as Chair. I think it's been like four, maybe five times. I was thinking coming up the road tonight, my first night on the Commission was January 11, 1996. I was sitting right where Mr. Leabough is sitting now. I know how he and Mr. Witte are feeling, except the first night that I was here the auditorium was jam-packed; standing room only. And everybody that was in here was mad, except me. And I remember thinking to myself what in world are they up here for. But fortunately it was a Varina case and it wasn't mine. So I don't know if you all have cases tonight? You don't. So feel fortunate that you don't. I have enjoyed serving as Chair, and I enjoy serving on the Commission. And whatever successes we had are largely due to Mr. Emerson and the fine staff that we have. They make us look good. So thank you all so very much; I appreciate it.

Mr. Emerson - Mr. Chairman, that now takes us to the regular agenda. The first two cases are very similar and the same applicant. So if it meets with your agreement, I would suggest that you hear both of those together.

Mr. Branin - Absolutely, Mr. Secretary, I would like to hear them both together. And of course any motion that's made on them must be made separately.

Mr. Emerson - Yes sir, the motions will have to be separate. I believe time limits will have to be waived. But the cases are C-3C-12, Skip Gellely for Gellely and Associates Incorporated and C-4C-12, Skip Gellely for Gellely and Associates Incorporated.

**C-3C-12 Skip Gellely for Gellely and Associates, Inc.:**  
Request to amend proffered conditions accepted with Rezoning Case C-9C-09 on part of Parcel 813-720-0581 and Parcels 811-721-8726, 812-721-0529, -3038, -3833, -4628, -5428, -6327, -7027, -8028, and 813-720-5594 located on the southeast line of Thornhurst Street east of S. Laburnum Avenue. The applicant proposes to amend proffers related to dwelling design, landscaping, roads, restrictive covenants, posting of construction signs, compliance certification, recreational amenities, signage, access, and conceptual plan. The existing zoning is R-3C One-Family Residence District (Conditional). The 2026 Comprehensive Plan recommends Suburban Residential 2, density should not exceed 3.4 units per acre. The site is located in the Airport Safety Overlay District.



348 **C-4C-12 Skip Gelletly for Gelletly and Associates, Inc:**  
349 Request to amend proffered conditions accepted with Rezoning Case C-58C-07  
350 on Parcels 814-720-6887, -6991, -7099, -8869, -8877, -9084, -9193, -9252, 814-  
351 721-7007, -7214, -7322, -7530, -7738, -7846, -7954, -8062, -8169, -8377, -8484,  
352 -8694, -9201, -9308, -9516, -9624, -9733, -9840, -9965, 814-722-8801, -9225,  
353 815-720-0480, -0687, -0895, -2466, -2873, -3081, -3388, -3696, 815-721-0048,  
354 -0277, -0484, -0492, -0699, -0965, -1002, -1037, -1310, -1317, -1325, -1859,  
355 -1934, -2653, -3348, -3804, -3914, -6748, and 815-722-0708 located between  
356 the south line of Oakleys Lane and the north line of the Southern Railway east of  
357 the Hechler Village subdivision. The applicant proposes to amend proffers  
358 related to dwelling design, and elevations, landscaping, and conceptual site plan.  
359 The existing zoning is R-3C One-Family Residence District (Conditional). The  
360 2026 Comprehensive Plan recommends Suburban Residential 2, density should  
361 not exceed 3.4 units per acre. The site is located in the Airport Safety Overlay  
362 District. The staff report will be presented by Mr. Ben Sehl.

363  
364 Mr. Branin - Is anyone in opposition to C-3C-12 and C-4C-12, Skip  
365 Gelletly for Gelletly and Associates Incorporated? There are none. Ben?

366  
367 Mr. Sehl - Thank you, Mr. Chairman.

368  
369 The subject properties were part of two separate rezoning cases, however the  
370 properties governed by those cases have become part of the larger Oakleys  
371 Chase Subdivision. C-3C-12 proposes to amend rezoning case C-9C-09, which  
372 governs Section 1 of Oakleys Chase located along the south line of Thornhurst  
373 Street, and C-4C-12 would amend C-58C-07, which governs this portion of the  
374 property east of Hechler Village. And that includes Sections 2 and 3 of the  
375 proposed Oakleys Chase.

376  
377 The properties are located generally north of I-64 and the Southern Railway line  
378 east of Laburnum Avenue. A large environmental area containing wetlands and  
379 floodplain is also located to the south. Hechler Village is to the north, and  
380 industrial properties are located east of Oakleys Chase Sections 2 and 3.

381  
382 The requests are intended to make the proffers from the two original cases  
383 largely consistent, and to allow for a greater flexibility in home style and design.  
384 Major items proposed for amendment include the following: A reduction in  
385 minimum finished floor area from 1,800 square feet to 1,450 square feet. No  
386 more than forty percent of the proposed homes on the property could be less  
387 than 1,800 square feet, and any home less than 1,800 square feet would need to  
388 be consistent with the submitted architectural elevations as shown in your staff  
389 report and shown here. Several of those were omitted by the applicant as well.  
390 Those are the same for both of the requests.

391  
392 Also proposed is a reduction in the depth of side-loaded two-car garages, from  
393 twenty feet to eighteen and a half feet.

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And finally the largest major amendment proposed by the applicant would be an increase in the maximum street tree spacing to forty feet to allow for greater flexibility in placement of those trees.

Other proffers proposed for amendment would make proffer language regarding roads, subdivision plans, and cantilevered features consistent between the two cases. Additionally, the applicant is proposing to change the building materials proffer that governs Oakleys Chase Sections 2 and 3. The current proffer, accepted with case C-58C-07, requires a minimum of fifteen percent of the homes on the property to have 100 percent brick or stone fronts. The applicant now proposes that forty percent of the homes would have at least thirty percent brick or stone. So the amount of brick would be reduced, but a larger number of homes would contain such high-quality materials.

To address the remaining concern that was noted in the staff report, the applicant has submitted revised proffers today that would require any side elevation of any home constructed after the approval of these requests to have a minimum of one window to increase the architectural detailing on the remaining homes to be constructed. Again, those proffers should have been handed out to you this evening. They were submitted today.

Overall, the proposed revisions are not anticipated to negatively impact adjacent residents, as the reduced square footage would still be larger than the average home size in adjacent developments. The zoning and use of the property would continue to be consistent with the site's Suburban Residential 2 designation in the 2028 Comprehensive Plan. For these reasons staff supports both C-3C-12 and C-4C-12. Time limits would need to be waived on both sets of proffers that you received this evening in order to accept them this evening.

This concludes my presentation, and I would be happy to answer any questions you might have at this time.

Mr. Branin - Does any Commissioner have any questions for staff?

Mrs. Jones - This is about the garages. We haven't really talked about the size of garages until recent years. This would reduce it from twenty to did you say nineteen?

Mr. Sehl - I believe it's eighteen and a half.

Mr. Archer - Eighteen and a half.

Mr. Sehl - Yes ma'am. As noted in the staff report, this is largely to accommodate side-loaded garages. There are none that are required by the original proffers. The original request required 18-1/2 feet wide by 20 feet deep.

440 You could see that what they're proposing is essentially to keep the size of the  
441 garage—the entrance point would be the same, so that 10-1/2-foot width would  
442 become the depth of the side-loaded garages. The applicant is requesting that be  
443 amended to accommodate that design.

444  
445 Mrs. Jones - Okay. All right, thank you.

446  
447 Mr. Archer - I have no questions for you, Mr. Sehl, but I would like  
448 the applicant to come down for a moment, if you would, sir.

449  
450 Mr. Gellelly - Yes sir, Skip Gellelly.

451  
452 Mr. Archer - Good to see you, Mr. Gellelly.

453  
454 Mr. Gellelly - How are you doing, sir.

455  
456 Mr. Archer - The last time I rode through I did notice that you have  
457 two or three houses that have been built that don't have any windows on the side  
458 elevation.

459  
460 Mr. Gellelly - Yes sir.

461  
462 Mr. Archer - Probably was an oversight on your part, I'm sure.

463  
464 Mr. Gellelly - I can only twist so many arms.

465  
466 Mr. Archer - I understand. That was the reason why I requested  
467 that of staff, and they requested it of you. And I appreciate the fact that you did  
468 allow that. I think it does make for a much nicer appearance.

469  
470 Mr. Gellelly - Without question. I went back and looked at my  
471 completed sides that are in Section 2. Seven out of the ten did have windows. I  
472 caught a little grief about—there are few designs that only have garages that  
473 really would be available for windows, and they folded on that. So I think it was a  
474 good request and I prefer to do it that way.

475  
476 The other question about the garages. What we attempted to do, working with  
477 the planner, Ben, was to improve the look of the overall subdivision and have  
478 more flexibility on the front elevation by having the side-loaded garages. And  
479 that's turned out really well. We've done two of those already in five units. I don't  
480 expect that percentage to be as high later, but it's turned out really nicely. The  
481 ones in Phase One have turned out super. I'm really pleased at how it's turning  
482 out.

483  
484 Mr. Branin - Do any Commissioners have any questions for the  
485 applicant? None? Okey.

486  
487 Mr. Archer - Thank you, Mr. Gelletly.  
488  
489 Mr. Branin - Thank you, sir. No further questions? Mr. Archer,  
490 would you like to make a motion?  
491  
492 Mr. Archer - A couple of remarks. The adjacent neighborhood that  
493 Mr. Sehl mentioned is Hechler Village. It's an old one, but a very well preserved,  
494 well-maintained neighborhood. The people that live there take a lot of pride in  
495 their homes. There were no houses that I could observe there that had any  
496 sidewalks that did not have windows. That was one of the reasons why I  
497 requested that that be added into the proffers. And it does give Mr. Gelletly more  
498 diversity and salability of his houses.  
499  
500 I first would move that the time limits on the proffers for C-3C-12 be waived.  
501  
502 Mrs. Jones - Second.  
503  
504 Mr. Branin - Motion was made by Mr. Archer, seconded by Mrs.  
505 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion  
506 passes. Time limits are waived.  
507  
508 Mr. Archer - I would move that C-3C-12, Skip Gelletly for Gelletly  
509 and Associates Incorporated, be sent to the Board with a recommendation for  
510 approval.  
511  
512 Mrs. Jones - Second.  
513  
514 Mr. Branin - Motion was made by Mr. Archer, seconded by Mrs.  
515 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion  
516 passes.  
517  
518 **REASON:** Acting on a motion by Mr. Archer, seconded by Mrs.  
519 Jones, the Planning Commission voted 5-0 (one abstention) to recommend the  
520 Board of Supervisors grant the request because the reduction in minimum nduse  
521 size and required finished space would not greatly influence the quality or value  
522 of residential development in the area and the proffers continue to assure a  
523 quality form of development with maximum protection afforded the adjacent  
524 properties.  
525  
526 Mr. Archer - I move that the time limits on the proffers for C-4C-12  
527 be waived.  
528  
529 Mrs. Jones - Second.  
530

531 Mr. Branin - Motion made by Mr. Archer, seconded by Mrs. Jones.  
532 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
533 Time limits are waived.

534  
535 Mr. Archer - All right. I move that C-4C-12, Skip Gelletly for  
536 Gelletly and Associates Incorporated, be forwarded to the Board with a  
537 recommendation for approval.

538  
539 Mrs. Jones - Second.

540  
541 Mr. Branin - Motion made by Mr. Archer, seconded by Mrs. Jones.  
542 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

543  
544 **REASON:** Acting on a motion by Mr. Archer, seconded by Mrs. Jones, the  
545 Planning Commission voted 5-0 (one abstention) to recommend the Board of  
546 Supervisors **grant** the request because the reduction in minimum house size and  
547 required finished space would not greatly influence the quality or value of  
548 residential development in the area and the proffers continue to assure a quality  
549 form of development with maximum protection afforded the adjacent properties.

550  
551 **C-5C-12 Paul S. Kellinger, Esq. for Schmud, Inc.:** Request  
552 to amend proffered conditions accepted with Rezoning Case C-64C-83 on parts  
553 of Parcels 732-749-5494 and 732-749-6497 located on the east line of Gayton  
554 Road approximately 800 feet south of its intersection with Gayton Centre Drive.  
555 The applicant proposes to amend proffers related to uses and hours of operation.  
556 The existing zoning is B-2C Business District (Conditional). The 2026  
557 Comprehensive Plan recommends Commercial Concentration and Office. The  
558 staff report will be presented by Mr. Livingston Lewis.

559  
560 Mr. Branin - Okay. Mr. Secretary, there is also a PUP as well,  
561 correct?

562  
563 Mr. Emerson - Correct, yes sir.

564  
565 Mr. Branin - All right. We're going to hear both of these the same  
566 as we did on the last one?

567  
568 Mr. Emerson - No sir, because action on the first item impacts action  
569 on the second item.

570  
571 Mr. Branin - Okay.

572  
573 Mr. Emerson - The extended hour request that follows with the PUP  
574 cannot necessarily occur without approval of the first case. But because you're  
575 the recommending body, regardless of the action on the first case, you do have  
576 to have take action on the second.

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Mr. Branin - Okay.

Mr. Emerson - But they are somewhat different.

Mr. Branin - All right. Is anyone in opposition to C-5C-12, Paul S. Kellinger, Esquire, for Schrud Incorporated? We have three. Okay. Mr. Secretary, would you review the rules of engagement.

Mr. Emerson - Yes sir, Mr. Chairman. The public hearing rules of the Planning Commission dictate that the applicant is allowed ten minutes to present the request. Time may be reserved for responses to testimony. Opposition is allowed ten minutes—and that's cumulative—to present its concerns. Commission questions do not count into the time limits of either party. The Commission may waive the time limits for either party at its discretion.

Mr. Branin - Mr. Lewis?

Mr. Lewis - Good evening, Mr. Chairman, members of the Commission.

This is a request to amend all proffers approved with case C-64C-83 in order to allow Daddio's Bar and Grille to submit a Provisional Use Permit request to extend operating hours from midnight to 2:00 a.m. daily. That companion case, P-3-12, will be presented separately following the Commission's action on this rezoning request.

The subject site is part of the Crofton Green Shopping Center on Gayton Road which provides low-intensity, neighborhood retail services. Although the property is zoned B-2C, the proffers approved in 1984 essentially limit the site to B-1 uses and development standards in order to reduce potential impacts on the predominantly residential area. The only B-2 use allowed is a small animal clinic, which incidentally is now considered a B-1 use due to a code change. R-5 residential uses surround the site to the west, north, and east.

The B-1 development standards governing the site allow hours of service between 8:00 a.m. and midnight. In 2007, the Division of Community Maintenance was notified that Daddio's was operating past midnight. The applicant subsequently filed proffer amendment and Provisional Use Permit cases to pursue midnight to 2:00 a.m. operation, but later withdrew both requests prior to public hearing.

In July 2011, the Division of Community Maintenance issued a Notice of Violation to the applicant after discovering Daddio's was again operating past midnight. This resulted in the filing of the cases before the Commission this evening. In

622 addition, the business was also issued a separate Notice of Violation related to  
623 the number of billiard tables and electronic gaming machines.  
624

625 Small neighborhood shopping centers such as Crofton Green are meant to  
626 provide convenient access to retail services while also maintaining a low-intensity  
627 land use profile. This helps achieve compatibility with surrounding uses—often  
628 residential, as in this case. Having extended hours of operation increases the  
629 potential for light, noise, police calls for service, and other spillover effects that  
630 could negatively impact residential properties. Therefore, businesses requiring  
631 more intense operations are encouraged to locate further from residential  
632 neighborhoods in areas that are predominantly commercial.  
633

634 The proposed changes are not consistent with the goals and objectives of the  
635 2026 Comprehensive Plan which recommend providing logical transitions  
636 between uses of differing intensity, minimizing disruption and conflict between  
637 residential and non-residential uses, and promoting safety and security within  
638 neighborhoods.  
639

640 In conjunction with past and present opposition voiced by area residents, staff  
641 believes the requested proffer amendments are not in keeping with the intent of  
642 the original proffers, would not be compatible with surrounding properties, and  
643 would set a negative precedent in the area. For these reasons, staff recommends  
644 denial of this request.  
645

646 This concludes my presentation. I will be happy to take any questions.  
647

648 Mr. Branin - Does the Commission have any questions?  
649

650 Mr. Witte - I'd like to know how many violations they've actually  
651 been cited with.  
652

653 Mr. Lewis - In this year, two—the extended hours, and the billiard  
654 tables and gaming machines. I think 2007 did not end up an official violation  
655 notice. So prior to 2007—the current owner I believe acquired the property in the  
656 2003 range. Prior to that, the previous owner had several violations issued  
657 against the business. So I believe only these two in 2011 are the only official  
658 violations given to the applicant tonight.  
659

660 Mr. Witte - How about police actions?  
661

662 Mr. Lewis - There have a number of calls for service to the  
663 address. It may or may not have originated from the specific business, but at  
664 least the address that the business is associated with. The statistics on that—for  
665 2011 we acquired stats from police through the end of July. Midnight to 6:00 a.m.  
666 calls for service, a total of five, and all other hours a total of seven, for a grand  
667 total of twelve. You'd have to extrapolate that out through the end of the year. I'm

668 not sure how many calls for service. Ms. Kim Vann is here. She may be able to  
669 add the post-July statistics to this. 2010 in comparison, four calls between  
670 midnight and 8:00 a.m., and ten for all other hours for a total of fourteen. So  
671 comparing 2010 to 2011, fourteen in 2010, twelve total for 2011 through seven of  
672 the twelve months.

673  
674 Mr. Branin - Any other questions?

675  
676 Mrs. Jones - I don't have any questions for Mr. Lewis. We have  
677 been over statistics. I have mine already. We've looked over statistics; we have  
678 looked over past history; we've looked over a lot questions that had to do with  
679 this case's evolution over the years. We have tried to give this as thorough a look  
680 from all angles as we can. And Mr. Lewis has been—I must say at the outset  
681 here—very accommodating to all of my questions. So I do think that he has done  
682 a fine job trying to get to the statistical analysis as well as other land use and  
683 planning analysis of this case.

684  
685 Mr. Branin - Mrs. Jones, would you like to hear from the applicant  
686 or the opposition first?

687  
688 Mrs. Jones - I would like to hear, obviously, from both, but I think it  
689 might be easier if the folks who would like to come speak in opposition to this  
690 case, if you could come on forward. Just state your name at the podium, as these  
691 are recorded. This is a recorded hearing, so if you wouldn't mind speaking right  
692 into that microphone, we'd appreciate it. And let us know your concerns, and  
693 then the applicant can possibly clarify or address the points that you make. We  
694 appreciate you being here.

695  
696 Mr. Ratchford - Thank you and good evening. I'm Robin Ratchford  
697 and I live at 2249 Brightmoor Court in Henrico, 23238. My property is very close  
698 to Gayton Road. With this business requesting to stay open until 2:00 a.m. in my  
699 opinion will increase traffic on Gayton Road. There are a lot of residential  
700 properties in that area; my home is located in the Windsor Park townhome  
701 community, which has approximately 153 units in that particular area. Plus there  
702 are several nursing homes and senior centers nearby, and then there are  
703 apartments across the street. So I ask the Commission to please have  
704 consideration for the residential properties in this area. In my opinion, staying  
705 open until 2:00 a.m. really does not bring a lot of value into the community. I  
706 would appreciate the Board's consideration to this particular paper. Thank you.

707  
708 Mrs. Jones - Thank you.

709  
710 Ms. Goldberg - Good evening. My name is Rila Goldberg. I live at  
711 2247 Brightmoor Court, Henrico, 23238, in the Windsor Park community.

712



713 I'm concerned about the impact on the neighborhood. We have single-family  
714 dwellings, townhouses, apartments, nursing homes, senior apartments. When I  
715 moved into the neighborhood in 1986, it was my understanding that community  
716 businesses would close by midnight. I live adjacent to Gayton Road. I work in  
717 retail, so I'm subject to working seven days a week. I have to get up early in the  
718 morning and I like to be able to sleep at night. Any change in the zoning to allow  
719 the Daddio's Bar and Grille to be open until 2:00 a.m. would increase traffic along  
720 the Gayton Road corridor. I'm also concerned that if it's approved for one  
721 business, that other businesses will want to follow suit down the road, although I  
722 know this hearing deals strictly with this particular business.

723  
724 I think that the businesses should fall under the rules and the provisions. When  
725 Daddio's was opened, they knew the provision was 12:00 midnight. Sounds like  
726 from what I heard tonight they've violated that many times. Personally, I don't see  
727 a need to reward the violations by having the neighborhood suffer with the  
728 increased noise and disturbance to our peacefulness within the community. I  
729 have an expectation of being able to live in a quiet community, being able to get  
730 rest at night. I seriously doubt that the County is going to buy my home if it  
731 becomes too noisy because of a change in the use permits for a restaurant.

732  
733 I appreciate your consideration in this. I'm not concerned about anyone's  
734 personal habits as far as the socialization at the restaurant, but what I am  
735 concerned about is the impact it will have on my neighborhood and my peaceful  
736 enjoyment of my home. Thank you.

737  
738 Mrs. Jones - Let me ask you, Ms. Goldberg, are you impacted at  
739 the moment by the hours until 12:00?

740  
741 Ms. Goldberg - As far as the hours by twelve, I'm usually going to bed  
742 between 11:00 and 11:30. And again, my house is very close to Gayton Road. In  
743 the spring and fall, it's difficult to open windows late at night because of the traffic  
744 noise. But again, if I'm going to bed at 11:30 or 12:00, then things seem to quiet  
745 down for a number of hours until it seems about 5:30 or 6:00 when I hear traffic  
746 picking up, which is your normal work traffic. So again, it's the ability to be able to  
747 sleep during the night.

748  
749 Mrs. Jones - Okay, thank you.

750  
751 Ms. Goldberg - Thank you.

752  
753 Mrs. Jones - Anybody else want to come make a comment?

754  
755 Mr. Branin - Any other opposition? Okay. Would you like to hear  
756 from the applicant?

757  
758 Mrs. Jones - Yes, I would.

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Mr. Branin - Would the applicant please come down.

Mr. Kellinger - Good evening ladies and gentlemen of the Planning Commission. I'm Paul Kellinger. I'm representing the property owner, Ridgeview Incorporated and the—

Mr. Branin - I don't mean to cut you off, but could you repeat your name again?

Mr. Kellinger - I'm sorry; Paul Kellinger. I also represent Daddio's Bar and Grille, who is also the applicant and tenant of the shopping center. Daddio's is an existing restaurant on Gayton Road and the existing zoning is B-2, as we discussed. Tonight we are asking to amend the existing proffers and for a Provisional Use Permit. I apologize but I'm going to—the heart of my presentation is going to be the same for both of these, so I'll wrap it all in together.

With regard to these applications, staff has raised a number of concerns. But I believe that the proffers that we have offered are addressing those concerns. As far as the noise concerns, we have proffered that live entertainment will cease at midnight, and except from Sunday through Thursday, and at 1:00 a.m. from Friday to Saturday morning, and from Saturday to Sunday morning. So 1:00 a.m. Saturday morning and Sunday morning the live entertainment will cease. Right now they are permitted to be open until midnight, so we're only asking for one additional hour at those times for the live music.

The existing site also lends itself to mitigate the noise. The Daddio's site is pretty much north and south elongated. The houses to the east of the property line are approximately 170 feet from the building. The residence is 220 feet. And it's a wooded, vacant lot and a wooded backyard. To the west to the townhomes, the adjacent property is 180 feet away and the existing residence is 250 feet away. So the noise is not going to transmit from the building that far.

Likewise with the lighting spillover that staff has raised. The lighting is directed downwards and either motion activated or for security. And the lighting will not spill over into existing residences. Daddio's has never actually received any complaints regarding a noise or a lighting issue either formally or informally from the residents.

In order to also mitigate the impact of our request, we've offered to cease serving alcohol at 1:30 to not have a rush of people going in and out, but it will gradually have the customers leaving throughout the evening. I talked to somebody who said it's not like a stadium letting out after a football game. It's not a big rush of people leaving at any given time.

805 Staff has also raised concerns about safety. But, Daddio's has complied. We've  
806 had our safety assessment, so we've complied with all the requests. We've  
807 installed extensive video cameras, both inside and out. Motion-detecting lighting  
808 in the back; security lighting in the front. I believe that there were no concerns  
809 during the safety inspection.

810  
811 I'd also like to address staff's comments that we are not consistent with the 2026  
812 Plan. I believe that our buffering distances with proffers are going to reduce any  
813 more intensive use of the property. We are simply asking for fourteen more hours  
814 to compete with the existing other businesses within the area. Our request is also  
815 consistent with other parts of the plan that weren't mentioned in the staff report.

816  
817 Mr. Branin - Mr. Kellinger, may I stop you there for a second?

818  
819 Mr. Kellinger - Mmm-hmm.

820  
821 Mr. Branin - What other businesses are you referring to?

822  
823 Mr. Kellinger - Other sports bars.

824  
825 Mr. Branin - Such as?

826  
827 Mr. Kellinger - Such as Applebee's—any sports bar in the area.  
828 What Daddio's is running into is that through the economics of it, sporting events  
829 are going later on into the evening.

830  
831 Mr. Branin - I understand that, but are you referring to the  
832 Applebee's that are located on Broad Street?

833  
834 Mr. Kellinger - Any competitive restaurant that is open until two  
835 o'clock in the area. Any competitive bar.

836  
837 Mr. Branin - Okay. Thank you. Continue.

838  
839 Mr. Kellinger - The Economic Objective #8 in the Comprehensive  
840 Plan provides an objective that small businesses need incentives in the area.  
841 Instead of the chains coming in and ruling the roost, small businesses should  
842 have some opportunity to change their business to meet the economic  
843 environment. The two owners, Tommy and Tracy are here. They are just small  
844 business owners, changing economics, changing market, changing competition  
845 is necessitating this request. This is also supported by the Land Use Keystone  
846 Policy #6, that incentives for infill of existing shopping areas that aren't going to  
847 be competitive because of the changing market. Land Use and Community  
848 Character Goal 4 calls for a strong community identity. Daddio's has been a long-  
849 lime part of that community. It has broad support. We submitted a petition that

850 was signed by over 470 residents in support of this request. And Daddio's is also  
851 active in the community, charities and hosting, sponsoring events—

852  
853 Mr. Branin - Do you have that petition?

854  
855 Mr. Kellinger - Yes I do.

856  
857 Mr. Branin - Would you go ahead and hand it up to Mr. Leabough.  
858 and he'll review it and send it down.

859  
860 Mr. Kellinger - Land Use and Community Character Objective 14  
861 calls for protection of the residential areas from commercial intensity. But with the  
862 proffers and existing distances, there does not seem to be any spillover lighting,  
863 noise, security issues, because that's all being taken care of on the site. And the  
864 distances involved are not directly abutting a house, a townhouse, an apartment  
865 building. There are safeguards available, already in place. And Keystone Policy  
866 #5 and Objective 34 call for concentrating the commercial near residential areas  
867 to have energy conservation and convenience. This goes against what the staff  
868 is saying that this use would intensify pedestrian traffic. One of the goals of the  
869 Comprehensive Plan is to encourage pedestrian traffic. We have these types of  
870 facilities near residences so they can walk and have the services readily  
871 available.

872  
873 I believe that our request does comply with the major aspects of the  
874 Comprehensive Plan and the additional hours will not have a negative effect on  
875 the surrounding property. We appreciate your careful consideration into our  
876 applications, and feel strongly that a recommendation of approval will benefit the  
877 County and this community overall. I will reserve my remaining time, if needed,  
878 after public comments. And I'll be happy to answer any questions.

879  
880 Mr. Branin - Mrs. Jones, may I ask a question?

881  
882 Mrs. Jones - Sure.

883  
884 Mr. Branin - The owners, you said, are in the room? Okay. Ms.  
885 Goldberg made a comment that you all were in violation and knew when you  
886 moved in there. Were you guys aware that your time was until midnight not 2:00?

887  
888 Mr. Stapleton - [Off microphone.] We were.

889  
890 Mrs. Jones - I'm sorry, we have to ask you to come up to the  
891 microphone because these are recorded. They can't hear you back there. Thank  
892 you, Mr. Stapleton.

893

894 Mr. Stapleton - We were under the understanding that there was a  
895 possibility that if we applied for it, that we could be able to get the two o'clock  
896 zoning.

897

898 Mr. Branin - So you were open until 2:00 and you were aware that  
899 you were only allowed until midnight.

900

901 Mr. Stapleton - Yes sir, I think you could say that.

902

903 Mr. Branin - I was going to try to help you out.

904

905 Mr. Stapleton - I know you were, but I'd rather be honest.

906

907 Mr. Branin - And I'd rather you'd be honest. The reason why I said  
908 that is I've had in Three Chopt District, Ms. Goldberg, CVS this past year.  
909 Someone said when we were doing an audit that CVS is open twenty-four hours  
910 and they're not allowed to be; they can only be open until midnight. So we had to  
911 basically shut it down at midnight, and then they had to file and apply. So my  
912 point was I'm glad he's being honest, but sometimes you don't know. So thank  
913 you for being honest, even though you're in violation.

914

915 Mr. Leabough - Can I ask a quick question, please?

916

917 Mrs. Jones - Absolutely.

918

919 Mr. Leabough - Have you all received any noise complaints from the  
920 neighborhood communities?

921

922 Mr. Stapleton - No sir, I have not.

923

924 Mr. Leabough - Do you all have security personnel that patrol the  
925 parking lot?

926

927 Mr. Stapleton - I personally do it myself, sir.

928

929 Mr. Leabough - During and after operations?

930

931 Mr. Stapleton - Yes.

932

933 Mr. Leabough - How long after operations?

934

935 Mr. Stapleton - I'm out there watching the staff go to their cars. I'm  
936 also there watching them at four o'clock when making sure they're getting out.

937

938 Mr. Leabough - Okay. Thank you.

939

940 Mr. Stapleton - I did want to add one thing. The second violation on  
941 the billiards and amusement videos, that was just recently issued last week and  
942 we are correcting that. I think that was when staff did their walk-through.  
943

944 Mrs. Jones - Site visit.  
945

946 Mr. Stapleton - Yes. And that is being corrected. That will not be an  
947 on-going problem.  
948

949 Mr. Witte - I have a question. That was a pretty impressive list of  
950 signatures. How many were actually from the neighborhood?  
951

952 Mr. Stapleton - I would say probably about ninety-five percent of  
953 them.  
954

955 Mr. Witte - I just scanned through them and noticed some  
956 Mechanicsville ZIP codes.  
957

958 Mr. Kellinger - Sometimes we have bands out there, and we had that  
959 petition out for people to sign up when we have our bands, which they could  
960 come from the Mechanicsville area, or they can come from Dinwiddie.  
961

962 Mr. Witte - Okay, thank you.  
963

964 Mr. Archer - Mr. Kellinger, what is the size of the operation in  
965 terms of the crowd? How many people are typically there on a Friday or Saturday  
966 night?  
967

968 Mr. Kellinger - I'll have to defer to Tommy again, because I live in  
969 Chesterfield.  
970

971 Mr. Stapleton - Normally the crowd's probably about sixty to seventy  
972 people.  
973

974 Mr. Archer - Okay. And what's the maximum that you can hold?  
975

976 Mr. Stapleton - Right at 125.  
977

978 Mr. Archer - Okay, thank you.  
979

980 Mr. Branin - Thank goodness you didn't say fifty.  
981

982 Mr. Stapleton - Huh?  
983

984 Mr. Branin - I was hoping you weren't going to say our limit's fifty.  
985 but we have seventy-five.

986

987

Mrs. Jones - Mr. Kellinger, do you want to retain any of your remaining time to answer questions or to rebut other comments?

988

989

990

Mr. Kellinger - Yes I would like that.

991

992

Mrs. Jones - Okay. How much would you like to retain?

993

994

Mr. Kellinger - I believe I have twenty total, but I may only need five.

995

996

Mrs. Jones - Mr. Secretary, what is his time?

997

998

Mr. Emerson - He has three and a half, based on the ten minutes on this case.

999

1000

1001

Mrs. Jones - Okay. You may finish your presentation or I'm going to have some folks come up to answer some questions. So you may want to reserve that time to answer their answers. All right, thank you. Mr. Lewis, could you come back up, please? I think this is going to be up and down, up and down. In reference to the petition, you have had an opportunity to look at that in some detail because it came to the Planning Department. I wondered if you would touch on two things. One is the petition as you looked at it to review the signatures, and secondly, I wondered if you would talk about any complaints and e-mails or phone calls that you've been aware of in relation to this case as it's been working through this application process.

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Mr. Lewis - Yes ma'am. First the petition. I did look up all addresses on the petition. If you look at the immediate area, walking distance, give or take a third of a mile or so, there were 38 individuals within a third of a mile of the Daddio's property that signed the petition in support. A total of 313 County-wide. So you can do the math; that leaves 150 or so outside of the County. And then out of those, some out of state. So the majority were outside of the a third of a mile from the Daddio's site.

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1020

The number of e-mails, calls, letters voicing opposition I would put in the neighborhood of twelve or fifteen. A couple of those were husband and wife or two, three individuals living in the same dwelling. So add that up—fifteen to twenty individuals who voiced opposition to the request.

1021

1022

1023

1024

1025

Mrs. Jones - Okay. And their opposition was mostly centered around—can you remember the issues that they raised most of the time?

1026

1027

1028

Mr. Lewis - The issues that were echoed in the staff report: traffic, safety, noise, light, general disruption of sleeping hours. Those sorts of things. Police calls for service.

1029

1030

1031

1030

1031

1032 Mrs. Jones - It seems to me from the analysis you've done, and  
1033 certainly from the enthusiastic response that I saw at our community meeting,  
1034 that there is a loyal following to Daddio's; there is no doubt. It is, however, not  
1035 strictly concentrated. What I'm hearing you say and what we've seen from those  
1036 experiences, it's not strictly concentrated in the neighborhood. It's a more far-  
1037 reaching group. Would you say that's fair to say?  
1038

1039 Mr. Lewis - It's Countywide, yes ma'am, with the majority being  
1040 west of I-85.  
1041

1042 Mrs. Jones - Okay, all right. Thank you. I did want to ask one other  
1043 thing. As far as the lighting on this site. Is the lighting at a security level after  
1044 midnight or is it the same as the lighting prior to midnight?  
1045

1046 Mr. Lewis - I honestly don't know the answer to that.  
1047

1048 Mrs. Jones - I don't either. I meant to ask, but I would expect that  
1049 there is a security lighting level involved after midnight versus prior hours.  
1050

1051 Mr. Lewis - Just thinking of other cases I've handled, typically we  
1052 try to get security level lighting after business hours so it provides visibility  
1053 adequate to record if there are security cameras in the area, but not so bright that  
1054 it disturbs surrounding properties. I'm not sure what the security level reduction  
1055 and lighting is on this site. though.  
1056

1057 Mrs. Jones - Okay, thank you. Mr. Stapleton, do you know about  
1058 the security lighting?  
1059

1060 Mr. Stapleton - Yes. It's the same light. It's the same lighting all the  
1061 time.  
1062

1063 Mrs. Jones - It doesn't dim?  
1064

1065 Mr. Stapleton - No ma'am.  
1066

1067 Mrs. Jones - Okay. Thank you.  
1068

1069 Mr. Kellinger - When he mentioned that some of the areas were  
1070 farther apart, some of these people have moved. They were there for seven or  
1071 eight years and then they moved away, I mean, they could move to Horsepen,  
1072 and they still come see us. So when I say, you know, it's ninety-eighty percent, I  
1073 still rely on them.  
1074

1075 Mrs. Jones - I think it speaks well that they will drive to wherever  
1076 you are.  
1077



1078 Mr. Branin - I saw a couple of my neighbors and I live in a different  
1079 district.  
1080  
1081 Mrs. Jones - Thank you. I would like to ask Kim Vann from the  
1082 Division of Police to come up and chat a moment.  
1083  
1084 Ms. Vann - Good evening. Kim Vann with Henrico Police.  
1085  
1086 Mrs. Jones - Hi, Ms. Vann. I've had a lot of time to look at things  
1087 like calls for service. I'm sure you're very familiar with this case as well. Calls for  
1088 service can mean many things at many times. The implications are sometimes  
1089 difficult to draw. Based on your analysis of Daddio's and the research that you've  
1090 done for this case, would you like to make a comment as to the Division of  
1091 Police's assessment of this?  
1092  
1093 Ms. Vann - In reference to calls for service?  
1094  
1095 Mrs. Jones - In reference to the application.  
1096  
1097 Ms. Vann - For extending hours, we often look at the safety and  
1098 security measures that we would want a business to put in place. We have met  
1099 with them on site. I haven't done a report on it because of the timing of the  
1100 Planning Commission and Board for the hearing, but they have done a number of  
1101 security measures. There are some things that they can do in addition, and  
1102 whether or not it's Daddio's or it's the shopping center. The fact that Daddio's is  
1103 within a shopping center, it's a bigger entity there. The shopping center itself was  
1104 built many years ago and had different types of requirements. Hence, lighting  
1105 doesn't meet what we would be looking for today. They also built the shopping  
1106 center at a time when you would be closing at midnight, so they may not have  
1107 looked at the lighting to be for a business that's open to 2:00 a.m.  
1108  
1109 In these cases the Division, I'm not going to say we're opposed to it, but we're  
1110 often concerned when the uses are open later because it does generate  
1111 additional calls for service, whatever those calls may be. To have an actual  
1112 opposition, we're not saying we're opposed to this particular case, just concerned  
1113 with extending the hours.  
1114  
1115 Mrs. Jones - With eleven calls for service in 2007, and seven in  
1116 2008, twelve in 2009, fourteen in 2010, and twelve through July 2011?  
1117  
1118 Ms. Vann - That is updated to fifteen.  
1119  
1120 Mrs. Jones - That is now updated to fifteen. That seems to be an  
1121 escalating pattern. Am I reading that correctly?  
1122  
1123 Ms. Vann - Yes ma'am. From those numbers you would.

1124  
1125 Mrs. Jones - All right. The vacant lot behind the restaurant, did you  
1126 discuss measures that would be necessary for that?  
1127  
1128 Ms. Vann - That's a tough one again, because it's a shopping  
1129 center. Like the front of it, lighting would be nice to have. They need additional  
1130 lighting in the parking lot in front of the shopping center part where Daddio's is.  
1131 Daddio's has done some additional lighting on the building and out towards the  
1132 parking lot. If they have that many people coming, the lighting doesn't reach very  
1133 far. There are not many light poles in the parking lot; bottom line, there's a lot of  
1134 dark areas... It's a little questionable about the rear and I think Planning might be  
1135 able to speak better to that. I know in years past there have been other uses that  
1136 have been looked at in the rear of that shopping center. But there is a lot of  
1137 evidence of loitering, I'm not saying that this is Daddio's; it may be the  
1138 neighborhood or the kids around there. But because it's such an expansive  
1139 space there is evidence of that. I know feral cats have been a problem back  
1140 there, too. We saw some evidence when we were there.  
1141  
1142 Mrs. Jones - I agree with you that it's hard to draw a line between  
1143 what is an effect of shopping center maintenance and what is an effect of having  
1144 a business with things going on, I agree with you. But we have to evaluate with  
1145 what we have.  
1146  
1147 Ms. Vann - Right.  
1148  
1149 Mrs. Jones - Thank you.  
1150  
1151 Mr. Branin - Ms. Vann, in regards to the comment from Mr.  
1152 Kellinger regarding private versus large corporations—rough guess, because I  
1153 have a number in my head—how many large corporations have I denied  
1154 extended hours to in the Short Pump area in the past eight years that I have  
1155 been on the Commission? Any guess?  
1156  
1157 Ms. Vann - Large corporations?  
1158  
1159 Mr. Branin - Applebee's.  
1160  
1161 Ms. Vann - Applebee's. I recall, but I'm not sure if I remember the  
1162 results. But I believe the one at West Park.  
1163  
1164 Mr. Branin - West Park, Silver Diner. I also had Emilio's. I had  
1165 Plaza Azteca, I think.  
1166  
1167 Ms. Vann - Right. I don't know if you would say Pour House is a  
1168 large establishment.  
1169

1170 Mr. Branin - Pour House. The statement that corporations don't  
1171 get it and private smaller ones do I think is a misstatement by your attorney. I  
1172 know in Short Pump I would say at least nine or ten we have turned down the  
1173 extended hours. Mexico Restaurant, I think I've done three different times, three  
1174 different locations. Okay.

1175  
1176 Mrs. Jones - Thank you.

1177  
1178 Mr. Branin - Any other questions for staff?

1179  
1180 Mrs. Jones - Excuse me, I was going to ask if any citizens, any  
1181 other folks wanted to speak. There is some time for opposition. We also have  
1182 someone here who would like to speak. Did you have questions for staff?

1183  
1184 Mr. Branin - No, I did with Ms. Vann because I wanted to make the  
1185 point that it doesn't matter if it's private or public, large or small.

1186  
1187 Mrs. Jones - Right.

1188  
1189 Mr. Branin - It's about citizens not about—.

1190  
1191 Mrs. Jones - Okay.

1192  
1193 Ms. Simmons - Is this only opposition?

1194  
1195 Mrs. Jones - No, you're welcome to make a comment.

1196  
1197 Ms. Simmons - I haven't heard you ask for anyone to speak who was  
1198 for leaving it open until 2:00 a.m.

1199  
1200 Mrs. Jones - The attorney for the applicant has presented the case.  
1201 You are welcome to contribute to that.

1202  
1203 Ms. Simmons - Okay. Well, my name is Jenny Simmons. I actually  
1204 live over here on Balla Court in the 23228 district. But I frequent Daddio's a lot  
1205 because it's a very safe place to go. I keep hearing these complaints. You know  
1206 what, he was in violation. He's admitted to being in violation and being open until  
1207 2:00 a.m., and nobody complained. And now that he wants to rezone and legally  
1208 be open until two o'clock, people are concerned about noise. I don't get it. There  
1209 was not a noise problem before. So I really don't understand the concern now.  
1210 The concern that I would have as a homeowner in that district is if he doesn't get  
1211 it and he has to close his business. And then you have an empty shopping center  
1212 with a 7-Eleven on the corner. I haven't heard anyone mention the 7-Eleven on  
1213 the corner, which is probably where most of the police calls come from. So I  
1214 really want you to keep that in mind.

1215

1216 Mr. Branin - Isn't there a Chinese restaurant next—  
1217  
1218 Ms. Simmons - There is a Chinese restaurant.  
1219  
1220 Mr. Branin - I used to live down the street.  
1221  
1222 Mr. Witte - How late is the 7-Eleven open?  
1223  
1224 Ms. Simmons - Until twelve o'clock.  
1225  
1226 Mr. Witte - Okay.  
1227  
1228 Ms. Simmons - Now how long do they loiter outside of it is a whole  
1229 other matter. That's what I'm saying. I think that's where the police calls are  
1230 coming from. I think that if you're getting police calls from Daddio's, Tommy's  
1231 probably calling because he needs you to come and get somebody. That's the  
1232 kind of establishment he runs.  
1233  
1234 Mr. Smith - My name is Randy Smith. I live at 2009 Stonehollow  
1235 Road, 23238. A couple of things here. Police calls to Daddio's. I have called the  
1236 police to Daddio's in the last year at Tommy's direction because two individuals  
1237 came in, followed by two more individuals. Never seen them before. They started  
1238 a fight and Tommy asked me to call the police. They came. The individual that  
1239 first came in was later arrested by the police for hitting a policeman outside.  
1240 Where they came from, we don't know. A couple issues on noise. Right below—I  
1241 guess that's east of Daddio's—there's the swim club that has swim meets. When  
1242 they have a swim meet they park all over the place, even in Windsor Park. They  
1243 have signs over there, "No Event Parking." I have seen 2:00 o'clock in the  
1244 morning there's a swim meet. How does this happen? I will go to Daddio's  
1245 anytime. I'll take my kids to Daddio's. They're welcome. They're safe.  
1246  
1247 Another thing is what this man does for the immediate community. Golf  
1248 tournaments, we raise money; give it away. Give it away to charities, swim  
1249 teams. Another thing we do is a Father's Day golf tournament; keep it cheap. It's  
1250 nothing better than kids, dads, and grandfathers playing golf together. Have a  
1251 good time. We even have a mini golf tournament. Putt-Putt. It's fun. We also do  
1252 one other thing. Thanksgiving. Tommy buys some turkeys, the staff cooks them,  
1253 people bring food. Anybody that walks in the door, including Henrico policemen,  
1254 it's free. It's a good place, a solid place, safe place.  
1255  
1256 I don't know where some of these police reports—I will tell you, walking to 7-  
1257 Eleven from Daddio's with a gang of teenagers, I'm starting to get concerned. But  
1258 overall it's a safe, wonderful place. I take my kids there; have no qualms with it.  
1259  
1260 Anyway, thank you.  
1261

1262 Mrs. Jones - Thank you. Mr. Emerson, how much longer does the  
1263 in-support group have?  
1264

1265 Mr. Emerson - If you count those in with the public comments, they  
1266 have probably about two minutes.  
1267

1268 Mrs. Jones - Come right on forward.  
1269

1270 Mr. Williams - My name is Kevin Williams and I live directly across  
1271 the street from Daddio's at 40B Braeburn Drive. And that's 23238. I have lived  
1272 across the street from Daddio's for over ten years. I've lived previous to that,  
1273 fifteen to twenty years ago, I lived across the street at Craighill Drive, which is in  
1274 the same apartment complex. I've known the previous owners of Daddio's and I  
1275 wouldn't go over there when they were there. But when I got back out of the  
1276 military I basically needed a place to eat, find a place to eat. I work for a security  
1277 company called Sonitrol and I get out of there at midnight, two in the morning,  
1278 sometimes three in the morning. At one o'clock in the morning when I leave work  
1279 sometimes—because we're a 24-hour facility—I need a place to eat sometimes. I  
1280 can come into Daddio's at midnight, one o'clock in the morning, and get a burger  
1281 and fries if I need to. It's a safe place to be. Like I said, I live directly across the  
1282 street and my kids have grown up across the street. They come into Daddio's  
1283 during the afternoon hours and get something to eat. I can feel safe that they can  
1284 go across the street and get something and come back home. They're now  
1285 grown adults and also live in the same place now.  
1286

1287 I don't have a big concern about it. I don't see cars out. I come home sometimes,  
1288 like I said, at one or two in the morning, and I don't see a ton of traffic on Gayton  
1289 Road when I come home. My immediate concern is the traffic in my apartment  
1290 complex because I don't have a place to park and the police calls that are on my  
1291 apartments. But, I just wanted to stand up here and speak on behalf of Daddio's.  
1292 Being in the military and being security in the military, and working for security  
1293 now, Daddio's is a safe place to be and I'm proud to live across the street from  
1294 them, and I'm proud to have them in my community.  
1295

1296 Mrs. Jones - Thank you. Sir?  
1297

1298 Mr. McLean - Good evening. My name is Neil McLean. I am a  
1299 taxpaying resident, home-owning resident. I live .8 miles from Daddio's. I don't  
1300 guess I fall into the .3-mile category, but I live .8 miles away. I go there to  
1301 socialize. I talk to other members of the neighborhood. I enjoy going there. As far  
1302 as safety in the parking lot, I've never felt threatened in any way when I go out to  
1303 my car when I'm leaving. The lighting as far as a parking lot is not as bright as I  
1304 guess it could be, but certainly the light pollution coming from the place, you  
1305 could miss it if you were driving by. So it is certainly not like you have bright  
1306 flashing lights and so forth. I have come to Daddio's before when they had a live  
1307 band and didn't even know they had a live band until I got within about twenty

1308 feet of the front door. It's well sound insulated as far as I'm concerned because I  
1309 didn't know they had a band until I got up close.

1310  
1311 As far as the traffic concerns go and noise from traffic. I think anyone who lives  
1312 within a mile knows that you're going to be woken up at night by sirens. We live  
1313 very close to a lot of nursing homes and there are a lot of EMT calls. There is not  
1314 a night that goes by that I don't hear sirens. Almost every single night. Those  
1315 sirens aren't coming from Daddio's; they're coming from the numerous homes,  
1316 nursing homes and so forth that are around. I have friends that would come  
1317 because they work at restaurants and so forth that close later. I believe there  
1318 would be a lot of revenue from taxes. And I would love to see some of my friends  
1319 that work at other restaurants in Henrico come to Daddio's if the hours were  
1320 extended, because when they get off work, they like a place to be able to go and  
1321 have something to eat and to socialize. I think a lot of those signatures on there  
1322 will tell you there's a lot of people wouldn't go there if it wasn't safe. If you felt like  
1323 you were gonna get mugged in the parking lot, I wouldn't go there. I feel safer at  
1324 Daddio's parking lot than I do going around the corner to 7-Eleven. Like was  
1325 mentioned before. I've seen some kind of shady characters hanging around  
1326 there. and I believe that probably does contribute to the police call reports.

1327  
1328 So I'm definitely in favor of it. I'd love to see more people come there. I like going  
1329 there, I feel safe there. and I really don't think it's a noise pollution issue. Thank  
1330 you.

1331  
1332 Mr. Branin - Mr. Kellinger, you have about a minute and a half if  
1333 you have any further comments.

1334  
1335 Mr. Kellinger - I think everyone has said as much as we can say. I do  
1336 want to apologize. I think you misunderstood me, I didn't mean to imply that big  
1337 business got the provisional use or a rezoning over small business. [On  
1338 microphone.] I just meant it in an economic goals to promote small business. I  
1339 didn't mean to—I don't know which way you're taking it, but I did not mean any  
1340 disrespect. Thank you.

1341  
1342 Mr. Branin - Do any Commissioners have any further questions?  
1343 Comments? None?

1344  
1345 Mrs. Jones - Okay.

1346  
1347 Mr. Branin - Well Mrs. Jones, do you want to make a motion?

1348  
1349 Mrs. Jones - Well you're going to get some comments before you  
1350 get a motion.

1351  
1352 This has been really, really a hard case. It's been under review for quite a long  
1353 time. It's coming before us tonight because I think the questions that needed to

1354 be asked have been asked, I think it's been evaluated; it's been considered; it's  
1355 been researched. And it's been discussed. In some respects this is a very  
1356 complicated case because of the pros and cons. And in another respect it's really  
1357 quite simple.

1358  
1359 All of this discussion has led us to where we are tonight. Obviously there are  
1360 people who feel strongly on both sides of the issue. We have done statistical  
1361 analysis; we've done a community meeting. We've talked to people; we've  
1362 listened to phone calls; we've read e-mails. And we have before us a case that is  
1363 what it is. I'd like to briefly explain, for those of you who took the time to come  
1364 here and join us tonight, I'd like to explain my perspective on this because I really  
1365 need to thank you for your willingness to be involved, and to come and  
1366 participate in this public forum because this is how we make our decisions. But, I  
1367 want you to know my perspective on this case before I make the motion.

1368  
1369 We have two cases in front of us, two applications. They are, however,  
1370 codependent, so my comments on one, as Mr. Kellinger's remarks, will apply to  
1371 the other. Basically what we're here to consider is this: After required proffer  
1372 amendments, if that happens, should Daddio's be granted a PUP to operate until  
1373 2:00 a.m. That is the issue before us. How we get there is a bit of a convoluted  
1374 path, but that's the issue.

1375  
1376 So while I have concerns about the wording of some of those proffers in this first  
1377 case and the applicability of the amended proffers to other tenants in the  
1378 shopping center—which leaves us with a lot of unknowns—there was a paper  
1379 trail which led us to this point that has been somewhat confusing. The original  
1380 B-1 zoning to the 1984 B-2 zoning for the vet clinic. And then somehow this  
1381 morphed into a restaurant at some point in time. Again, it is what it is, and we  
1382 have worked with that to the best of our ability.

1383  
1384 But over and above all that, the question remains, are extended hours to 2:00  
1385 a.m. appropriate for this business at this site? And that's really the overriding  
1386 issue that I've tried to deal with as I evaluate the case. The idea of extended  
1387 hours is not new, as Mr. Lewis reported in his staff report. This request has  
1388 already been denied by the Board of Supervisors. It's come before them and  
1389 they've said no. It was begun again in 2007, but then withdrawn. I do agree that  
1390 over time some of our guidelines, our ordinances, some policies—all of this  
1391 needs to be reevaluated so that the vision that we have for our County remains  
1392 vital and it remains relevant and it remains strong. But that's what we do when  
1393 we go through our Comprehensive Plan, reworking every so often. Our 2020  
1394 Plan is newly in place, and we rely on that to form the vision that we all work  
1395 under going forward.

1396  
1397 I do believe that, as Mr. Lewis has detailed in that staff report—and I won't go  
1398 through all of the items one-by-one. But I do believe that while the Comp Plan  
1399 recommends Commercial Concentration and Office for this area, that being said,

1400 it's the goals, objectives, and policies that give a little more fleshing out of that  
1401 vision that we're all trying to attain. In my view, these policies are in place for a  
1402 reason. They're there for protection. They're there for guidance. And those kinds  
1403 of issues raised by the goals, objectives, and policies—in my view—are pointing  
1404 to the fact that this request is incompatible with those guidelines. We're looking at  
1405 transitioning issues from commercial to residential areas. These are well-  
1406 established residential areas. We are to protect those against encroachment of  
1407 new or more intense uses. And then there are the corollary issues of safety,  
1408 security, and stability of the area.

1409

1410 This all is a judgment. I realize that there are no hard facts that will make a  
1411 decision one way or the other without dispute. I respect the opinions of everyone  
1412 who spoke tonight. I find that I must make a decision on this in what I think is the  
1413 best interest of the community. That's what we're charged to do.

1414

1415 Daddio's has built a loyal following from a wide base in the West End and further  
1416 beyond. As a neighborhood grill, it really has enjoyed success. I have enjoyed it  
1417 from time to time. This case is less about Daddio's, per se, as it is the  
1418 intensification of a use with an additional two hours every night of the week. And  
1419 so, while my comments are general, obviously Daddio's is the recipient of this  
1420 motion. But I want you to know that you have built a business that's successful  
1421 for many, many good reasons.

1422

1423 There has been a somewhat checkered past. Some of that can be attributed to  
1424 the prior owner; the stories are legion. And I understand that. But there have  
1425 been questions about staying open and other issues in recent times. And  
1426 specifically there have been some since this application was tendered to the  
1427 Planning Department. I don't think that those violations really can go unnoticed  
1428 because there was full knowledge of the zoning restrictions when the owners  
1429 took over this business, and unfortunately it's been a bit problematic staying  
1430 within those restrictions. I do believe that that's one of the reasons why they're  
1431 here tonight. They would like to seek 2:00 a.m. hours so they won't be constantly  
1432 in conflict with what their patrons want to do and what their zoning regulations  
1433 require. I understand that. However, my job is to evaluate whether 2:00 a.m.  
1434 hours for this business in this location is a good fit.

1435

1436 I am really concerned about precedent-setting. That's a generalized issue, I  
1437 realize. I can't point to what case in the future is going to rise up and be a  
1438 problem because of something like this, should it be approved. But I know that  
1439 we have an established residential core into which this has fit as a neighborhood  
1440 restaurant. But now the request is to make it something a little different. And I  
1441 have to evaluate in my mind whether that would work or not.

1442

1443 There are many, many locations, to take the broader view, in the West End that  
1444 would lend themselves to a late-night operation more appropriately than this one.  
1445 It's nestled among these residential neighborhoods, among senior



1446 communities—I'm not sure if there's anyone here from Autumn Run; we've heard  
1447 from a lot of those folks. But over and above that, if you just look at where it is,  
1448 This request reflects a more intensive time frame than others in the area. Again, I  
1449 say this is less about Daddio's as an operation than it is in general about  
1450 extending hours where I feel it isn't suitable. I expressed the other day that I keep  
1451 trying to push this square peg into a round hole, and I'm finding that I'm  
1452 unconvinced that it is a good fit.

1453  
1454 I honestly hope that no matter how this case comes out in the end through the  
1455 Board of Supervisors, I hope Daddio's continues to have success in their current  
1456 location. Or should they choose to move to accommodate an operation that they  
1457 feel is better suited to their patrons, I hope they have great success wherever  
1458 they are. Obviously your folks will find you; they have done so and will continue  
1459 to do so. I cannot, however, resolve what I see as a basic incompatibility. For that  
1460 reason, I feel that I should make the motion which I am about to make.

1461  
1462 Unless there are any more comments from the Commission, I'll proceed with a  
1463 motion.

1464  
1465 I would like to move that case G-5C-12, Paul S. Kellinger, Esquire, for Schmud  
1466 Incorporated, be sent to the Board of Supervisors with a recommendation for  
1467 denial.

1468  
1469 Mr. Archer - Second.  
1470  
1471 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Archer. All in  
1472 favor say aye. All opposed say no. The ayes have it; the motion passes. This will  
1473 move forward with a recommendation for denial.

1474  
1475 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.  
1476 Archer, the Planning Commission voted 5-0 (one abstention) to recommend the  
1477 Board of Supervisors deny the request because it would likely set an adverse  
1478 zoning and land use precedent for the area and it would have a detrimental  
1479 impact on the adjoining residential neighborhood.

1480  
1481 Mr. Emerson - Mr. Chairman, that takes us to the next item on your  
1482 agenda which, as you noted earlier, is directly related to this case. It is P-3-12,  
1483 Paul S. Kellinger, Esquire, for Schmud Incorporated.

1484  
1485 **P-3-12 Paul S. Kellinger, Esq. for Schmud, Inc.:** Request  
1486 for a Provisional Use Permit under Sections 24-58.2(a), 24-120 and 24-122.1 of  
1487 Chapter 24 of the County Code in order to allow extended hours of operation for  
1488 an existing restaurant on part of Parcel 732-749-5494 located on the east line of  
1489 Gayton Road approximately 900 feet south of its intersection with Gayton Centre  
1490 Drive. The existing zoning is B-2C Business District (Conditional). The 2026  
1491 Comprehensive Plan recommends Commercial Concentration.

1492  
1493 **Mr. Emerson -** I don't know at this point if you need to have a staff  
1494 report, unless the Commission so wishes. But you do need to open and close the  
1495 public hearing and take public input, if input is desired to be presented at this  
1496 time. Your action on C-5C-12 would not allow a positive action on P-3-12.  
1497  
1498 **Mr. Branin -** But they both will proceed forward, so a motion has to  
1499 be made?  
1500  
1501 **Mr. Emerson -** That's correct, yes sir.  
1502  
1503 **Mr. Branin -** Okay. Mr. Lewis, before you start, is anyone in  
1504 opposition to this PUP, P-3-12? Okay. As an applicant, would you like to make  
1505 any presentation? It's not going to have any bearing. So we'll just move forward  
1506 with the motion. Let it be noted that we have three in opposition. Mr. Lewis, I  
1507 don't find it necessary for you to read, and I would ask Mrs. Jones if you would  
1508 like to make further comment or just move for the motion.  
1509  
1510 **Mrs. Jones -** I would make comment only in the fact that I want to  
1511 make sure that everybody here tonight understands that this is not the end of the  
1512 line, that this request that we have just voted on, as well as the request that we  
1513 are about to vote on, will be before the Board of Supervisors in one month's time,  
1514 Mr. Secretary?  
1515  
1516 **Mr. Emerson -** That's correct. Yes ma'am.  
1517  
1518 **Mrs. Jones -** I don't know the date of that, but someone may have  
1519 it.  
1520  
1521 **Mr. Emerson -** February 14<sup>th</sup>.  
1522  
1523 **Mr. Branin -** For all of you in the room, the process basically starts  
1524 over again going to the Board of Supervisors. You can request a meeting with  
1525 your Supervisor for this district, have a community meeting just as you had with  
1526 your Commissioner. This board only makes a recommendation. It then goes to  
1527 the Supervisor who makes the final determination.  
1528  
1529 **Mrs. Jones -** I encourage you to express yourself to the Board, and  
1530 that is the next step of the process.  
1531  
1532 All right. With that, then, I will make a motion for P-3-12, Paul S. Kellinger,  
1533 Esquire, for Schmud Incorporated, to be sent to the Board of Supervisors with a  
1534 recommendation for denial.  
1535  
1536 **Mr. Archer -** Second.  
1537

1538 Mr. Branin - Motion made by Mrs. Jones, seconded by Mr. Archer.  
1539 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
1540 That motion moves forward with a recommendation for denial as well.

1541  
1542 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.  
1543 Archer, the Planning Commission voted 5-0 (one abstention) to recommend the  
1544 Board of Supervisors deny the request because the extension of hours could  
1545 impact the health, safety, and welfare of residents in the area and it could have a  
1546 precedent setting impact on existing land uses in the area.

1547  
1548 Mr. Archer - I think the Board meeting is February 14<sup>th</sup>, isn't it?  
1549

1550 Mr. Emerson - Yes sir, it is February the 14<sup>th</sup>.

1551  
1552 Mr. Archer - Okay.

1553  
1554 Mrs. Jones - Thank you all very much.

1555  
1556 Mr. Emerson - Mr. Chairman, the next item is a discussion item and  
1557 there is a typographical error in that discussion item. I would like to request that  
1558 the Commission schedule a work session on your January 25<sup>th</sup> agenda, which is  
1559 your Plan of Development agenda, to consider an amendment to the County  
1560 Code regarding parking of commercial vehicles in residential areas. This is a  
1561 subject that you have had discussion on in the past, dealing with weight limits.  
1562 It's a fairly straightforward amendment to the County Code. I would like to review  
1563 it with you on the 25<sup>th</sup> after you complete your regular agenda. I don't think it will  
1564 take very long. So if that meets with your liking, I will add that to the agenda on  
1565 the 25<sup>th</sup> of this month.

1566  
1567 Mrs. Jones - Yes sir.

1568  
1569 Mr. Archer - End of the agenda?

1570  
1571 Mr. Emerson - Yes sir, it would be at the end of the agenda.

1572  
1573 Mr. Archer - All right, fine with me.

1574  
1575 Mr. Branin - Are you guys okay with that?

1576  
1577 Mr. Archer - Sure.

1578  
1579 Mr. Wittle - Absolutely.

1580  
1581 Mr. Archer - Do we need a motion?

1582  
1583 Mrs. Jones - We don't need a motion, do we?

1584  
1585 Mr. Emerson - No. No, I don't think so. I wanted to make sure that  
1586 you were aware that we were going to do that and if you had any concerns. I  
1587 don't think it will take very long and we will add it to the end of the agenda. The  
1588 next item will be consideration for approval of the minutes of the Planning  
1589 Commission meeting of December 8, 2011.  
1590  
1591 Mrs. Jones - I move the minutes be accepted.  
1592  
1593 Mr. Archer - I second.  
1594  
1595 Mr. Branin - Motion by Mrs. Jones and seconded by Mr. Archer.  
1596 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
1597  
1598 Again, we are at a conclusion. I want to welcome you both. I'm excited that you  
1599 guys are here. You bring in some different aspects. Some of that's been on the  
1600 Board of Zoning for many years with a different experience and possibly a  
1601 different look at some of the things that we face monthly. And coming from  
1602 Richmond Housing Authority, you may have some new ideas and concepts that  
1603 we have not looked at or considered. So I think it's great that you all are on  
1604 board, bringing fresh ideas and fresh blood. Please don't be scared to second a  
1605 motion,  
1606  
1607 Mr. Leabough - Mr. Archer is just too quick.  
1608  
1609 Mr. Archer - All those years of practice.  
1610  
1611 Mr. Branin - Give it some time; you'll be racing to get it out there.  
1612  
1613 Mr. Archer - Mr. Chairman, before you close, I would be remiss if I  
1614 didn't acknowledge the fact that you all gave me just a beautiful paperweight,  
1615 engraved. And I didn't notice that it was in my bag until I took my golf balls out.  
1616 Thank you so much; I appreciate it. The golf balls I'll lose, but this I'll cherish.  
1617  
1618 Mr. Branin - Any other business?  
1619  
1620 Mr. Emerson - Mr. Chairman, staff has no further items for the  
1621 Commission this evening.  
1622  
1623 Mr. Branin - Then at 8:33—  
1624  
1625 Mrs. Jones - I move we adjourn.  
1626  
1627 Mr. Leabough - Second. I got it.  
1628

1629 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Leabough. All  
1630 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1631  
1632 The meeting adjourned at 8:33 p.m.

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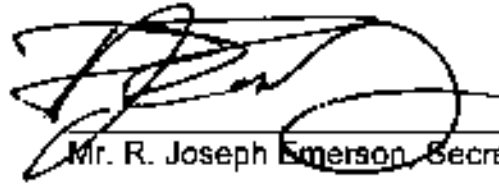
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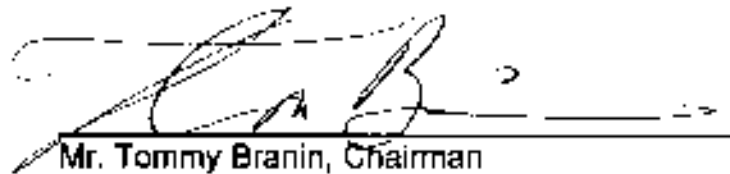
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Mr. R. Joseph Emerson, Secretary



Mr. Tommy Branin, Chairman