

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., on June 11, 1998, Display Notice having been published in the
4 Richmond Times-Dispatch on Thursday, May 21, 1998, and Thursday, May 28, 1998.

5
6 Members Present: C. W. Archer, C.P.C., Chairman, Fairfield
7 Elizabeth G. Dwyer, C.P.C., Vice-Chairman, Tuckahoe
8 Ernest B. Vanarsdall, C.P.C., Brookland
9 Mary L. Wade, Three Chopt
10 David A. Zehler, C.P.C., Varina
11 James B. Donati, Jr., Board of Supervisors, Varina
12 John R. Marlles, AICP, Director of Planning, Secretary
13

14 Others Present: Randall R. Silber, Secretary, Assistant Director of Planning
15 John Merrithew, AICP, Principal Planner
16 Mark Bittner, County Planner
17 Nancy Gardner, AICP, County Planner
18 Lee Yolton, County Planner
19 Judy Thomas, Recording Secretary
20

21 Mr. Archer - The Planning Commission will come to order. Good evening,
22 everyone. Before we start, I need to present to some and introduce to others Mr. John Marlles,
23 who is our new Planning Director. Welcome, John.
24

25 Mr. John Marlles, Director of Planning - Thank you.
26

27 Mr. Archer - He will now be serving as Secretary for the Commission. Is Mr.
28 Merrithew here? Mr. John Merrithew .
29

30 Mr. Merrithew - Yes sir.
31

32 Mr. Archer - John, this will be brief. But I'd like to congratulate you on being
33 elected Treasurer of the Virginia Chapter of the American Planning Association. Congratulations.
34 Mr. Secretary, do you have any further announcements?
35

36 Mr. Marlles - Mr. Chairman, first of all, as an attempt to improve the length of the
37 meetings for the Planning Commission, the Planning Commission agreed to two changes,
38 perhaps, in terms of the procedures that will be followed in the future. This is really for the benefit
39 of the attorneys and the applicants out there in the audience. But, in the future, revised proffered
40 conditions for conditional rezoning requests must be submitted to the County no later than 48
41 hours prior to the scheduled public hearing.
42

43 The second, I guess you could say, new procedure, is that Plan of Developments, Subdivisions,
44 Landscape Plans, and Lighting Plans must be submitted no later than 4:00 p.m. on the Friday
45 before the last Tuesday's Planning Commission meeting.
46

47 We will be making this announcement at the next couple of meetings just as a reminder. Staff will
48 also be sending out a letter to those attorneys and firms who do a lot of business with the County
49 letting them know of the change in policy.
50

51 Mr. Archer - Thank you so much, John. We know everybody will take due notice
52 and act accordingly.

53
54 Mr. Marlles - Mr. Chairman, the second announcement is a reminder for
55 applicants as well as those citizens who may be in the audience that may be interested in
56 speaking either in favor or in opposition to a request at tonight's public hearing. The
57 Commission's policy on speaking is that, applicants and those speaking in favor of a particular
58 item will have 10 minutes to present their case. They may, however, reserve a portion of that 10
59 minutes for rebuttal. But the time is cumulative. They have a total of 10 minutes.

60
61 Those speaking in opposition to a request also have 10 minutes. And that 10 minutes maximum
62 refers to all speakers speaking in opposition to a request.

63
64 Mr. Archer - Any questions on that from Commission members? All right. Let's
65 move along.

66
67 Mr. Marlles - Mr. Merrithew, can you give us the requests for deferrals and
68 withdrawals?

69
70 Mr. Merrithew - Thank you, Mr. Secretary. We have several requests for deferral
71 this evening. On the first page of your agenda in the Fairfield District:

72
73 **C-40C-98 Robert M. Attack for Attack Properties, Inc.:** Request to
74 conditionally rezone from R-3AC and R-2AC One Family Residence Districts (Conditional) to RTH
75 Residential Townhouse District (Conditional), part of Parcels 23-A-72A and 32-A-94, containing
76 18.08 acres, located adjacent to the western terminus of proposed J.E.B. Stuart Parkway and
77 north of the terminus of Proposed Magnolia Ridge Drive. Townhomes or condominiums for sale
78 are proposed. The RTH District permits densities up to 9.0 units gross density per acre. The Land
79 Use Plan recommends Suburban Residential 1 development, 1.0 to 2.4 units net density per acre
80 and Suburban Residential 2, 2.4 to 3.4 units net density per acre.

81
82 They have requested a 60-day deferral to August 13th.

83
84 Mr. Archer - Thank you, John. Is there any one here in opposition to the
85 deferment of C-40C-98 Attack Properties, Inc.? No opposition. Therefore, I move the deferment
86 of C-40C-98 Attack Properties, Inc. for 60 days to the August 13th meeting.

87
88 Mr. Vanarsdall seconded the motion.

89
90 Mr. Zehler - Per applicant's request?

91
92 Mr. Archer - Per applicant's request, Mr. Chairman. Motion made by Mr.
93 Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying
94 nay. The vote is 5-0 (Mr. Donati abstained).

95
96 Mr. Merrithew - Thank you, Mr. Chairman. I've just been handed another request
97 for deferral. It's on the same page.

98
99
100 **P-19-98 James W. Theobald and Charles H. Rothenberg for SprintCom,**
101 **Inc.:** Request for approval of a provisional use permit in accordance with Sections 24-95(a) and

102 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a
103 communication tower up to 199' high and related equipment and improvements, on part of Parcel
104 119-A-8D, containing 2,500 sq. ft., located northeast of the terminus of Neale Street and its
105 intersection with Goodell Road (Abundant Life Church property, 3300 Neale Street). The site is
106 zoned A-1 Agricultural District and Airport Safety Overlay District.
107

108 They have requested a deferral for 60 days now, rather than 30 days. That would, again, be
109 August 13th.
110

111
112 Mr. Archer - Is there any one here in opposition to P-19-98 for 60 days to August
113 13th? No opposition.
114

115 Mr. Vanarsdall seconded the motion.
116

117 Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All
118 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
119 abstained). Deferment is granted.
120

121 Mr. Merrithew - Thank you, Mr. Chairman. In the Tuckahoe District, it would be
122 the second page of my agenda. This is a case that was deferred from the May 14th meeting.
123

124 **C-31C-98 Ralph L. Axselle, Jr. or Andrew M. Condlin for Sigma**
125 **Development:** Request to conditionally rezone from A-1 Agricultural District to B-2C Business
126 District (Conditional), part of Parcel 56-A-62, containing 7.956 acres, fronting on the south line of
127 Church Road approximately 200' east of its intersection with Pump Road and on the east line of
128 Pump Road 200' south of Church Road. Retail use is proposed. The use will be controlled by
129 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends
130 Commercial Concentration.
131

132 They have requested a deferral to July 9th.
133

134 Mr. Archer - Is there any one here in opposition to deferment of C-31C-98
135 Sigma Development.
136

137 Mr. Merrithew - Mr. Chairman, I believe that request has been changed. Mr. Yolton
138 has just informed me it's for 60 days rather than 30. So, again, it's in August.
139

140 Mr. Archer - Okay. Is any one in opposition to the deferment of C-30C-98 to the
141 August 13th meeting. None.
142

143 Ms. Dwyer - Mr. Chairman, I move that C-31C-98 Sigma Development be
144 deferred, at the applicant's request, to our August 13th meeting.
145

146 Mr. Vanarsdall seconded the motion.
147

148 Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All
149 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
150 abstained).
151

152 Mr. Merrithew - Mr. Chairman, that's all the deferral requests I have for the 7:00
153 o'clock agenda.

154
155 Mr. Archer - All right, thank you, Mr. Merrithew.

156
157 Mr. Vanarsdall - Mr. Chairman, I wonder if we could follow what we have done
158 before and announce what will be deferred on the 8:00 o'clock agenda, because I have some
159 on there that people may be here already? Not take any action on it, just notifying people that it
160 will be deferred.

161
162 Mr. Archer - Mr. Merrithew.

163
164 Mr. Merrithew - Certainly. On the 8:00 o'clock agenda, we have a request for
165 deferral of P-17-98. That's in the Varina District, which would be Page 3 of your agenda. This
166 is Nextel Communications.

167
168 **Deferred from the May 14, 1998 Meeting:**

169 **P-17-98 Susan Stancil for Nextel Communications:** Request for approval
170 of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of
171 the County Code in order to construct and operate a communication tower up to 120' high and
172 related equipment and improvements, on part of Parcel 217-A-30, containing 2,500 sq. ft., located
173 at 3622 Darbytown Court on the east side of Interstate 295. The site is zoned A-1 Agricultural
174 District. The site is also in the ASO Airport Safety Overlay District.

175
176 They have requested a deferral to July 9th.

177
178 The second case requesting for deferral; you're not taking action on these at this point?

179
180 Mr. Archer - No.

181
182 Mr. Merrithew - In the Brookland District, requested for deferral C-36C-98.

183
184
185 **C-36C-98 Gloria L. Freye for Sun Suites:** Request to amend proffered
186 conditions accepted with rezoning case C-11C-88, part of Parcel 59-A-12C, containing 1.988
187 acres, located on the east line of Homeview Drive approximately 640' north of W. Broad Street
188 (U.S. 250). Amendments to permitted uses are proposed. The site is zoned B-3C Business
189 District (Conditional). The Land Use Plan recommends Commercial Concentration.

190
191 They have request a deferral for 30 days to July 9th. Those two cases are the only deferrals I
192 have on the 8:00 o'clock agenda.

193
194 Mr. Vanarsdall - Thank you, Mr. Chairman.

195
196 Mr. Archer - Thank you, Mr. Merrithew. Mr. Secretary.

197

198 **AMENDMENT TO THE MAJOR THOROUGHFARE ELEMENT OF THE COMPREHENSIVE**
199 **PLAN:**

200 **MTP-1-98 – Cedar Fork Road/E. Cedar Fork Road**

201 Amend the Plan by substituting E. Cedar Fork Road (Minor Collector Road) for the portion of
202 Cedar Fork Road (Minor Collector) between Nine Mile Road to the junction of E. Cedar Fork/
203 Cedar Fork Roads.

204
205 Mr. Archer - Is there any one here in opposition to this proposal to amend the
206 Thoroughfare Plan? Mr. Yolton, sir.

207
208 Mr. Lee Yolton, County Planner - Mr. Chairman, members of the Commission, this is a request
209 for a Major Thoroughfare Plan Amendment in the Fairfield District. Essentially, this is what we
210 might call a "housekeeping-type of measure." The proposal is to substitute East Cedar Fork
211 Road for a portion of Cedar Fork Road, which I refer to as "Old Cedar Fork Road." In effect, E.
212 Cedar Fork Road was widened to a four-lane road and now serves as a collector road between
213 Nine Mile Road and Creighton Road. So this would just recognize the fact that E. Cedar Fork
214 Road really functions as the collector road in this vicinity. We would substitute that on the Major
215 Thoroughfare Plan Map for Old Cedar Fork Road.

216
217 A staff report was prepared and delivered to the Planning Commission on this matter. We have
218 received no opposition from staff. Staff is in favor of this proposed amendment. I have
219 prepared a resolution for the Planning Commission, this evening, to approve this proposed
220 amendment. The staff does recommend that the resolution to substitute E. Cedar Fork Road for
221 Old Cedar Fork Road be approved. I would be happy to answer any questions the Commission
222 may have.

223
224 Mr. Archer - Thank you, Mr. Yolton. Do any of the Commission members have
225 questions for Mr. Yolton concerning this amendment? No questions. We'll give everybody a
226 chance to read it, and then we'll take action.

227
228 Mrs. Wade - It will still be there. It just won't be on the Thoroughfare Plan?

229
230 Mr. Yolton - That's correct.

231
232 Mr. Archer - Any questions, anyone? Mr. Yolton, I move that the Major
233 Thoroughfare Plan Amendment MTP-1-98 be recommended for approval.

234
235 Mr. Vanarsdall seconded the motion.

236
237 Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All
238 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
239 abstained).

240
241 **Deferred from the May 14, 1998 Meeting:**

242 **C-15C-98 Clement Tingley for Easy Living Corporation:** Request to
243 conditionally rezone from A-1 Agricultural District to R-4AC One Family Residence District
244 Conditional, Parcels 85-A-2, 3 and 5, described as follows:

245
246 Beginning at a point marking the southeastern corner of Lot 58 (reserved), Block A, Village of
247 Azalea, and running along the centerline of a creek as it meanders in a northern direction for
248 1150' +- to a point; thence S. 78° 00' E., +-, 1137' +- to a point ; thence S. 6° 53' W., +- for 1156'

249 +- to a point on the N. line of North Road; thence along the north line of North Road N. 86° 00' W.,
250 +- for 912' +- to a point; thence leaving the north line of North Road and running N. 1° 33' 20" E.,
251 +- for 100' +- to a point; thence N. 11° 56' 40" W., +- for 83' +- to a point; thence N. 51° 56' 40" W.,
252 +- for 188' +- to the point marking the place and point of beginning.

253
254 Mr. Archer - Is there any one here in opposition to C-15C-98 Easy Living
255 Corporation? Thank you. Mr. Merrithew.

256
257 Mr. Merrithew - Thank you, Mr. Chairman. The Commission is well aware of the
258 situation and location of this project, as are the citizens who've been here for the last two or three
259 meetings. We've reviewed this in great detail. I would like to hit a few of the key points with
260 regard to the application and then go straight into the changes that have been made in the latest
261 version of the applicant's proffers.

262
263 Mr. Archer - If you will, please.

264
265 Mr. Merrithew - Thank you. This area is planned for Urban Residential
266 Development which calls for home ownership uses; residential uses and allows for densities
267 between 3.4 and 6.8 units per acre. The area to the north and to the east is zoned A-1. The
268 developed area and the comparable neighborhoods immediately to the south and east and west
269 of the site are zoned R-4, R-3, and R-5, allowing densities ranging from 3.0 to 10.9 residential
270 units per acre.

271
272 What the applicant is proposing here is 87 lots on 31 acres, for a gross density of 2.8 units per
273 acre. This would have, in comparable terms, densities equivalent to a little more than an R-2 or
274 an R-2A residential district.

275
276 The existing density immediately adjoining this property is probably a 1.0 unit per acre density
277 level because of the large number of undeveloped lots and the consolidation of lots that has
278 occurred with the existing homes. Higher density is located to the south; and certainly to the east
279 with the adjacent multi-family development.

280
281 The major issues with this case that have been raised by the residents and by staff in their staff
282 report has to do with the density, quality of construction, and protection of the historic Montrose
283 property.

284 Now, with regard to the proffers, the applicant submitted on the 4th of June a new set of proffers
285 which address, or attempt to address, these concerns. I'd like to read through some of those
286 proffers. I'd also like to hand them out. I forgot to hand out the proffers on the case. I'll give you
287 a minute to receive them.

288
289 With regard to house size, or unit size, if you will, the applicant has proffered that no more than 18
290 homes shall be less than 1,200 square feet. A minimum of 50 percent of the homes shall be two-
291 story homes containing at least 1,500 square feet of finished livable floor space. As you will recall,
292 the initial proffers submitted with this case, called for a minimum of 1,000 square feet per unit.

293
294 I won't read through all of these proffers. I'll try to hit the highlights. The applicant has proposed
295 that all exposed portions of the foundations shall be brick. And 16 inches of the foundations shall
296 be exposed. This was a compromise of design between requiring or calling for crawl space
297 construction on all units and allowing slab construction on some of the units. The intent is, even if
298 there is a concrete slab foundation for the unit, the unit, itself, will be at least 16 inches off of the
299 ground, giving the appearance of a crawl space, if you will. It will be a brick foundation.

300
301 The case will include restrictive covenants. They will call for paved driveways up to the front plane
302 of each house. The homes on the lots abutting North Road shall have two stories and shall be
303 constructed with crawl space construction as suggested in one of the previous proffers. So, the
304 homes adjacent to the existing neighborhoods shall be two-story on crawl space.
305

306 The overall density is proffered, as I said before, at 2.8 units per gross acre or 87 lots. The
307 applicant has proffered on the eastern property line, which would be against the Montross
308 property, a 20-foot wide buffer adjacent to the eastern property line. This buffer would be outside
309 of the required yards and, based on preliminary drawings, although nothing is proffered, it would
310 be the rear yards of the proposed lots on the development. And I would remind you that the rear
311 yards in the R-4A District are 35 feet. So, it would be 20 feet outside the 35 foot rear yard.
312

313 He has also proffered along North Road, that there would be no lots facing North Road. So, no
314 direct access to North Road. And that there would be a 10-foot vegetative buffer planted with
315 evergreen trees. Again, this buffer would be in addition to the required, I believe in most cases, it
316 would be the side yard setback. So, it would be in addition to the required yards. And, finally, he
317 has proffered to provide for two entrances onto North Road, rather than the initial boulevard
318 entrance which he had proposed with the initial submittal.
319

320 Mr. Chairman, I believe the discussions with the applicant over the past few weeks or months has
321 led to improved proffers on this case. As previously reported in our staff reports, we feel the use
322 is compatible with existing development. It is in compliance with the Plan designation. It is
323 reasonable, given the potential development that could occur on this site which would allow for
324 much higher residential densities.
325

326 With that, I'd be glad to answer any questions.
327

328 Mr. Archer - Thank you, Mr. Merrithew. Are there questions of Mr. Merrithew by
329 Commission members?
330

331 Mr. Zehler - John, on 2c, it's quite obvious that the driveway will begin at the
332 street. We have had problems in the Varina District, in the past, as far as the way this is written.
333 Will the driveway go to the front of the house, to the rear of the house? In the event, if you
334 stipulate that, if there's a garage attached, it goes naturally to the apron of going into the garage?
335 But as far as stipulating if a garage is not on the property, where will the driveway end?
336

337 Mr. Merrithew - By this proffer, the paved driveway will end at the front wall of the
338 house; the plane of the front wall.
339

340 Mr. Zehler - I'm sure that's the intent of the applicant, but it doesn't state that. I
341 think that's going to be a problem if it's not stated or worded...
342

343 Mr. Merrithew - I see, you're saying, "in front of the front plane." It sort of gives you
344 some leeway there. I can see that.
345

346 Mr. Zehler - Right. We had a previous case and it stated to the rear of the
347 property, but it didn't address garages.
348

349 Mr. Merrithew - Right.
350

351 Mr. Zehler - After a garage was attached, the staff was requiring the driveway to
352 go around the front of the garage and end at the apron and go around to the rear of the property,
353 which wasn't deemed necessary.
354
355 Mr. Merrithew - I would be glad to look at that language that was applied and,
356 perhaps, apply it here also. Okay.
357
358 Mrs. Wade - The map's a little rusty. In 1a, "All homes shall have a minimum of
359 1,100 square feet of finished livable floor space." You know we allow, under some circumstances,
360 one-third unfinished. What size house could this be if some of it were not finished? I know this
361 says it will be. You know what I'm asking?
362
363 Mr. Merrithew - You're asking what would be a third of 1,100...?
364
365 Mrs. Wade - No.
366
367 Mr. Merrithew - The largest size that would represent two-thirds being finished and
368 one-third being unfinished. You're asking my math to solve that. I would imagine that's
369 approximately 1,500; 1,400 square feet.
370
371 Mrs. Wade - Very good. And I would say we probably see quite a few go
372 through here that size with one-third allowed unfinished, actually?
373
374 Mr. Merrithew - Right. I believe we do. But the point also is that there would be no
375 more than 18 homes with less than 1,200. So, you're still up a little bit higher for a majority of the
376 homes.
377
378 Mrs. Wade - Do you know anything about the utility lines? It mentions the buffer,
379 less utility lines.
380
381 Mr. Merrithew - Well, he does allow the utility lines to be cut into the buffer on 3b.
382
383 Mrs. Wade - But what the actual situation with the utility lines is, we don't know?
384
385 Mr. Merrithew - The applicant may be able to speak to that better than I.
386
387 Mrs. Wade - It seems to me, four feet is not very tall for trees. And 3b,
388 "Restrictive covenants prescribe the buffer will be maintained..." That implies by the
389 homeowners, isn't it – the lot owners?
390
391 Mr. Merrithew - Yes ma'am. Yes. It would be by the lot owner as prescribed by his
392 covenants.
393
394 Mrs. Wade - Do you know if there are trailers at Laburnum School? I'm sure
395 other people here do, but?
396
397 Mr. Merrithew - I don't recall if there are trailers. I know they are transporting
398 students to other schools because of some capacity problems. I don't recall if there are trailers
399 there or not. Mrs. Bailey didn't mention that in her memo to me.
400
401 Mr. Archer - All right, are there further questions of Mr. Merrithew?

402
403 Mr. Donati - Yes. I have one, Mr. Chairman. Mr. Merrithew, do you have any
404 idea of what the minimum right of way would be for the streets in this subdivision?
405
406 Mr. Merrithew - Well, I know, typically, its 50 feet. It can go down to 40 feet,
407 depending on—The traffic engineer has standards that allows the street to go down to 40 feet. I
408 believe it's a 50-foot right of way.
409
410 Mr. Donati - I know in some cases with subdivisions, we've had a problem in the
411 past that you could only park on one side of the street. A lot neighbors would really get angry.
412
413 Mr. Merrithew - That's been associated with that 40-foot street.
414
415 Mr. Donati - Right.
416
417 Mr. Merrithew - There's been no indication or proffer regarding the street size at this
418 point in time.
419
420 Mr. Vanarsdall - If it's 50 or above, you can park on both sides, can't you?
421
422 Mr. Merrithew - Yes sir. Forty-four and above you can park on both sides.
423 Certainly, 50, yes.
424
425 Ms. Dwyer - Mr. Merrithew, I noticed that a number of the development
426 standards exceed the minimum for R-4A. For instance, the square footage is about an R-3 or
427 better?
428
429 Mr. Merrithew - That's correct.
430
431 Ms. Dwyer - I'm just wondering why R-4 is requested? The design standards
432 and proffers seem to be superior to that.
433
434 Mr. Merrithew - We've asked that question ourselves. We think the density could
435 be accomplished with a lower designation. The applicant's response has been, in order to fit the
436 houses on the lots, at the smaller yard requirements are desirable in this case.
437
438 Ms. Dwyer - Even though the density is lower, the configuration of the lots
439 requires some flexibility there.
440
441 Mr. Merrithew - Well, the lot configuration, I'm not sure if he has a problem with the
442 lots or not, but the argument has been for smaller yard requirements and more house on the lot.
443 That sort of thing.
444
445 Ms. Dwyer - The density is still...
446
447 Mr. Merrithew - It's still at 2.8. Yes ma'am. It is much better than the R-4A.
448
449 Mr. Archer - Further questions of Mr. Merrithew? Thank you, John. Mr. Tingley.
450
451 Mr. Kim Tingley - Mr. Chairman, members of the Commission, Mr. Marlles, my name
452 is Kim Tingley. I'm the applicant in this case.

453
454 Mr. Archer - Do you need to reserve some time for rebuttal, Mr. Tingley?
455
456 Mr. Tingley - I'm going to make my remarks brief. Being talked to death is a
457 terrible way to die. This thing has been talked to death already. I had prepared this illustrated site
458 plan showing; trying to amplify a little bit on what Mr. Merrithew has said. Maybe I can address
459 some of your concerns and questions, Ms. Dwyer.

460
461 As you can see along North Road, which is located at the bottom of the drawing, we would have a
462 buffer all along there. That buffer would be of evergreen trees and it would grow up to provide a
463 visual screen.

464
465 Along the right hand side, or the east side, adjacent to the Montross property, we would have a
466 20-foot vegetative buffer that would be maintained by the Homeowners Association. Along the
467 north of the property, if you look at the Land Use Plan, that area to the north of this property is a
468 conservation zone. It's floodplain and wetlands. So, we would be maintaining a common area
469 along that side to provide a vegetative buffer for that. In addition, the topography is fairly severe in
470 that area. When you go to cut trees and things like that on severe topography, it creates erosion
471 problems. We just want to minimize any environmental issues arising out of the case.

472
473 On the east side of the property, if you look to the east side of the property, there are a number of
474 apartment units. Again, there's a creek in there. So, we wanted to maintain a buffer from the
475 apartment units and also to provide for environmental protection. Now, there would probably be a
476 BMP required by virtue of the Chesapeake Bay Act in the buffer on the west hand side of the
477 property.

478
479 You'll note, I've marked on the plan seven homes that are on North Road. These are the seven
480 homes that would be built with crawl space construction, and they would be two-story homes.

481
482 We had a meeting with the opposition about a week ago. The opposition, really, as I understand
483 it, has three issues that he felt were not adequately addressed. One was the community would
484 like us to have a 1,600 square foot minimum house size.

485
486 Now, the existing minimum house size on North Run Road is 711 square feet. And by proffering
487 an 1,100 square foot minimum house, we're exceeding the community standards today by about
488 40 percent. I think that's an improvement over what is there today.

489
490 The second thing that the opposition said that they would like to see is a one-half acre minimum
491 lot size. If you look at the overall density and the number of units that we have, we have,
492 basically, about three-eighths of an acre of land allocated for each lot. Some of it will be in
493 common area. Some of it will be in roads. I think that is, in just the lot size that we're proposing,
494 is substantially consistent with what's throughout the area.

495
496 The third issue that the opposition brought up was that they would like to have a 50-foot buffer
497 from the Montross property. Now, I've proposed a 20-foot buffer. And when the owners of the
498 Montross property put in their paddock, they, basically, left no buffer at all between their property
499 and North Road. Moreover, the homes that I would propose to construct; all of the homes would
500 be physically further away from the actual Montross house than the existing houses on North
501 Road. So, I believe that the impact that our project will have is less intrusive than what is there
502 today.

503

504 Now, Mrs. Wade, you asked about the utilities in the area. The sanitary sewer is located to the
505 north of the property in the conservation zone. We have acquired an easement in order to access
506 the existing sewer line.

507
508 Mrs. Wade - How will it come then through...?
509

510 Mr. Tingley - I don't know how to do this. It would, basically, probably come up
511 through the common area on the west and then come up, basically, where that cross road was
512 (referring to slide), and then service it in both directions. Now, we haven't done detailed
513 engineering on it, but that's kind of the way the land lies.

514
515 Mrs. Wade - It won't be going right through your buffer lengthwise anywhere?
516

517 Mr. Tingley - Well, it has to follow that creek bottom there. So, it will probably
518 come kind of diagonally through there from the upper left hand corner to about to where that road
519 through the middle is (referring to slide). There's a water line located in north road at Edgefield
520 which is, basically, at the southwest corner of this property. I would anticipate that the County
521 would require that line be moved around and carried back up to Tamiami. I hope not, but I
522 suspect that may be required. I would be happy to answer any other questions that the
523 Commission may have.

524
525 Mr. Archer - Mr. Tingley, if this request were approved, what would be the timing
526 of the approximately build-out of the subdivision?
527

528 Mr. Tingley - Realistically, I would say it would be 12 months before we would
529 have approved construction plans.
530

531 Mr. Archer - Okay.
532

533 Mr. Tingley - Probably another 60 to 90 days into that before we would start a
534 home. My performa would show an absorption rate of two units per month or about three years to
535 sell out. So, we're looking at four to four and one-half years.
536

537 Mr. Archer - Okay. Thank you. Are there further questions of Mr. Tingley?
538

539 Mrs. Wade - Recreation and Parks has mentioned the historic nature of the area
540 and the earthworks and so forth. I believe HPAC the preservation in the Parks and Recreation
541 Department has asked that sensitivity be demonstrated toward those. Are you doing anything in
542 that regard?
543

544 Mr. Tingley - Okay. I would let the owner of one of these parcels speak. He
545 lived on the property for many, many years and is very familiar with what's there. He's familiar
546 with the works that are out behind the Montross property. But he has indicated to me, and I'd
547 rather you hear from him directly. Mr. Gregory, would you come up?
548

549 Mr. Gregory - I'm not sure I understand the question, so.
550

551 Mrs. Wade - I understand that, in addition to Montross, that there are civil war
552 earthworks on the property.
553

554 Mr. Gregory - I don't know of any that I've found. I've worked the area with metal
555 detectors years ago and never found any civil war stuff.
556

557 Mrs. Wade - I guess, actually, there's some difference of opinion maybe
558 between the Parks Service and the County on that matter.
559

560 Mr. Gregory - A lot of that was built on the parcel that I presently own which is the
561 part to the west. Anything that would have been there would have been bulldozed a long time
562 ago. That house has been there; my parents bought it in 1960. So, I don't know of anything
563 there. I really can't address what I might know is there.
564

565 Mrs. Wade - As far as you know, there isn't anything on the property?
566

567 Mr. Gregory - There's some areas on the ridge that could be old agricultural works
568 where the fields were cleared. I have gone over the area with metal detectors before and never
569 found anything back there. I don't know if there's any indication or not. But I don't know what the
570 difference of opinion is. There's nothing protected there as far as I know.
571

572 Mr. Archer - Okay. Are there further questions of Mr. Tingley?
573

574 Mr. Donati - I have one, Mr. Chairman.
575

576 Mr. Archer - Okay, Mr. Donati.
577

578 Mr. Donati - What size streets are you planning to put in the subdivision—right
579 of way?
580

581 Mr. Tingley - Either 40 or 44-foot roadway width. That's something I would
582 probably be addressing at tentative plan approval.
583

584 Mr. Archer - You did hear that discussion about that earlier, Mr. Tingley, about
585 being able to park on both sides?
586

587 Mr. Tingley - Yes sir. I'm familiar with that.
588

589 Mr. Archer - Okay. Thank you. Does that answer your question, Mr. Donati?
590

591 Mr. Donati - Yes sir.
592

593 Mr. Archer - All right. Any further questions? Thank you, sir. All right, we'll hear
594 from the opposition.
595

596 Mr. Roger Gregory - Good afternoon, Mr. Chairman, members of the Commission,
597 Planning Director, I would like to have seven minutes, and then the other speaker three minutes.
598

599 Mr. Vanarsdall - I don't believe you stated your name, did you?
600

601 Mr. Gregory - Yes. Thank you. My name is Roger Gregory and I represent the
602 opposition. The loyal opposition, really. Mr. Tingley alluded to talking the matter to death. Maybe
603 he alluded to the fact that I would be getting up here and saying something about it in opposition.
604 Perhaps, I understand why he wants the talking to stop. But the talking can't stop because there

605 are some very concerned, and rightfully so, concerned people against this project. Not against
606 any person, but against the idea that the dreams, wishes, and visions of a community, and people
607 are somehow usurped by a project that is really not good. The fact that even the questions you
608 asked tonight; well, how wide will the roads be? I don't really know. We'll isn't that a question?
609 Didn't we have a conversation about parking on both sides. I don't recall, yes, I committed. Yes, I
610 had a conversation. The point is, just like the people are, there're in a fog. We don't know.

611
612 The three issues raised by staff: density, quality, and the Montross property have not been
613 addressed appropriately. The density is far beyond the capacity of Laburnum School. There are
614 trailers there. People are already being transported. Again, and I alluded to before, why have a
615 project that further burdens a situation that's already really intolerable to school children, your
616 school children of the Fairfield District.

617
618 Quality; again, we don't know what type of properties he's going to build. A good question was
619 asked by the Vice-Chair lady. That is, well, why are you seeking R-4? Well, the sort of muffled
620 response was, "Well, I really want smaller lots." That's exactly right. These smaller lots, they
621 affect resale value and quality. These persons have invested in terms of their life and their
622 community. They need to protect their property values. This project does not do that in terms of
623 quality.

624
625 He's going to face homes; now it reminds me of Don Quixote, the Man of LaMancha, that "Any
626 facts are the enemies of truth." When he gave you what the average house size was, he probably
627 factored in about two houses. The truth is, the average lot size on North Road is a little more than
628 an acre per home. There are homes that are 3,900 square feet. Most of them are averaging over
629 2,000 square feet. But to mislead in that sense, in that regard, is inappropriate in terms of the full
630 flavor of it.

631
632 The third part, Montross. You have a historic property; historic; a working farm, thoroughbred
633 horses. It is confiscatory in my view to talk about a normal 20-foot buffer protecting in terms of the
634 property of the Olsons.

635
636 Mr. Merrithew talked about vision. This community is willing to purchase the property. So, they
637 don't need this in order to protect them from a larger density. They really could have more
638 density. No. It wouldn't be. If this is not recommended, then that property will be purchased by
639 the Olsons, and this will be preserved, a park, community use, and give it vision and restore its
640 vitality.

641
642 Instead, this has no imagination. It believes that all you can do is just build these homes. We
643 believe it will not be the quality. Again, the neighborhood goes down. The quality goes down.
644 We don't think this is appropriate, again. Mrs. Wade asked the question, again. Was it
645 answered? What is there historically? I say to you, there are reasons why this should not be
646 recommended.

647
648 We, in terms of the County, you don't know what treasures you have historically. Earthworks; the
649 owner, Mr. Gregory spoke very candidly. He said, "I don't know. There's some kind of earth,
650 something there." The berms. The County, your own Recreation and Parks raised these issues.
651 Historical type. How do you protect? Mr. Tingley can't tell you what's there, if he's interested at
652 all. But, again, that's premature. It's premature to recommend this. I still say this about this
653 project. What is it about this project that's so compelling that it ought to usurp the will of all of
654 these people who are against it?

655

656 Your government is to help people. To do what people can't do for themselves to facilitate a
657 better community in terms of light and safety, and welfare of people. These people live there. Mr.
658 Tingley doesn't live there. He's talks about, "I think this may have an impact?" He lives in the
659 City. He's not there. But the people who live there and who care and want their values of
660 property in that community to be preserved, they're against it because they know this is not going
661 to represent any vision. The historical value; nothing protects the Montross property. Nothing in
662 here at all. They're going to face the homes on North Avenue back – the rear of the homes that
663 he's going to build, is going to face that home. The rear, where people set their garbage out.
664 Where people put everything. It becomes the attic; the extended garage. That's consistent for
665 the interest of the people? I don't believe so.

666
667 What I'm saying is this, yes, if you say this meets the overall vision 210 (sic), but that's the beauty
668 of the Plan the County made. When the County said, "2010 Plan, Oh, we think this is going to be
669 residential." Nothing wrong with that. But you gave yourself the flexibility, because if you didn't
670 you would have said, "Okay, that's our plan. Let's rezone everything right now." But you didn't.
671 It's still A-1 because you wanted to have the flexibility to say, "What's there?" I'm telling you this, if
672 you had planned for that neighborhood, residential, but you found there were diamonds there, and
673 oil wells, I certainly believe you would find a way to alter that Plan, even though somebody came
674 out with something that is residential.

675
676 I'm saying there are diamonds there. There's a community of people well interested, well
677 meaning, and want to preserve. I say, you just don't; that just because the Plan said this is
678 consistent with these minimal-type standards. Even if they're increased to some degree, it
679 doesn't protect, and doesn't deal with the three things the staff talked about. The density in terms
680 of impact. You already have the NASCAR Race. This community is beset by that. That's good.
681 It's good for the County. But why should they bear every burden? Every burden?

682
683 The density and our schools. Thank you very much. I appreciate that. I'm going to go on 30
684 more seconds and that will be reduced by agreement by the speaker behind me. But it doesn't
685 address the quality issue nor Montross. And I say to you, you have the power. You have the
686 lightening in your hand. I beg you on behalf of these people. Raise your hand those who are
687 here against it; the community people. I'd ask you not to use your power that's been vested in
688 you in terms of governing and care for people to vote and recommend this to the Board of
689 Supervisors. It's not consistent with quality. It's against the interests in terms of impact and
690 density, and it doesn't do anything to protect the historical value and the economic value of a
691 working thoroughbred farm. Because I'm sure the County thought the year approaching the
692 millennium, there wouldn't be a historic farm there. This would have been run down. And
693 somebody just can't wait to build some homes over there. But that's not been the case. It's been
694 people who have invested their money in terms of these horses and cattle, and people who care
695 about their homes, the value. I think that you ought to preserve that treasure. And again, this
696 community will buy those homes. So, Mr. Gregory is not at any loss. His home will be purchased
697 and his property. That's their commitment and we ask, and plead that you do not recommend
698 this. Thank you very much.

699
700 Mr. Archer - Thank you, Mr. Gregory. Are there any questions of Mr. Gregory
701 before we make a decision? Thank you, sir.

702
703 Reverend Rufus Atkins - Mr. Chairman, members of the Board, the question that Mrs. Wade,
704 I think it was Mrs. Wade about the schools. We have the Vice-President of the PTA of that school
705 here. I think she can tell you more about that school than anyone present. I don't believe she
706 would invest all of her time working in the school system.

707
708 Mrs. Wade - Excuse me, sir. Did you give your name?
709
710 Reverend Atkins - Oh. I'm sorry. My name is Reverend Rufus Adkins. The next
711 question I propose...
712
713 Mr. Archer - Pardon me, Reverend Atkins. Is there anybody to speak after you?
714 You have the remainder of the time.
715
716 Reverend Atkins - The next question I would propose, if that's his plan, if the Corps of
717 Engineers says, "You need to put in a retention pond?" Where will be retention pond go? It's got
718 to be drained somewhere for a retention pond. He has already said, he's going to put the lots in.
719 He's got his lots. Where's the retention pond going to be? Already, right now, those kids walk
720 North Street going to the high school. There's no sidewalk. You've got to go all the way out to
721 Azalea and then come down Azalea to go into the high school. What are we going to do about
722 those? Are we more concerned about building houses than our children in the school system; the
723 safety of the community? I live in that area. There was a fire this past week in that area, and the
724 fire trucks got in when the race was going on. That's the first time I've ever seen firemen in that
725 area. I don't know what area he came from, but it sure wasn't from over there by the race track.
726 All I'm saying, you need to deny this until further study is done, so we can meet some kind of
727 criteria for protection in that area. Thank you, very kindly.
728
729 Mr. Archer - Thank you, Reverend Atkins. Are there questions for Mr. Atkins by
730 the Commission? Mr. Tingley, I think you have some rebuttal time if you'd like to make some
731 wrap up remarks, sir.
732
733 Mr. Tingley - Thank you, Mr. Chairman. In response to some of the issues that
734 have been raised by Mr. Gregory, I spoke with the Schools Planner, and she has told me that
735 there is reserve capacity in both Glen Lea Elementary and Chamberlayne Elementary. I know it's
736 your positions that it's not the development community's responsibility to address the School's
737 issue. But, in fact, there is reserved capacity in the two adjacent schools. There's reserved
738 elementary school capacity within the School system itself. So, there is a vehicle available to
739 address the capacity issue, should it arise. This particular school population is fairly volatile
740 because of the number of apartment units in it. Mrs. Bowles indicated that she does not think that
741 the population is going to stay where it is today.
742
743 I've asked to be put up something where I've augmented your Land Use Plan map to show the
744 existing densities in that area that are already subdivided. You can see, what I'm proposing, is
745 significantly lower density than what is there now.
746
747 I'm also showing a copy of the subdivision plat for the land from Azalea out to and beyond
748 O'Brien. If you'll look, you'll see that most of the lots are 60 foot fronts, and some of them are less
749 than that. What I'm proposing is consistent with this lot size configuration. So, I don't think that
750 the density; yes, there is lower density on North Road. Part of North Road isn't paved. There are
751 not utility lines in North Road. There are not curbs in North Road.
752
753 Normally, when this type of infrastructure is installed, you are permitted to develop to a higher
754 density. That's why in the areas that are developed to a higher density, it is because the
755 infrastructure is present. Of course, it would be my financial responsibility to provide that
756 infrastructure.
757

758 The location of the retention pond is, I'm sure you're aware, a detailed issue of engineering and is
759 something that is addressed during the development-plan stage.

760
761 The quality issue, I think, has been rehashed excessively. I'm criticized for running down the
762 houses out there, so I'll just keep quiet on that. What I want to emphasize again about Montross,
763 is that the homes that I would build would be further away from the existing Montross house than
764 the existing homes on North Road. When the owner of Montross built his paddock, he provided
765 no buffer between his paddock and North Road. I am providing a 20-foot buffer between the rear
766 yards of my homes and his property. So, I think that I'm offering an improvement over what he did
767 himself. Thank you very much for your time. If you have any more questions, I'd be happy to
768 answer them.

769
770 Mr. Archer - Are there any other questions for the applicant?

771
772 Mrs. Wade - I don't understand the school thing, because what you're saying is
773 not what we have in our report, basically.

774
775 Mr. Tingley - Well, what you have in your report says that, they're transferring
776 some children to Glen Lea. Once that is done, there will still be a little bit of reserved capacity at
777 Glen Lea, as well as some reserved capacity at Chamberlayne Elementary.

778
779 Mrs. Wade - But that said, even moving those to Glen Lea, won't provide
780 significant relief for Laburnum.

781
782 Mr. Tingley - I can't address that. All I can tell you is what information I obtained.

783
784 Mr. Archer - Any further questions? Thank you, Mr. Tingley.

785
786 Mr. Tingley - Thank you.

787
788 Mr. Archer - Okay. I need to make some remarks. My colleagues on the
789 Commission, members of the Board, and others have received some letters since our last
790 meeting largely alluding to my conduct and my manner at that meeting. There were also remarks
791 attributed to me that I did not make. For example, one writer said that I accused the community of
792 having animosity toward the applicant. Another said that I accused the community of having
793 hostility.

794
795 I have carefully reviewed the transcript of that portion of the meeting and I can find neither
796 statement in the transcript, and I have it, if anyone would like to read it. I was said to have been
797 angry at the outset of the meeting and that I was rude and uncaring. So, just let me assure you,
798 that I'm not angry. I am not predisposed to be rude. And above all, I do care. And lastly, as one
799 writer wrote, there is no truth to the rumor that I live near a 160-acre parcel off of Wilkinson Road.
800 So, that rumor can be dispelled.

801
802 As promised at the May meeting, I met with Attorney Gregory, Reverend Atkins and Mr. Merrithew
803 to address the major concerns that was said to be the quality of Mr. Tingley's product. He brought
804 pictures of houses that he had built from another subdivision. And the range of prices that he
805 showed us, if those particular houses were built, would be from the upper eighties to the upper
806 \$110's.

807

808 As proffered, the quality of this development would exceed the houses he showed us at the
809 meeting. Now, several of the letters that I received, as well as Mr. Gregory's remarks have been
810 made, state that the concern is with the quality of the people who would move into the subdivision.
811 Apparently, somehow higher priced houses bring a better quality person. There's also some
812 expression about people who are first-time buyers. Yet, the letters indicate that some of you who
813 live there were first-time buyers over 30 years ago, and still remain. Now, all homeowners, at
814 some point, were first-time buyers. I applaud this community for the care and concern that you
815 show in your neighborhood and in your community. But I fail to see how the price of a home,
816 which is not relevant in this case anyway, would somehow equate to the person occupying that
817 home being a better or worse person than his neighbor. Or how a caring community such as
818 yours could not and would not embrace new neighbors.

819
820 It has been said that the children from these homes would, in some way, have a debilitating effect
821 on the schools. That the owners would cause an increase in the crime rate. Is it fair to say, if one
822 is not wealthy, does not live in a large house, that he or she is likely to be a criminal? And I'm
823 reminded that the person who lived in the biggest house near my community, the one with the
824 three luxury cars; the Winnebago, and wrought iron fence is now serving 50-plus years for dealing
825 narcotics. The point being, that material wealth does not always mean wealth of character.

826
827 I feel, personally, that the improvements proffered in this case, and they have been significant
828 since this case was first presented, but as they have been proffered and as they relate to the
829 quality of the proposed subdivision, the protection offered to Montross by the extensive buffering;
830 though none is actually required between residential and agricultural properties. The protection
831 proffered by the buffer strip between this proposed subdivision and the existing neighborhood and
832 the very low density, much, much below what the minimum density could be in this area, make
833 this request a reasonable request. And, since, we're supposed to rule on cases in a manner that
834 is not arbitrary nor capricious, therefore, move to recommend approval of C-15C-98 to the Board
835 of Supervisors.

836
837 Ms. Dwyer seconded the motion.

838
839 Mr. Archer - Motion made by Ms. Archer, seconded by Ms. Dwyer All those in
840 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

841
842 Mr. Merrithew - I'd like to announce the date of the Board public hearing. I believe
843 that's going to be August 12th or August 8th or July. July 8th. The Board public hearing on this
844 case will be July 8th at 7:00 p.m.

845
846 Mr. Archer - Thank you, Mr. Merrithew.

847
848 REASON: Acting on a motion by Mr. Archer, seconded by Ms. Dwyer, the Planning Commission
849 voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the proffered**
850 **conditions and grant** the request because it is reasonable; it conforms to the recommendations of the
851 Land Use Plan; and it continues a similar level of single family residential zoning as currently exists in
852 the area.

853
854
855 **C-30C-98 Glenn E. Ayres for Hong Yen Ngn Duong (H&W):** Request to
856 amend proffered conditions accepted with rezoning case C-37C-87, Parcel 102-12-30-1,
857 containing 0.410 acre, located on the south line of Horsepen Road approximately 260' east of its
858 intersection with Catawba Lane in the Westwood Subdivision (6427 Horsepen Road).

859 Amendments to proffers related to permitted uses, parking, signage, traffic flow, refuse area, and
860 lighting are proposed. The site is zoned B-1C Business District (Conditional). The Land Use Plan
861 recommends Office development.

862
863 Mr. Archer - Is there any one here in opposition to C-30C-98? Ms. Gardner.
864

865 Ms. Nancy Gardner, County Planner - Good evening. This is a request to amend proffers on a .4
866 acre parcel on a B-1 property on Horsepen Road at 6427 Horsepen Road. It's an existing beauty
867 parlor. The applicant would like to rezone the property to allow a restaurant.

868
869 The property is designated for Office use. The proposal would not be consistent with that
870 designation. This property was originally rezoned B-1 in 1983. At the time of that hearing and at
871 the 1987 hearing at which one of these proffers were amended, it was noted, and I would note
872 again, that the Office designation is specifically intended to buffer the residential uses to the south
873 of this property from the retail uses to the north. Staff would support the integrity of maintaining
874 that Office designation.

875
876 This request would allow almost any B-1 use. Certain uses have been excluded. The applicant
877 has made some proffers to mitigate the impact of the restaurant. I couldn't think of anything to
878 request him to mitigate. However, the use, simply, is not consistent with the designation.
879 Therefore, staff recommends denial. I'd be happy to take any questions.

880
881 Mr. Archer - Thank you, Ms. Gardner. Are there questions for Ms. Gardner...
882

883 Ms. Gardner - I beg your pardon. There are new proffers. I should have
884 mentioned. There are new additional proffers that were submitted this evening. Ignore the date
885 on the signature line. They were submitted today. You would have to waive the time limits to
886 accept these additional proffers.

887
888 Mr. Archer - Are there questions for Ms. Gardner? Thank you. Is the applicant
889 present?

890
891 Mr. Glenn E. Ayres - Mr. Chairman, members of the Commission, my name is Glenn
892 Ayers with the law firm of Simon, Lafayette & Associates. I represent Mr. & Mrs. Paul Jones, who
893 are the owners of the property and are asking to amend the current proffers on the property to
894 permit them to operate a restaurant in their building. Since there is no opposition, I don't think I
895 need to reserve any rebuttal time.

896
897 I'd like to first address the Land Use Plan. There has been quite a bit of change that has occurred
898 on Horsepen Road, over the years, since the prior two cases in 1983 and 1987. Mr. and Mrs.
899 Dong were not the owners of the property at that time, so this is not some sort of grand scheme
900 on their part to come forward with a more intensive use. But rather they have found that they
901 would like to be able to operate the property as a restaurant. The character of the whole
902 neighborhood, the Crestview neighborhood has changed. And they would like to operate a
903 Chinese Stockpot Cookery, which would be serving the Asian community, which is around the
904 Crestview area and around that area, as well as, of course, the general public.

905
906 We have spoken with all of our neighbors on all sides of the property. They are all in favor of, and
907 not opposed to this request. Their concerns were reasonable concerns that we have attempted to
908 address primarily loitering after-hours on the parking lot. The pick up of trash and the
909 accumulation of trash on the parking lot. And the ABC regulations.

910
911 To review the proffers for a moment, the restaurant would not be open past 11:00 p.m. ABC
912 would be on premises only. It is intended that just the downstairs portion of the building would be
913 utilized, which is approximately 1,500 square feet , which would be both a kitchen, as well as a
914 dining area.

915
916 The parking area, the building, itself, is approximately 62 feet from the rear property line. There is
917 parking area behind the building, as well as some parking along the side and the front. The
918 parking areas would be screened with a six-foot high wooden fence. That wooden fence would
919 come along the side property line to a plane even with the front surface of the building.

920
921 Signage usage would be the existing free-standing sign that is presently at the property. We're
922 not proposing to increase any signage area.

923
924 The refuge area would be screened and it would also be daily refuge pick up limited between 8:00
925 a.m. to 8:00 p.m. on a daily basis. Lighting would be directed into the property, reduced to
926 security levels after the close of business. The exhaust for the kitchen and all cooking areas
927 would not be at the side of the building, but rather would be chimnied through the roof. It would
928 be bringing it substantially above the level of the homes and the atmosphere above there.

929
930 On the plans it was indicated that there was a new addition; entrance at the front, but that is not
931 going to be used now. So, the front of the building would remain the same. Presently, in the
932 neighborhood, there are two other restaurants that are approximately three blocks away near the
933 corner of Horsepen Road and Broad Street; the Toppings Pizza Restaurant and the Vo-Din
934 Vietnamese Cooking Restaurant.

935
936 I'd like to note that both of those restaurants are in a strip-type of shopping center. The backs of
937 those buildings are within 50 feet of the nearest residential neighborhood and the houses in that
938 neighborhood. And that neighborhood is certainly very stable and does not seem to suffer any ill
939 effects from those restaurants being so near by.

940
941 The use is a reasonable use. There is sufficient screening and mitigation of circumstances of the
942 restaurant so as not to cause a negative impact on the neighborhood, or be a detriment to the
943 integrity of that residential neighborhood behind there. I'm happy to answer any questions and
944 would ask for your favorable consideration of this proposal.

945
946 Mr. Archer - Thank you, Mr. Ayers. Are there question for Mr. Ayers by the
947 Commission?

948
949 Mrs. Wade - Are most of the neighbors you talked to live there, or are they just
950 property owners?

951
952 Mr. Ayers - The neighbors that I've talked to; there are three neighbors who are
953 directly behind there, live there. They are not opposed. The only non-residential neighbors that
954 do not live there are on Horsepen Road. However, the owner of the properties, as you're going
955 down towards Broad Street; Mrs. Tyler is not opposed to it. Mrs. Davis, who is on the other side,
956 who does not live there. However, her mother does live in the next house over. They are not
957 opposed to it as well.

958
959 Mrs. Wade - You mentioned how Horsepen had changed along there. Actually,
960 could you be more specific. I don't think it has, except the big restaurant at Crestview that used to

961 bother people around there. All of this has been changed down at the Broad Street corridor. But,
962 basically, it seems to me that Horsepen, in that area, is pretty much the same as it has been for a
963 long, long time.

964

965 Mr. Ayers - There has been the opening of the travel agency.
966

967 Mrs. Wade - Well, that's been what, 10 or 15 years ago, probably in an Office
968 designation.
969

970 Mr. Ayers - That was an Office designation.
971

972 Mrs. Wade - It used to be a bank. I remember when that was converted. Okay.
973 I don't think I have any other questions. Is your site plan a part of your case?
974

975 Mr. Ayers - No ma'am. The site plan was not proffered as part of the case. It
976 was strictly for illustrative purposes.
977

978 Mrs. Wade - I think I asked you before. Mr. Dong currently has a business some
979 place?
980

981 Mr. Ayers - Mr. Dong and his wife work in their own beauty salon. They may
982 located a beauty salon in that building until such time as they would open a restaurant. The prior
983 tenant in that building was a beauty salon; Erica's Beauty Concepts, and that was leased to a
984 tenant. That was not Mr. and Mrs. Dong operating that. That was a lease, and that business is
985 no longer located there.
986

987 Mrs. Wade - I remember when the B-1 was put on there; and strictly limited to
988 built to the beauty use, so they could sell products from there is why the proffer was there. So,
989 they would be able to do that, and still be a low key...
990

991 Mr. Ayers - Yes ma'am. The beauty salon was also I think doing tanning. Had
992 tanning beds and also doing nails and also selling related products as well; with cosmetology
993 products as well. Yes ma'am.
994

995 We do not see that the change over to a restaurant is going to bring about a great amount of new
996 traffic there, or additional traffic. The hours, yes, are a little bit later. The beauty salon in the past
997 had evening hours. So, there was evening traffic there. It was also open six days a week.
998

999 Mrs. Wade - I'm glad you brought that up, because I don't think a restaurant is
1000 going to have more traffic than the beauty parlor.
1001

1002 Mr. Ayers - It will have a little bit more, but I do not think it is going to be
1003 appreciably more. No ma'am, Mrs. Wade.
1004

1005 Mrs. Wade - Okay. Thank you.
1006

1007 Mr. Ayers - The beauty salon was on two floors. How many stations were
1008 there?
1009

1010 Mr. Dong - Eight stations.
1011

1012 Mr. Ayers - Eight stations in the beauty salon. It was also I believe two tanning
1013 beds – two tanning beds. So, at any one time, you could have as many has 10 customers at a
1014 time in the shop; and the turnover being anywhere from 30 minutes to an hour. Sometimes
1015 longer. So, when you talking about turning the number of tables, you're talking about 10 to 12
1016 customers; 10 to 12 cars on a half, hourly basis.

1017
1018 Dining, you would probably have maybe people staying a little big longer to have meals.
1019 Certainly, during the evening hour for dinner. You probably would not have that many tables
1020 coming open or people coming in; many people having dinner that late. So, you're looking
1021 primarily at lunch time. A crowd of people coming in at that time. The 11:30; 11:00 to 2:00 o'clock
1022 range, and then the evening hours; the dinner hours starting around 4:00 p.m. to perhaps 8:00
1023 p.m. And then tapering off in the evening at night. So, the increase in traffic would be pretty much
1024 the same time that it was a fairly heavy volume of traffic when it was a beauty salon, but it
1025 wouldn't be a great deal of volume of traffic coming in at 9:00, 10:00 o'clock, or 11 o'clock at night.
1026 We're proffering to close at 11:00 o'clock at night, as well.

1027
1028 Mrs. Wade - Are you not aware that Crestview is in the process of being
1029 renovated and changed? There is going to be quite a bit of change in that area, in terms of
1030 upgrading the housing, certainly. The population there is in a state of flux, I would say, also, and
1031 you don't need to answer. There also are restaurants behind across off of Horsepen in that B-2
1032 and B-3 area.

1033
1034 Mr. Ayers - Yes ma'am.

1035
1036 Mrs. Wade - Behind the Burlington Coat Factory, in addition to those on Broad
1037 that have been there quite awhile.

1038
1039 Mr. Ayers - The Mexico Restaurant I think you're referring to.

1040
1041 Mrs. Wade - No. I'm talking about over there on Rigsby Road, in that area. You
1042 can't see it from Horsepen, some of it. There are more little restaurants coming in back there
1043 also.

1044
1045 Mr. Ayers - Well, I would assume the restaurants are coming in there because
1046 there is some demand for that happening; for those kind of restaurants.

1047
1048 Mrs. Wade - But, they're in B-3 and B-2.

1049
1050 Mr. Archer - Okay. Are there further questions for Mr. Ayers?

1051
1052 Mr. Ayers - Mr. Chairman, I do have one last point I'd like to make. One thing
1053 that I came across in preparing for this case is that the County Assessor has been consistently
1054 assessing those properties at the same amount that it is assessed for similarly sized properties
1055 across the street that are zoned B-1. The most recent assessment being \$72,000 for
1056 approximately .4 of an acre. We're .41 of an acre. We're assessed at \$71,600. So, less than a
1057 half percent difference. So, it seems like from the economic standpoint, the County is considering
1058 the property to be a B-1 user and a B-1 generator. And so, this would be one way to equalize that
1059 out. While this Board (sic) is not the assessment; I realize cannot do anything about the tax rate,
1060 it would help to be able allow the property owner to bring the use up to some B-1 uses to generate
1061 the kind of income that the County is charging for taxes. Thank you very much.

1062

1063 Mr. Archer - Thank you, Mr. Ayers.
1064
1065 Mrs. Wade - It is my understanding that the beauty parlor didn't move because
1066 they weren't doing the business there, but their lease was not renewed.
1067
1068 Mr. Ayers - I don't know what...
1069
1070 Mrs. Wade - That's all right. Thank you.
1071
1072 Mr. Ayers - Why did they close up? There was not a forced exit of the beauty
1073 parlor.
1074
1075 Mrs. Wade - Oh, okay, because I thought you told me they went some place
1076 else. Thank you.
1077
1078 Mr. Ayers - Thank you.
1079 Mr. Archer - Okay. Mrs. Wade.
1080
1081 Mrs. Wade - One trouble with me is, I've been here too long. I recall the history
1082 here with it being the Comprehensive Plan for Office use. The fact that it was rezoned and
1083 narrowly specified for that beauty parlor and the selling of the beauty products as you just
1084 described. As I said, Crestview is being renovated. I think the area may be changing but not
1085 necessarily to more business. But the proffers that you have proposed, there's no limit to what B-
1086 1 uses could go in there. We've got a couple pages of them in the ordinance that would allow
1087 things in addition to a restaurant. I know the people up the street used to be concerned about
1088 what was going on around there. I don't know if they even know about this proposal. But the
1089 street behind, it seems to me, or perhaps, modest homes, but they're well maintained and the
1090 neighborhood is surviving quite well. I think we've got too many people who live near restaurants
1091 and we hear from them from time to time about the problems there.
1092
1093 I would agree with staff that it could be precedent setting for that area. We've been trying to
1094 maintain the viability of the residences. I move, therefore, that Case C-30C-98 be recommended
1095 for denial.
1096
1097 Mr. Vanarsdall seconded the motion.
1098
1099 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All
1100 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1101 abstained).
1102
1103 Mrs. Wade - I didn't waive on the proffers?
1104
1105 Mr. Archer - Do we need to? We don't really need to.
1106
1107 Mrs. Wade - In terms of the effect on the case, because even they don't even
1108 address the questions that were raised. Thank you.
1109
1110 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning
1111 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the
1112 request because it would have a detrimental impact on the adjoining residential neighborhood; and it

1113 represents an increase in intensity which could influence future zoning and development of adjacent
1114 properties.

1115

1116

1117 Mr. Archer - Okay. At this time, since there may have been some people
1118 waiting here for cases that have been deferred in the 8:00 o'clock time, we'll review the
1119 deferrals again for the 8:00 o'clock portion, and then you won't have to stay if the case is not
1120 heard.

1121

1122 Mr. Merrithew - Thank you, Mr. Chairman. In the 8:00 o'clock agenda, we have
1123 two deferral requests. The first is in the Varina District:

1124
1125 **Deferred from the May 14, 1998 Meeting:**
1126 **P-17-98 Susan Stancil for Nextel Communications:** Request for approval
1127 of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of
1128 the County Code in order to construct and operate a communication tower up to 120' high and
1129 related equipment and improvements, on part of Parcel 217-A-30, containing 2,500 sq. ft., located
1130 at 3622 Darbytown Court on the east side of Interstate 295. The site is zoned A-1 Agricultural
1131 District. The site is also in the ASO Airport Safety Overlay District.
1132
1133 They have requested a deferral until July 9th.
1134
1135 Mr. Archer - Okay. Is any one here in opposition to the deferment of P-17-98
1136 Susan Stancil for Nextel Communications?
1137
1138 Mr. Zehler - Mr. Chairman, I move that Case P-17-98 be deferred to July 9th per
1139 applicant's request.
1140
1141 Mr. Vanarsdall seconded the motion.
1142
1143 Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All
1144 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1145 abstained).
1146
1147 Mr. Merrithew - Thank you, Mr. Chairman. In the Brookland District C-36C-98.
1148
1149 **C-36C-98 Gloria L. Freye for Sun Suites:** Request to amend proffered
1150 conditions accepted with rezoning case C-11C-88, part of Parcel 59-A-12C, containing 1.988
1151 acres, located on the east line of Homeview Drive approximately 640' north of W. Broad Street
1152 (U.S. 250). Amendments to permitted uses are proposed. The site is zoned B-3C Business
1153 District (Conditional). The Land Use Plan recommends Commercial Concentration.
1154
1155 They have requested a deferral until July 9th.
1156
1157 Mr. Archer - Okay. Is there any one here in opposition to the deferment of C-
1158 36C-98 Sun Suites? None. Mr. Vanarsdall.
1159
1160 Mr. Vanarsdall - I move that C-36C-98 Sun Suites be deferred to July 9, 1998, at
1161 the applicant's request.
1162
1163 Ms. Dwyer seconded the motion.
1164
1165 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Ms, Dwyer. All
1166 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1167 abstained).
1168
1169 Mr. Merrithew - Thank you, Mr. Chairman.
1170
1171 Mr. Archer - Thank you, sir.
1172

1173 **P-20-98** **Kimberly Tetlow for Barksdale Theatre:** Request for approval of
1174 a provisional use permit in accordance with Sections 24-58.2(a) and 24-122.1 of Chapter 24 of the
1175 County Code to extend hours of operation to 2:00 a.m., Thursday through Saturday nights for the
1176 Barksdale Theatre at Willow Lawn, on part of Parcels 115-9-B-2 and 115-A-13, containing 12,786
1177 sq. ft., located in the Willow Lawn Shopping Center (1601 Willow Lawn Drive, Suite 301E). The
1178 site is zoned B-2 Business District. The Land Use Plan recommends Commercial Concentration.
1179

1180 Mr. Archer - Okay. Is there any one here in opposition to P-20-98? Ms.
1181 Gardner.

1182
1183 Ms. Gardner - As stated, this is a request for extended hours of operation for the
1184 Barksdale Theatre for three evenings, Thursday night, Friday night and Saturday. Of course,
1185 being Friday morning, Saturday morning, and Sunday morning. They'd like to remain open until
1186 2:00 a.m.

1187
1188 Barksdale Theatre has been in the Willow Lawn Shopping Center since September, 1996. There
1189 are a number of uses in Willow Lawn that are open until Midnight, including Tower Records,
1190 Starbucks is open until Midnight. Ruby Tuesdays on the weekends is open until Midnight. This
1191 would be the only use within the Willow Lawn Shopping Center that would be open past Midnight.
1192

1193 However, this should not be a problem. The Police Department has run a report for us on the
1194 incidents of crime. They do not find there is a pattern of crime there that we need to concern
1195 ourselves with. There have been no calls to the Barksdale Theatre during the period that it has
1196 been located there.
1197

1198 The conditions would, of course, set the hours of operation and require a security guard be on
1199 duty any time after 8:00 p.m. and the customers be asked to leave the premises directly after the
1200 close of business. Staff recommends approval and I'd be happy to take any questions.
1201

1202 Mr. Archer - All right, Ms. Gardner. Are there questions for Ms. Gardner by the
1203 Commission?

1204
1205 Mr. Vanarsdall - Yes, sir, Mr. Chairman. Ms. Gardner, on Page 2, Condition 2, you
1206 said that the security guard would be on duty until the close?
1207

1208 Ms. Gardner - That's right.

1209
1210 Mr. Vanarsdall - They would be on duty until the traffic got away; say 2:30?
1211

1212 Ms. Gardner - I'm sure that would be fine. We could say until 2:30 a.m.
1213

1214 Mr. Vanarsdall - Would it be one security guard? And would he or she be inside or
1215 out or both?
1216

1217 Ms. Gardner - Well, let me begin answering that by saying, Willow Lawn does
1218 have a security guard on duty. Currently that security guard is on duty I believe until Midnight.
1219 Barksdale has arranged to extend that security guard being on duty. So that security guard would
1220 only be on duty at the Barksdale Theatre. I have not specified inside or outside. I would suspect
1221 the outside would be more effective. But if you prefer if they come inside, I'm sure we could do
1222 that too.
1223

1224 Mr. Vanarsdall - Okay. I have no more questions, Mr. Chairman.
1225
1226 Ms. Dwyer - I had a question on that same paragraph. Would the security guard
1227 be there other days than extended hour days? Is that part of this requirement? Are they open?
1228
1229 Ms. Gardner - I see what you're saying. The way I've written the condition, it
1230 would be any time after 8:00 o'clock. That is the case anyway.
1231
1232 Ms. Dwyer - Okay.
1233
1234 Mrs. Wade - That's just the security guard for the shopping center?
1235
1236 Ms. Gardner - Right.
1237
1238 Ms. Dwyer - And not specifically...
1239
1240 Ms. Gardner - And not specifically for the Barksdale.
1241
1242 Ms. Dwyer - I wasn't sure whether you intended it just for the days that they
1243 were open late.
1244
1245 Ms. Gardner - I did intend it just for those evenings.
1246
1247 Mr. Archer - Okay. Further questions for Ms. Gardner?
1248
1249 Mrs. Wade - No. And unless somebody has the urge to say something, I don't
1250 think we need to hear any more about this.
1251
1252 Mr. Archer - Okay. Mrs. Wade.
1253
1254 Mrs. Wade - There wasn't any opposition. I think Barksdale is not known for
1255 being crime ridden and attracting that sort of activity. So, with that change, Mr. Vanarsdall, you
1256 wanted them to say no later than 8:00 to 2:30 a.m. for Condition 2, Mr. Vanarsdall? You wanted
1257 Condition 2 changed to say from 8:00 to 2:30?
1258
1259 Mr. Vanarsdall - Not unless you want to. I wouldn't think the security guard wouldn't
1260 leave when the crowd did.
1261
1262 Mrs. Wade - No. I think that I sort of when I read this, I thought it kind of went
1263 without saying. And I assume by "evening hours," you mean to the morning also? I think the
1264 intent is fairly clear here. Okay. These are revocable for cause. It certainly seems like a
1265 reasonable request. There are no residences nearby to disturb anybody. I move that P-20-98 be
1266 recommended for approval with Conditions 1, 2, 3 on Page 2 of the agenda.
1267
1268 Mr. Zehler seconded the motion.
1269
1270 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Zehler. All those in
1271 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).
1272
1273 Mrs. Wade - Of course, I don't know now that the Rocky Horror Show is there.
1274

1275 Ms. Dwyer - There has been some publicity about the art work, right?

1276

1277 Mrs. Wade - I assume the children will be out of there by then.

1278

1279 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Zehler, the Planning Commission
1280 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the requested**
1281 **revocable provisional use permit**, subject to the following conditions:

1282

1283 1. Extended hours of operation shall be limited to 2:00 a.m. on Thursday, Friday and Saturday
1284 nights (being Friday, Saturday, and Sunday mornings).

1285

1286 2. A security guard shall be on duty during all evening and early morning hours of operation, to
1287 begin no later than 8:00 p.m.

1288

1289 3. Management shall require customers to leave the premises, including parking areas,
1290 immediately after the close of business.

1291

1292 The Planning Commission recommendation was based on its finding that the Provisional Use
1293 Permit is reasonable; and it would not be expected to adversely affect public safety, health or
1294 general welfare.

1295

1296

1297 **C-41C-98 Henry L. Wilton for Wilton Investment Corp.:** Request to
1298 conditionally rezone from A-1 Agricultural District to R-2C One Family Residence District
1299 (Conditional), Parcel 9-1-1-100, described as follows:

1300

1301 Beginning at a point at approximately 400' +/- south of Country Creek Way along the right-of-
1302 way line of Pouncey Tract Road; thence N. 87° 20' 42" E 147.22 feet to a point; thence N. 00°
1303 27' 48" W., 71.55 feet to a point; thence S. 28° 34' 15" E., 86.64 feet to a point; thence N. 61°
1304 56' 45" E., 471.99 feet to a point; thence S. 10° 21' 06" E., 394.09 feet to a point; thence S. 71°
1305 10' 34" W., 589.54 feet to a point; thence along the east right-of-way line of Pouncey Tract Road
1306 along a curve with a radius of 1093.92 feet, length of 300.02 feet, an included angle of 15° 42'
1307 50" to a point; thence N. 12° 03' 09" W., 74.24 feet to the point of beginning and containing 5.05
1308 acres of land.

1309

1310

1311 Mr. Archer - Is there any one here I opposition to C-41C-98 Henry L. Wilton for
1312 Wilton Investment Corp.? No opposition. Ms. Gardner.

1313

1314 Ms. Gardner - This case is really an extension of a previous case that you've
1315 seen, C-25C-98. The proffers, for all intents and purposes, are identical. On this subject property,
1316 we expect to see a maximum of six lots and fragments of other lots. The applicant, Mr. Wilton,
1317 intends to develop this property, along with the adjacent property marked R-2C and some of the
1318 further adjacent property. I do have a preliminary layout. This was submitted with the previous
1319 case. It may or may not be current, but this does give you some idea of how the applicant intends
1320 to develop the property.

1321

1322 As I mentioned, the proffers are the same as in the previous case. The applicant intends to offer
1323 adequate protections to the adjacent properties. Staff recommends approval. I'd be happy to
1324 answer any questions or to get into any more detail.

1325
1326 Mr. Archer - Thank you, Ms. Gardner. Are there questions by the Commission?
1327
1328 Ms. Dwyer - I had one question on Proffer No. 3. They are talking about the 25-
1329 foot planting strip which shall contain landscaping and natural open areas. I was just wondering
1330 what was intended. Were we going to leave it open, or were we going to landscape the
1331 planting strip?
1332
1333 Ms. Gardner - Why don't we let the applicant answer that? Put him on the spot.
1334
1335 Mrs. Wade - I just assumed there might be some of each, but I know how
1336 sensitive we are to natural buffers.
1337
1338 Ms. Gardner - I suspect that supplemental plantings will be necessary, but let's get
1339 him to state that.
1340
1341 Mrs. Wade - Number 5, you said that's the same as the last case. The County is
1342 not responsible for enforcing these covenants.
1343
1344 Ms. Gardner - That's right. Proffer No. 5 deals with covenants. And these would
1345 be things that the developer and the homeowners association would be responsible for
1346 implementing and enforcing.
1347
1348 Mr. Archer - Okay. Further questions?
1349
1350 Mrs. Wade - I do have one for the applicant, please?
1351
1352 Mr. Archer - Would the applicant come forward, please?
1353
1354 Mr. Rodney Poole - Mr. Chairman, members of the Commission, I'm Rodney Poole on
1355 behalf of Wilton Development Corporation. I believe that Ms. Gardner has accurately reflected the
1356 fact that this is an extension of another case before the Commission and the Board of Supervisors
1357 in the month of May.
1358
1359 To answer the specific question that Ms. Dwyer asked, I think there'll be supplemental plantings
1360 there in that space. I'd be glad to answer any other questions or to go into any other details.
1361
1362 Mr. Archer - All right, thank you, Mr. Poole. Are there any questions?
1363
1364 Mrs. Wade - What about these green utility boxes? I don't recall that issue
1365 coming up in the previous case. But we're getting so we're asking questions about that now. Will
1366 they be in the front yard, back yard, or do you know?
1367
1368 Mr. Poole - I don't have a specific answer for that other than to say it will be
1369 exactly same conditions as on the previous case. And that I believe they will be in the rear yard,
1370 but I can't specifically answer that question, Mrs. Wade.
1371
1372 Mrs. Wade - Does anybody know? I know it isn't in the previous case. I didn't
1373 think so. We weren't really looking at it.
1374

1375 Ms. Dwyer - Remember too, Mrs. Wade, our Ordinance really does require them
1376 to be in the rear.
1377
1378 Mrs. Wade - In the rear...
1379
1380 Ms. Dwyer - We did. But they never seem to be honored more than in the
1381 breach, maybe.
1382
1383 Mr. Poole - It's certainly there.
1384
1385 Mrs. Wade - I call that to your attention, then. Pass that thought on to the Board
1386 also.
1387
1388 Ms. Dwyer - Mr. Poole, my question about the Proffer 3, the planting strip says
1389 that it will contain natural open areas. I guess I was a little confused. Usually, we don't see that
1390 language that they'll be open areas in a landscaped area.
1391
1392 Mr. Poole - I understand. The reason that it's in this particular case is because
1393 its identical to the one in the previous case. The intent was to make them consistent with one
1394 another. That had already been considered by this Commission and by the Board of Supervisors.
1395 That was the reason that the exact same language was used. It's the intent to maintain the
1396 consistency because it's going to be all one subdivision.
1397
1398 Ms. Dwyer - Right.
1399
1400 Mr. Archer - Okay. Are there further questions?
1401
1402 Mrs. Wade - Would you feel more comfortable if we suggested he took out...
1403
1404 Ms. Dwyer - It's the same language as in the other case. I'm not sure that
1405 would...
1406
1407 Mrs. Wade - I'm not sure why we didn't discuss it then, or whether it even
1408 changed between when we had it and it got to the Board of Supervisors.
1409
1410 Ms. Dwyer - I don't remember discussing it before.
1411
1412 Mr. Poole - It didn't change between the Planning Commission or the Board of
1413 Supervisors. The intent was to maintain the continuity by making it exactly the same.
1414
1415 Mrs. Wade - Which is the main reason we don't have any objections to it,
1416 because it's the same as the other one. We'd better leave it alone. All right, thank you.
1417
1418 Mr. Poole - Thank you very much.
1419
1420 Mrs. Wade - I'm sure it will get close scrutiny by the Board before their meeting.
1421
1422 Mr. Archer - All right, Mrs. Wade. I think we're ready.
1423
1424 Mrs. Wade - This certainly seems to fit in with other things, although, I believe,
1425 the Comp Plan calls for Rural Residential. That was determined before utilities services became

1426 available to this area which allows for somewhat increased density. I know it has been worked
1427 out with the neighborhoods. It meets one our goals of providing even larger planned areas. So, I
1428 would move case C-41C-98 be recommended to the Board for approval.

1429
1430 Ms. Dwyer seconded the motion.
1431

1432 Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer All those in
1433 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).
1434

1435 REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning Commission
1436 voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the proffered**
1437 **conditions and grant** the request because it is reasonable; it is appropriate residential zoning at this
1438 location; and it conforms with the objectives and intent of the County's Comprehensive Plan.
1439

1440 **C-33C-98** **Phyllis J. Moorefield:** Request to conditionally rezone from R-2A
1441 One Family Residence District to A-1C Agricultural District (Conditional), Parcels 79-A-22, 23 and
1442 24, containing 13.23 acres, located at the southern terminus of Tuckaway Lane at its intersection
1443 with Lyndonway Drive. Residential development is proposed. The A-1 District permits residential
1444 densities not exceeding 1.0 unit gross density per acre. The Land Use Plan recommends
1445 Suburban Residential 1 development, 1.0 to 2.4 units net density per acre and Environmental
1446 Protection Area.
1447

1448 Mr. Archer - Is there any one here in opposition to C-33C-98 Phyllis J.
1449 Moorefield? Okay. Thank you. We'll get to you.
1450

1451 Ms. JoAnn Morgan Hunter - Good evening. I've just been informed during the break that Mrs.
1452 Moorefield would like a 30-day deferral. She'd like to amend her zoning request from R-2A to A-
1453 1C to R-2AC with conditions, as was recommended in the staff report.
1454

1455 Ms. Dwyer - Mr. Chairman, may I make a few comments before we move on this
1456 deferral?
1457

1458 Mr. Archer - Sure.
1459

1460 Ms. Dwyer - I've got one call this week from someone in the Pinedale
1461 Subdivision who said that they'd gotten a notice similar to this that states that zoning case will
1462 permit Lyndonway Drive to be cut through directly to Parham Road. I'd like to say, as far as I can
1463 tell, that has nothing to do with this zoning case.
1464

1465 This applicant doesn't even own property that would connect to Parham Road. So, as far as I
1466 know, this is absolutely not even possible. I assume that this is why many of you are here,
1467 tonight. If you'd like to give me a call, or if you'd like to talk to the Planning staff, with any
1468 questions that you have about this case, you're welcome to do so. But I'm sorry you came out if
1469 you came out thinking that this had to do with a road issue. It does not. So, I just wanted to say
1470 that before we defer the case. I'm ready to make a motion on the deferral.
1471

1472 Mrs. Phyllis Moorefield - I'm Phyllis Moorefield. I received this paper in the mail. It said that
1473 "Residential development is proposed." That's absolutely incorrect. Absolutely wrong.
1474 Completely opposite of what I'm doing. I don't know how that came about. I was down zoning to
1475 only three houses on 13 acres which is down zoning and the "C" after the R-2A. This paper says
1476 that "residential development is proposed." And that's absolutely...

1477
1478 Ms. Dwyer - Well, I mean you're using it as residential development now. It's
1479 used for residential purposes now. Is that correct? It would continue to be used for residential
1480 purposes.
1481
1482 Mrs. Moorefield - Yes.
1483
1484 Ms. Dwyer - I think that's all that means.
1485
1486 Mrs. Moorefield - Well, it sort of sounded like a development was coming, which is
1487 not so.
1488
1489 Ms. Dwyer - Okay.
1490
1491 Mrs. Moorefield - And the third house may or may not ever be built. I don't know.
1492 There are no plans for it. It's just misleading to me. I just didn't understand it. And my neighbors
1493 did not understand it.
1494
1495 Ms. Dwyer - You thought it implied a dense development. But it means the use
1496 of the property will be for residential purposes. That's what that was.
1497
1498 Mrs. Moorefield - Okay. Thank you. That clears that up.
1499
1500 Mrs. Wade - Are you requesting the deferral, Mrs. Moorefield?
1501
1502 Mrs. Moorefield - Yes. A deferral. I understand it has to be deferred and
1503 readvertised.
1504
1505 Mrs. Wade - Why is it you want to defer?
1506
1507 Mrs. Moorefield - Because it has to be readvertised. Instead of the Agricultural, it
1508 would be changed to R-2AC. I have R-2A now. I was proposing to have it zoned to A-1C. I'm
1509 going along with the staff's recommendation to change it to R-2AC.
1510
1511 Ms. Dwyer - So, the zoning case is about, it's zoned R-2 now, which is a
1512 residential use.
1513
1514 Mrs. Moorefield - Yes. And I'm just going to add a "C" after it.
1515
1516 Ms. Dwyer - All you want to do is say that only three houses can be built on the
1517 13 some acres? That's the sole purpose of your rezoning...
1518
1519 Mrs. Moorefield - Okay. It would have to be readvertised. So, it would have to come
1520 up again next month.
1521
1522 Ms. Dwyer - Right. Okay. Thank you.
1523
1524 Mr. Vanarsdall - So, you're not going back to A-1?
1525
1526 Mrs. Moorefield - I'm going along with the staff's recommendations, based on what I
1527 have now.

1528
1529 Ms. Dwyer - Going to conditional?
1530
1531 Mr. Vanarsdall - Going to R-2AC.
1532
1533 Mrs. Wade - I can see why the citizens might think something about Lyndonway
1534 because it is mentioned in the staff report as access to the site, but somebody just hadn't looked
1535 into that.
1536
1537 Ms. Dwyer - Where is that, Mrs. Wade?
1538
1539 Mrs. Wade - In the staff report on Page 3 under "Major Thoroughfare and
1540 Transportation." It says, "The only access to the site will be from Lyndonway Drive." But, I
1541 wondered when I saw that the accuracy about...
1542
1543 Ms. Dwyer - Maybe that's what mislead people. It appears that the only access,
1544 right. Well, as far as I know, the rezoning of this would have no affect on the existing road system.
1545 It would not change Lyndonway or Tuckaway at all. Any change that might occur as a result of
1546 any future subdivision to the road system would be a part of the subdivision plan and not part of
1547 the zoning.
1548
1549 Mr. Archer - Okay. Are we ready to move on the deferral?
1550
1551 Ms. Dwyer - So, if you have any further questions, please call the Planning
1552 Office. You're welcome to call me and ask me for any other information about that. So, with that,
1553 Mr. Chairman, I move that we defer Case C-33C-98 at the applicant's request to our July 9,
1554 zoning meeting.
1555
1556 Mr. Vanarsdall seconded the motion.
1557
1558 Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All
1559 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1560 abstained).
1561
1562 **C-42C-98 Jay M. Weinberg for Beth Shalom Home of Virginia, Inc.:**
1563 Request to conditionally rezone from A-1 Agricultural District and R-5 General Residence District
1564 to R-6C General Residence District (Conditional), part of Parcels 76-A-8A and 8G, described as
1565 follows:
1566
1567 Beginning at a point on the northern right-of-way line of Lauderdale Road at the southwest
1568 corner of tax parcel number 76-A-8A and the southeast corner of tax parcel number 76-A-8B,
1569 said point being the True Point of Beginning; thence leaving Lauderdale Road N. 34° 30' 30" E.,
1570 400.00' to a point; thence S. 72° 36' 43" E., 189.68' to a point; thence along a curve to the right
1571 having a radius of 7,769.44' for a length of 550.07' to a point on the western right-of-way line of
1572 Gayton Road; thence along Gayton Road S. 17° 16' 02" E., 48.67' to a point; thence leaving
1573 Gayton Road along a curve to the left having a radius of 5,769.58' for a length of 939.58' to a
1574 point; thence S. 78° 53' 27" W., 95.40' to a point on the northern right-of-way line of Lauderdale
1575 Road; thence N. 48° 23' 13" W., 235.46' to the True Point of Beginning, containing 3.52 acres.
1576
1577 Mr. Archer - Thank you, sir. Is anyone here in opposition to C-42C-98?

1578
1579 Mr. Yolton.
1580
1581 Mr. Yolton - Mr. Chairman, members of the Commission, this request,
1582 essentially, is an expansion of an existing use on this property, which is currently the Beth Shalom
1583 Home for the elderly. On this property right now, there are apartments for the elderly, and there is
1584 a nursing home. This proposal would be for an assisted living facility which would be an
1585 intermediary care type of facility between the elderly people who live in the apartments; and
1586 between that time and the time they move into the nursing home. There's sort of an intermediate
1587 level of care.
1588
1589 The applicant has met with staff and with the Planning Commissioner from this district to go over
1590 the proffered conditions. There are some new revised proffers that have just been handed out to
1591 you. We did receive those yesterday, so they would need to have the time limit waived to accept
1592 the amended and restated proffers.
1593
1594 The new proffers are just tweaking of some of the language in there to address the dumpster
1595 enclosures that are proposed on the site, and to indicate that any intrusions into the buffer would
1596 be generally perpendicular to the buffer.
1597
1598 Staff supports the approval of this rezoning request. I would be happy to answer any questions
1599 the Commission may have.
1600
1601 Mr. Archer - Thank you, Mr. Yolton. Are there questions for Mr. Yolton by the
1602 Commission?
1603
1604 Mrs. Wade - We mentioned stormwater facilities as being one of those things
1605 that would be perpendicular. I'm not sure exactly what—how that applies to stormwater facilities,
1606 being perpendicular.
1607
1608 Mr. Yolton - I think it's more or less just repeating what's in the phrase above.
1609 I'm sure Mr. Weinberg can answer this a little bit better.
1610
1611 Mrs. Wade - Maybe the piping.
1612
1613 Mr. Yolton - There are certain provisions being made for what can go into this
1614 buffer area. And, in order just to be consistent, those types of things which might go into this
1615 buffer area are again, noted below, so that they would generally be perpendicular to that buffer
1616 area. Does that answer your question, Mrs. Wade? Maybe Mr. Weinberg can answer it a little bit
1617 better.
1618
1619 Mrs. Wade - I'm a little surprised at the two stories and 45-feet in height. But
1620 maybe he can tell us about that, too.
1621
1622 Mr. Archer - Okay. Are there further questions for Mr. Yolton? Then, I assume
1623 we need to hear from the applicant? Mr. Weinberg.
1624
1625 Mr. Jay M. Weinberg - Mr. Chairman, members of the Commission, I am Jay Weinberg,
1626 and I represent Beth Shalom Home of Virginia. Mr. Mark Fingle is the Executive Director, who is
1627 with us this evening, as is Mrs. Judy Grunier, whose is the Director of Nursing for Beth Shalom
1628 Home.

1629
1630 This is a request to rezone 3.52 acres along the west line of John Rolfe Parkway between
1631 Lauderdale and Gayton from A-1 Agricultural to R-6 General Residence District to permit Beth
1632 Shalom Home to develop and operate an assisted living facility on this site. We respectfully
1633 submit to the Commission that this represents the highest and best use of this property. It will not
1634 adversely affect the health, safety, and welfare of the community for the following reasons:

1635
1636 Number 1, the parcel fronts on proposed John Rolfe Parkway across its entire southern boundary
1637 which is currently under construction. It abuts existing and developed R-5C and R-6C zoning
1638 across its northern and western boundaries and A-1 to the east.

1639
1640 The property is ideally located for an assisted living facility to round out the existing campus
1641 serving the needs of the elderly, operated by Beth Shalom.

1642 This request responds to the increasing demand and need for services for the elderly, and it
1643 would be an orderly expansion of current uses on the site, and it complies with the County's
1644 Comprehensive Plan.

1645
1646 For all of these reasons, we respectfully submit that it does represent the highest and best use.

1647
1648 If rezoned, Beth Shalom will build this two-story facility in accordance with the elevation and layout
1649 plan which have been proffered with this case. Beth Shalom Home currently operates on the
1650 adjoining parcel a 111-unit apartment building known as Beth Shalom Woods, which caters to the
1651 needs of the elderly, who both desire, and are, in fact, capable of living independently.

1652
1653 Another approximately one-third of the site is occupied by Beth Shalom Home, which is a nursing
1654 home, which caters to the needs of those requiring very skilled nursing care and who are
1655 incapable of living independently.

1656
1657 Accordingly, the subject facility, for which we seek this rezoning, is an intermediate-type of facility
1658 for the elderly who cannot independently handle all of the activities of daily living, such as
1659 dressing, feeding themselves, keeping up with medical prescriptions, bathing and bodily functions,
1660 but yet, are sufficiently well so as not to require skilled nursing care on a full-time basis.

1661
1662 Accordingly, this would create a life care type of campus environment. Senior citizens, whether
1663 capable of independent living, assisted living, or intensive skilled nursing care can all be located in
1664 separate facilities in a cohesive campus where they share the amenities and resources, as well as
1665 the administrative and nursing support services of all three facilities. And, they move up the chain
1666 of required care, while remaining in generally familiar surroundings on this campus-type setting.

1667
1668 If rezoned, as requested, it would be subject to proffered conditions which may very briefly be
1669 summarized as follows:

1670
1671 The elevation reflects a two-story brick building and the layout plan reflects the fact that this
1672 assisted living facility is approximately in between the two other existing facilities.

1673
1674 We have provided for a landscape buffer of 25 feet along the boundary of the property, abutting
1675 John Rolfe and Lauderdale, except for the extent necessary for utility easements, stormwater,
1676 signage, and access and right of way.

1677
1678 Let me comment, Mrs. Wade, that the change in language was at the suggestion of the County
1679 Attorney, as he felt it would be more internally consistent if I recited it a second time. As originally

1680 drawn, I just said, "Uses." But he preferred that I spell out the three uses all over again, which I
1681 have done. I really believe it means the same thing as I had before.

1682
1683 Mrs. Wade - Which is what?

1684
1685 Mr. Weinberg - Which is, that any easements that are permitted would run
1686 generally perpendicular to the property and to the boundary line.

1687 Ms. Dwyer - By "stormwater facility," are we talking about pipes or are we talking
1688 about a BMP? Is that your question?

1689
1690 Mrs. Wade - Yes.

1691
1692 Mr. Weinberg - I'd say you're talking about either or both. It would have to run
1693 generally perpendicular. Did I answer that satisfactorily? Are there any further questions on that?

1694
1695 The only principle use permitted would be for the assisted living and residential units for the aged
1696 and uses customarily accessory and incidental thereto.

1697
1698 No building constructed on the property shall exceed the lesser of two stories or 45 feet in height.
1699 We went over that, Ms. Dwyer and I, the other day. The question is, the Code defines the roofline
1700 as one-half of the way up that "A" frame. Because different people might interpret that differently,
1701 when I say, "45 feet," I mean to the highest pitch of that center. But it cannot exceed the lessor of
1702 two stories or 45 feet.

1703
1704 No more than 100 beds shall be permitted on the property. All heating and air-conditioning
1705 equipment and trash receptacles have to be screened. Exterior parking lot lighting cannot exceed
1706 20 feet. It must be produced from a concealed source. It cannot exceed a half foot candle at the
1707 boundaries and reduced security level at the close of visiting hours.

1708
1709 Direct vehicular access to this facility will be from Lauderdale, unless otherwise required by a
1710 governmental body.

1711
1712 Refuse pick up is restricted from 7:00 a.m. to 6:00 p.m., Monday through Saturday, except in
1713 cases of bona fide emergencies.

1714
1715 All of the jurisdictional conditions precedent for the Commission to waive the time limit and
1716 recommend approval of this case to the Board are compiled with for all of the reasons set forth in
1717 the staff report which recommends approval.

1718
1719 I will not go into those unless members of the Commission have questions about any one or more
1720 of them, in which case, I'll be happy to do it.

1721
1722 For all of the foregoing reasons, Mr. Chairman, and members of the Commission, we respectfully
1723 request that you waive the time limits on this case for submitting the amended and restated
1724 proffers and recommend the case to the Board. I'd be happy to answer any questions that you
1725 might have.

1726
1727 Mr. Archer - Thank you, Mr. Weinberg. Are there questions for Mr. Weinberg by
1728 the Commission?

1729

1730 Ms. Dwyer - Do we have any indication about where the BMP would be placed
1731 on this?
1732
1733 Mr. Weinberg - We don't have that, as yet. That, obviously, would be a matter that
1734 would come during the time of Plan of Development approval. And I believe it would be a unified
1735 BMP for all three facilities.
1736
1737 Mr. Archer - Any further questions?
1738
1739 Mr. Weinberg - Thank you.
1740
1741 Ms. Dwyer - There, obviously, is no opposition to this case. It's an extension of
1742 an existing use on the adjacent parcels. All appears to be in order. It appears to be a very good
1743 use and a very needed facility in this area. Proffers are extensive and address a number of
1744 design elements for the property.
1745
1746 First I would like to make a motion to waive the time limits for submission of amended and
1747 restated proffers dated June 10th.
1748
1749 Mr. Zehler seconded the motion.
1750
1751 Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Zehler. All those in
1752 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).
1753
1754 Ms. Dwyer - I will say we discussed these proffer amendments 48-hours before
1755 the Commission meeting, so we're making some progress with our 48-hour rule here. With that,
1756 I'd like to make a motion to recommend approval to the Board of Case C-42C-98 Beth Shalom
1757 Home of Virginia.
1758
1759 Mr. Vanarsdall seconded the motion.
1760
1761 Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All
1762 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1763 abstained).
1764
1765 REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission
1766 voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the proffered**
1767 **conditions and grant** the request it is reasonable; and it would not adversely affect the adjoining area
1768 if properly developed as proposed.
1769
1770
1771 Mr. Archer - Mr. Secretary, before we move further, Ms. JoAnn Morgan, would
1772 you stand please. I apologize for not having introduced you when you first came up. I guess I
1773 missed the fact that this was your first night with us. Welcome. Ms. Morgan-Hunter.
1774
1775 Ms. Dwyer - You did a great job on your first case.
1776
1777 Mr. Archer - You got it deferred. Thank you.

1778

1779 **Deferred from the May 14, 1998 Meeting**

1780 **VARINA:**

1781 **C-34C-98**

1782 **Hotel Holdings Associates and P&T Associates II:** Request for
1783 amendment of proffered conditions accepted with rezoning case C-67C-89, on part of Parcel 163-
1784 A-19D, containing 3.0 acres, located on the west line of Trampton Road approximately 120' north
1785 of its intersection with Audubon Drive. Amendments related to the use of the site and height
1786 restrictions are proposed. The existing zoning is M-1C Light Industrial District (Conditional). The
1787 site is also in the Airport Safety Overlay District.

1787

1788 Mr. Archer - Is there any one here in opposition to C-34C-98? Mr. Bittner.

1789

1790 Mr. Mark Bittner, County Planner - Thank you, Mr. Chairman. At the previous Planning
1791 Commission meeting, the applicant deferred this application to allow more time for review of the
1792 proffered building elevation and site plan. Those items have been attached to the staff report.

1793

1794 Since the printing of the staff report, the applicant has submitted a revised building elevation and
1795 site plan. These are a part of the proffers. However, they were submitted on time, and there's no
1796 need to waive the time limit rule for this building elevation site plan.

1797

1798 The applicant has indicated he shared this new plan with Mr. Zehler, but I will quickly outline the
1799 changes in this plan for the other Commissioners. The site plan, itself, has not changed at all.
1800 However, the building elevation has been altered in the following ways:

1801

1802 Number 1, the structure is now a three-story building instead of a four-story building. The three-
1803 story building would not require a special exception. Number 2, the building has a pitched roof
1804 and shingles, whereas the previous building contained a flat roof. Number 3, the latest building
1805 would contain 98 units; whereas the previous showed 100 units. It's only a difference of two.
1806 Staff has no objections to any of these changes.

1807

1808 In summary, staff feels this is an appropriate area for a hotel. It is adjacent to other hotels and is
1809 in the vicinity of Richmond International Airport. There are also no residences visible from this
1810 site. There are proffers governing this site that will help ensure quality development.

1811

1812 Staff recommends approval of this application. I'd be happy to answer any questions you may
1813 have.

1814

1815 Mr. Archer - Thank you, Mr. Bittner. Are there questions for Mr. Bittner by the
1816 Commission?

1817

1818 Mr. Zehler - We don't have to do a height on this case?

1819

1820 Mr. Bittner A height waiver or a special exception?

1821

1822 Mr. Zehler - Yes.

1823

1824 Mr. Bittner Not for a three-story structure.

1825 Ms. Dwyer - I see a tower on one end. What is the actual height of the top of
1826 that tower?

1827

1828 Mr. Bittner Maybe the applicant can better answer that question.

1829

1830 Ms. Dwyer - Would it be 45 feet?

1831

1832 Mr. Zehler - Forty-five (45).

1833

1834 Ms. Dwyer - Okay.

1835

1836 Mrs. Wade - The top of the building is considered the top of the parapet?

1837

1838 Ms. Dwyer - I wondered that too.

1839

1840 Mr. Zehler - They grew another roof around the other side. Mr. Chairman?

1841

1842 Mr. Archer - Yes sir. I'm sorry. I wasn't ignoring you.

1843

1844 Mr. Dean Hawkins - I'm Dean Hawkins representing the applicant. Basically, the new

1845 information that we're submitting tonight is relative only to the building design itself. The site plan,

1846 basically, stays the same, except the footprint of this building has changed somewhat. The

1847 reason being is that we have now determined exactly the franchise that would go here. That

1848 would be a Sleep Inn Hotel versus some other brand.

1849

1850 Considering that, this design is typical of a three-story Sleep Inn-type of structure. It has the items

1851 that Mr. Bittner had recommended to you. It's a pitched roof; a shingled roof, three stories. And

1852 also brick on the first floor, which we had talked about at last month's meeting also.

1853

1854 So, we feel we've tried to address the concerns of the Commission and of Mr. Zehler. And I'm

1855 ready to answer any questions. I don't have much more to add to that.

1856

1857 Mr. Archer - Thank you, Mr. Hawkins. Are there further questions?

1858

1859 Mr. Zehler - Are you willing to make this a part of your case?

1860

1861 Mr. Hawkins - Yes sir.

1862

1863 Mr. Bittner - It is a part of the case.

1864

1865 Mr. Hawkins - It is a part of the case that we have put with our plans.

1866

1867 Mr. Zehler - And your dryvit will be a cream in color?

1868

1869 Mr. Hawkins - It's more of a bone white to cream. I've got to hone my colored

1870 pencils down a little bit better, I think, because I didn't want it to appear too yellow. But it's more

1871 of a bone like.

1872

1873 Mr. Archer - Okay. Any further questions?

1874

1875 Mr. Zehler - Mr. Chairman, after our last meeting with the applicant, I would like

1876 to commend the applicant, because we had pretty much set a precedent with other hotels in the

1877 neighborhood. This is within that setting and the guidelines with the precedent we've already set.

1878 We do have the brick, as you see, as well as the dryvit and the asphalt. So, I commend you for

1879 going back to the drawing board and taking the "sore thumb" out and filling in with everybody else.
1880 So, with that, Mr. Chairman, I move that C-34C-98 be recommended to the Board for approval.

1881
1882 Mr. Vanarsdall seconded the motion.
1883

1884 Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All
1885 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1886 abstained).

1887
1888 REASON: Acting on a motion by Mr. Zehler, seconded by Mr. Vanarsdall, the Planning Commission
1889 voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the amended**
1890 **proffered conditions** imposed with **C-67C-89** because the requested proffers continue to assure a
1891 quality form of development with maximum protection afforded the adjacent properties; it is not
1892 expected to adversely impact surrounding land uses in the area; and it was determined to be
1893 reasonable.

1894
1895
1896 **C-43C-98 Gloria L. Freye for Essex Properties of Va., Inc.:** Request to
1897 conditionally rezone from A-1 Agricultural District to B-3C Business District (Conditional), part of
1898 Parcel 249-A-51, described as follows:

1899
1900 Parcel 1A:
1901 Beginning at a the intersection of the S. line of State Route 5 and the W. line of frontage road
1902 "F" (Deed Book 1920, Page 1975); thence with the W. line of frontage road "F" S. 40° 44' 20"
1903 W., 200.28' to a point; thence S. 34° 31' 09" W., 165.09' to a point; thence S. 81° 54' 03" W.,
1904 24.14' to a point; thence N. 54° 26' 19" W., 345.63' to a point; thence N. 45° 03' 32" W., 101.35'
1905 to a point; thence N. 66° 06' 50" W., 44.23' to a point; thence leaving Frontage Road "F" N. 70°
1906 35' 35" W., 213.28' to a point; thence N. 40° 28' 55" E., 295.04' to a point E. line of Interstate
1907 295; thence with the E. line of Interstate 295; N. 89° 22' 19" E., 7.69' to a point; thence N. 66°
1908 24' 39" E., 111.19' to a point; thence S. 89° 38' 49" E., 118.68' to a point on the S. line of State
1909 Route 5; thence with the S. line of State Route 5, S. 55° 04' 10" E., 138.97' to a point; thence S.
1910 48° 15' 33" E., 107.48' to a point; thence S. 56° 26' 57" E., 200.52' to a point; thence S. 38° 50'
1911 31" E., 98.23' to the point of beginning, containing 6.30 acres of land.

1912
1913 Parcel 1B:
1914 Beginning at the intersection of the south line of State Route 5 and the east line of frontage road
1915 "F" (Deed Book 1920, Page 1975); thence with the west line of frontage road "F" S. 35° 33' 58"
1916 W, 364.98 feet to a point; thence along a curve to the right with a radius of 92.00 feet and a
1917 length of 144.79 feet to a point; thence N. 53° 36' 04" W., 466.04 feet to a point; thence leaving
1918 frontage road "F" S. 19° 32' 26" W., 488.15 feet to a point; thence S. 28° 23' 42" E., 408 ± feet
1919 to a point in a creek; thence along the creek as it meanders in an easterly direction 1335 ± feet
1920 to a point; thence leaving said creek N. 08° 10' 29" E., 335 ± feet to a point on the south line of
1921 State Route 5; thence with the south line of State Route 5 along a curve to the right with a
1922 radius of 2939.79 feet and a length of 689.13 feet to a point; thence N. 71° 49' 29" W., 77.52
1923 feet to the point of beginning, containing ± 18.5 acres.

1924
1925 Mr. Archer - Is there any one here in opposition to C-43C-98? No opposition.
1926 Mr. Bittner.

1927

1928 Mr. Bittner - Thank you, Mr. Chairman. As the Planning Director just stated,
1929 this would be a typical interstate interchange group of business uses; hotels, restaurants, gas,
1930 and so forth. Revised proffers have been submitted, and are being handed out. A waiver for
1931 the time limit is not needed on these. They were received two days ago, on Tuesday.

1932
1933 Several issues pertaining to this proposal have been outlined in the staff report. I will go
1934 through each of these issues and outline if, and how, they have been addressed through these
1935 revised proffers.

1936
1937 Issue 1. The proposed zoning, B-3C, is the most intense commercial district. Route 5 is not a
1938 heavy commercial corridor like W. Broad Street or Mechanicsville Turnpike. The applicant
1939 should consider the B-2C District, instead of B-3. In addition, the applicant should consider
1940 zoning the flood plain area C-1 Conservation to ensure its long term protection.

1941
1942 Issue 2. Staff has encouraged the applicant to provide a master plan of the property. A master
1943 plan would better ensure quality development, and protection of unique features of Route 5.
1944 This has not been provided.

1945
1946 Issue 3. The prohibited uses: Several uses have been prohibited by proffer. These include
1947 truck stops, automobile dealerships, automobile repair operations, and billboards. Staff finds
1948 this list of prohibited uses to be acceptable.

1949
1950 Issue 4. Architectural Standards: The applicant has proffered that all principal buildings on the
1951 property, including canopies, shall be colonial in style similar to the C & F Bank and First Union
1952 Bank on Route 5. Building materials consistent with colonial-type architecture have also been
1953 proffered.

1954
1955 Staff has one concern with the proffered building materials. According to the proffers, building
1956 foundations and chimneys must be constructed of brick, stone, or dryvit. Staff suggests that
1957 dryvit be removed from this list because it feels that it is not in keeping with the colonial
1958 character that we're trying to achieve on this site. Staff finds the other proffered building
1959 materials to be acceptable. Staff would prefer that building elevations be submitted to ensure
1960 the desired colonial character of the development. The applicant is not able to supply these at
1961 this time. However, he has committed to architecture similar to the existing development along
1962 Route 5. Staff has no objections to this approach. This method, however, would require careful
1963 review from all interested parties at the Plan of Development stage. This approach has been
1964 successfully implemented in the past with the C&F Bank, the First Union Bank , and new Food
1965 Lion Shopping Center at Route 5 and Strath Road.

1966
1967 Issue 5. Buffering. Maintaining the scenic quality of Route 5 is a prime concern. A streetscape
1968 buffer with an average width of 50 feet has been proffered by the applicant. The minimum
1969 allowable width of this buffer would be 35 feet. Staff finds this to be acceptable.

1970
1971 Issue 6. Access. Stub roads to adjacent parcels should be included to accommodate future
1972 development. This has not been provided by the applicant.

1973
1974 Issue 7. Signage. Because of the scenic value of Route 5, signage should be limited in height
1975 and number. Staff would prefer no more than one free-standing sign along Route 5. This sign
1976 should be monolithic in style and under 10 feet in height.

1977

1978 The proffers state that any signage in the streetscape buffer shall be monolithic in style and
1979 under 15-feet in height. The proffers also state there shall be no more than two free standing
1980 signs on the property of a height greater than 15 feet. The maximum allowable sign height
1981 under the ordinance would be 45 feet.
1982
1983 Staff would prefer less signage on this property. However, the proffers would limit the height
1984 and number of signs allowed by the Zoning Ordinance.
1985
1986 Issue 8. The final issue is lighting. Thirty (30) foot tall concealed source lighting has been
1987 proffered. This would appear to be excessive. Twenty (20) foot lighting, or at the most 25 feet,
1988 would seem to be sufficient. Staff encourages the applicant to lower the allowable height on the
1989 property. Staff also encourages the applicant to consider decorative or ornamental-type lighting
1990 fixtures.
1991
1992 In summary, Route 5 is a special and unique area of Henrico County. This has been expressed
1993 in the Special Strategy Area designation in the 2010 Plan. Commercial development is
1994 appropriate at this site. However, special care must be taken to preserve the historic, scenic,
1995 and environmental character of the Route 5 corridor. If the applicant addresses the issues
1996 outlined tonight, staff could recommend approval. I'd be happy to answer any questions you
1997 may have.
1998
1999 Mr. Archer - Thank you, Mr. Bittner. Are there questions of Mr. Bittner by the
2000 Commission?
2001
2002 Ms. Dwyer - I noticed that you recommended dryvit be taken out, but I noticed
2003 that dryvit is allowed on foundations and chimneys, but it's not specifically allowed for exterior
2004 walls. Is that your understanding as well?
2005
2006 Mr. Bittner - Right. We do not want to have a building that was principally
2007 made out of dryvit. We just did not feel it was in keeping with the colonial character. The
2008 applicant has stated that dryvit would be a secondary material on the exterior walls.
2009
2010 Ms. Dwyer - Well, that was my next question. What does "secondary" mean?
2011 Mr. Bittner - The intent was, similar to what happened with the Exxon that was
2012 denied up at Route 5 and Strath. They had a building elevation that showed some fixtures;
2013 cornices, I believe, ...
2014
2015 Ms. Dwyer - Accents?
2016
2017 Mr. Bittner - "Accents", is a good way to term it. But, the intent was to allow
2018 something of that nature to be constructed of dryvit. But the principle material would be brick,
2019 stone or siding; similar to "colonial-type" ...
2020
2021 Ms. Dwyer - I guess I'm wondering about the word, "secondary." That seems
2022 vague to me. Maybe "accents." That's what you're getting at "accent material" and not, you
2023 know, like 50 percent of the building would be dryvit.
2024
2025 Mr. Bittner - That was not the intent that I understood. No.
2026
2027 Ms. Dwyer - Or 45 percent.
2028

2029 Mr. Bittner - We didn't get into numbers, actually.
2030
2031 Mr. Archer - Okay. Are there further questions for Mr. Bittner?
2032
2033 Mrs. Wade - Is the landscape buffer an average of 50 feet?
2034
2035 Mr. Bittner - We originally suggested the 50-foot buffer all the way along. The
2036 applicant stated that would not work for his proposed layout. As an alternative, we came up
2037 with the idea with this average width of 50 feet. It was also done on the Exxon on Strath and
2038 Route 5. What that would be, we would take the length of the buffer, if it were say, 100 feet in
2039 this case; multiply it by its average width, which would be 50 feet, meaning that you could have,
2040 perhaps, one section that was only 25 feet in width and another section would have to be 75
2041 feet in width to make up for that difference. In this case, they have the minimum buffer proffered
2042 size of 35 feet.
2043
2044 What you would end up with is not a straight line of 50 feet behind, but it would go in and out.
2045
2046 Mr. Zehler - The applicants are shaking their heads. We'll get them to address
2047 that issue.
2048
2049 Mr. Archer - Okay. Further questions for Mr. Bittner?
2050
2051 Ms. Dwyer - When you say, "It won't work with the layout?" Do you have a
2052 layout?
2053
2054 Mr. Bittner - Not a proffered layout, but we do have a conceptual layout. It's in
2055 the staff report, I believe.
2056
2057 Ms. Dwyer - Do we have that?
2058
2059 Mr. Bittner - I've got a copy here we can put up.
2060
2061 Ms. Dwyer - Oh. I see it. That's right. I did see it. I didn't see it in the ones
2062 handed out today.
2063
2064 Mr. Archer - Okay. Further questions?
2065
2066 Mrs. Wade - They don't have any kind of site coverage.
2067
2068 Mr. Archer - Okay. Ms. Freye.
2069
2070 Ms. Gloria Freye - Good evening, Mr. Chairman, and members of the Planning
2071 Commission. My name is Gloria Freye. I'm an attorney here on behalf of the applicant, Essex
2072 Properties, Inc. Also, here this evening is Ree Ellis with Essex Properties. And I very much
2073 appreciate also the attendance of representatives of the Varina Beautification Committee who
2074 are also here this evening.
2075
2076 The applicant is requesting to rezone about 24 acres of this land, which is proposed for
2077 development as a hotel, restaurant, gas, convenience store; uses that are compatible with an
2078 appropriate for an interstate interchange; uses that are normally associated with this type of
2079 area.

2080
2081 The location of this site is attractive to businesses that are interested in serving both local
2082 residents and travelers from Interstate 295. Because of the desire to serve both those groups,
2083 most of the proposed businesses that would want to locate on this property are going to be the
2084 kind that require 24-hour operation.
2085

2086 That's one of the reasons that we were asking for the B-3 zoning. And, in working with the
2087 neighborhood, we have proffered 17 uses that would be prohibited. And, as Mr. Bittner stated,
2088 those are acceptable to the staff now. All those are listed in Proffer 8, and I'll be glad to answer
2089 any questions that you might have about those.
2090

2091 But the applicant has worked very closely with the adjacent landowners, the surrounding
2092 property owners, even beyond the adjacent land, and with the Varina Beautification Committee
2093 to develop these proffers. One of the difficulties that we had in this case is that, none of the end
2094 users have made a commitment to this site. So, we are not in a position to provide building
2095 elevations or a site plan, because we don't have commitments that we can work from. What
2096 we've done, instead, is, as Mr. Bittner explained, is we have looked to the precedent that was
2097 established at the Food Lion Shopping Center at Route 5 and Strath Road and crafted our
2098 proffer along that to provide, that all the buildings on the property would be designed with a
2099 consistent colonial design architecture, using materials that would be appropriate for colonial-
2100 style architecture. This seems to have worked fairly well at the Food Lion Shopping Center, and
2101 we are optimistic that it would work well at this site as well.
2102

2103 A conceptual layout plan will be provided to the County at the time of Plan of Development
2104 review, as would the landscape plan, the lighting plans, so that we would be in an opportunity,
2105 at that point, to continue working with the neighbors and the adjoining landowners and the
2106 Varina Beautification Committee to nail down the details of what the development there would
2107 look like.
2108

2109 On the buffering along Route 5, we have proffered an average of 50 feet. At no point, would
2110 there be a buffer less than 35 feet, and in other areas, it would exceed the 50 feet. So, that you
2111 would have an undulating landscape buffer, like Mr. Bittner was explaining.
2112

2113 The point that Mr. Bittner raised about zoning the floodplain to C-1, at this point, there is a
2114 discrepancy between where that floodplain line really is. The FEMA line shows it in one
2115 location. The County's map show it in a different location.
2116

2117 That is something that will need to be determined, and also will be nailed down at the time of
2118 Plan of Development. So, we would be in a position at that point, to deal with that issue.
2119

2120 The applicant has agreed to save mature trees where ever possible. And where that's not
2121 possible, to replace those mature trees with a similar species tree.
2122

2123 The signage was another issue that required us to balance some conflicting interests. We want
2124 to attract local traffic. We also want to attract interstate traffic. So, in working with the
2125 community, we were agreeable to limiting the signage along Route 5, local traffic people, but
2126 allowing us to have taller than 15-foot signs in locations that was either approved by the
2127 Planning Commission, or are greater than 400 feet away, and situated close to the interstate
2128 along the western property lines of this property so that we could ensure that this property will
2129 have a better chance of being successful because we can have an opportunity to get travelers
2130 off of the interstate.

2131
2132 On the lighting, we did have discussions about that. The Ordinance permits 45 feet. In talking
2133 with the neighbors; we had about three civic meetings with the neighborhood. And there were
2134 differences of opinion on that. Some people thought that maybe the lighting should be 20; 25
2135 feet. Other people were agreeable that 30 feet would be acceptable because it would reduce
2136 the number of parking light standards that would be on the property. We were able to reach an
2137 agreement with the community on the 30 feet.

2138
2139 We do recognize the special concerns that Route 5 deserves. We think that the proffers that we
2140 have worked out with the community do protect, and preserve the historic and scenic features of
2141 Route 5.

2142
2143 This 24-acre site is in the area of the New Market Heights Battle. It's outside of the battlefield
2144 area. But even so, the applicant has agreed that the site would remain undisturbed for 30 days
2145 after the zoning, should it be granted, to allow the County Parks and Recreation people to go
2146 onto the property to study the area; to map; to take photographs; and document anything that
2147 they might find on the site. Only because we think we just don't want to take a chance on
2148 destroying anything that might possibly be there, even though it is outside the battlefield area.

2149
2150 Those are the most significant proffers. There are others that are listed. I'd be glad to go over
2151 any of them that you would care to. But, I think that those do respond to the comments and the
2152 issues that Mr. Bittner raised.

2153 As he stated, it is in compliance with the 2010 Land Use Plan, which designates this area for
2154 Commercial Concentration. The proposed uses are appropriate, compatible, and they are
2155 consistent with the orderly growth and development of this community. This commercial
2156 development is an opportunity to develop a 24-acre tract that is planned and coordinated with
2157 multiple uses and would not be considered spot zoning. The project will provide stub roads to
2158 adjacent properties. That will be laid out on the Plan of Development when its available. And in
2159 that respect, it would not be in conflict with the County's Transportation Plan and will promote
2160 those goals.

2161
2162 The Transportation Department has reported that the current roadway network does, and can
2163 accommodate traffic that would be generated from this site, and, therefore, would not have a
2164 negative impact on the flow of traffic.

2165
2166 The rezoning would not have a negative impact on any of the surrounding properties. It would
2167 provide needed retail services to the area residents, as well as people on the interstate. It
2168 would generate revenue for the County, just in keeping with the County's goals and objectives,
2169 and economic development.

2170
2171 For these reasons, we respectfully request that you recommend approval of this to the Board of
2172 Supervisors. We'll be glad to answer any questions that you have.

2173
2174 Mr. Archer - Thank you, Ms. Freye. Are there questions for Ms. Freye by the
2175 Commission?

2176
2177 Mr. Zehler - Ms. Freye, I notice on numerous occasions you're using the
2178 wordage, "in a reasonable manner, as approved at the time of Plan of Development Review."
2179 Did you mean to word that to say, "as approved by the Planning Commission at the time of Plan
2180 of Development review." Was that your intention?

2181

2182 Ms. Freye - Yes sir.
2183
2184 Mr. Zehler - You have no problem with changing that wordage?
2185
2186 Ms. Freye - Actually, we changed that language at the request of staff. We
2187 had, "approved" in there.
2188
2189 Mr. Zehler - He took it out?
2190
2191 Ms. Freye - At staff's request.
2192
2193 Mr. Bittner - We've been trying to take out the phrase specifically, "by the
2194 Planning Commission," in the event there are some sort of administrative review that is needed.
2195 If it states, "by the Planning Commission," and we get to an administrative-type situation, they've
2196 got to come to you, perhaps wait a month or so. It just slows down the process. We feel that
2197 language would cover either Planning Commission review or an administrative review.
2198
2199 Ms. Dwyer - Or possibly the Board? If it's appealed to the Board, then maybe
2200 the Board would make that decision. So, specifically, referring to the Planning Commission
2201 might not be accurate.
2202
2203 Mr. Zehler - Does that give the Planning Commission the authority to deny a
2204 POD when its worded like this?
2205
2206 Ms. Dwyer - Well, that depends on how the proffer is worded.
2207
2208 Ms. Freye - It doesn't change the authority of the Planning Commission,
2209 because, at this point, all POD's have to be approved by the Planning Commission. So, I think
2210 the way staff is looking at it, its unnecessary verbiage that it doesn't change your authority or
2211 your jurisdiction. But it does open the potential that should the County ever go to an
2212 administrative process for certain approvals, the proffers would not dictate that it would have to
2213 come back to the Planning Commission necessarily.
2214
2215 Mr. Silber - Mr. Zehler, if I can comment on that. The staff is consistently
2216 recommending now that verbiage "the Planning Commission," be removed from, not specifically
2217 being a part of that language. The purpose again, as Mr. Bittner stated, is that we believe that
2218 the authority is still granted to the Planning Commission. POD's will continue to come to the
2219 Planning Commission, But, if, for some reason, it does not come to the Planning Commission,
2220 or some other body or staff authority have to approve it. So, we will be consistently suggesting
2221 to the applicant that language be removed.
2222
2223 Mr. Zehler - But, does that give this Commission legal reason to deny a POD?
2224
2225 Mr. Silber - The Planning Commission still has all the authority they have right
2226 now.
2227
2228 Ms. Dwyer - It doesn't change our authority, is what they're saying.
2229
2230 Mrs. Wade - The authority might vary...
2231

2232 Ms. Dwyer - Depending on what the proffers say. If the proffers say "may" or
2233 "shall," it would have more or less authority at time of POD review, for instance. That wouldn't
2234 change.
2235
2236 Mr. Archer - Okay. Are there further questions for Ms. Freye?
2237
2238 Mr. Zehler - On the issue as far as the secondary material being dryvit, was
2239 your intention there that you could use, say, brick and dryvit. I don't think you have any
2240 intention of doing an all dryvit building, with a dryvit foundation?
2241
2242 Ms. Freye - Correct. And that's why we said it would only be the secondary
2243 material, not the principle material. Again, the difficulty that we're in, Mr. Zehler, is that we have
2244 no end users that have committed. So, that we wanted to tie the proffers and get the quality
2245 and design criteria down as tightly as we could. Set parameters for people to have to work
2246 within to give some flexibility for marketing this property and being able to come up with designs
2247 and building materials that are going to be acceptable. I realize that's what that does. It puts a
2248 heavier burden on the applicant and the community to study these plans when they come to you
2249 all for POD. I'm afraid that puts more of a burden on you as well. But, the nice thing about this
2250 property is, we have a very willing community; a very willing developer who have worked very
2251 well together and really look forward to the opportunity to continue that relationship and to come
2252 forward with a POD that not only fits within these proffers, but is acceptable to everyone.
2253
2254 Mr. Zehler - At what point in time do you anticipate a master plan?
2255
2256 Ms. Freye - At the first Plan of Development.
2257
2258 Mr. Zehler - Then we'll see an overall layout of the whole project once your
2259 first user comes in?
2260
2261 Ms. Freye - Yes sir. That will set the stage for the internal orientation of the
2262 site; the stub road, everything to fall in place once that first user is identified.
2263
2264 Mr. Zehler - If you will, please explain to this Commission your intention on the
2265 50-foot buffer. I saw you shaking your head when I was trying to explain.
2266
2267 Ms. Freye - Yes. And Mark corrected it. Mark had something about, perhaps,
2268 there would be an area where there would be 25 feet. We have written this proffer, so that, at
2269 no point, it will ever be less than 35. There would be an average of 50 on the whole frontage.
2270 And we way we get to that is there are going to be places where we exceed the 50 feet.
2271
2272 You have, instead of a straight line, the way Mark explained, will be an undulating or waiving
2273 line.
2274
2275 Mr. Zehler - But there will be nothing less than 35 feet?
2276
2277 Ms. Freye - Nothing less than 35. Thirty-five (35) is required by the
2278 Ordinance. You cannot do less than 35 feet.
2279
2280 Ms. Dwyer - So, then you could have parking spaces 35 feet from Route 5?
2281
2282 Ms. Freye - Potentially, yes.

2283
2284 Mr. Zehler - Is that your intention? You don't have a user. You don't know.
2285
2286 Ms. Freye - No sir. I don't know. One of the things about the sites are the
2287 users that we're targeting require circulation around the building. So, while you may have a
2288 drive aisle that may be close, you may have the parking on the side or in the rear. But, I can't
2289 say that for sure.
2290
2291 Ms. Dwyer - But you could have asphalt for either a driveway...
2292 Ms. Freye - Yes. You could.
2293
2294 Ms. Dwyer - One of the things I'm thinking of, Mrs. Wade and John Merrithew;
2295 correct me if I'm wrong. But on our tour of James City County which includes a portion of Route
2296 5, they have instituted, and I'm not sure quite how much--didn't they say a 100-foot building
2297 setback from Route 5 in that County which seems not unreasonable given the size of this parcel
2298 and the intensity of development.
2299
2300 Ms. Freye - We considered that, and we discussed that in our meetings with
2301 the neighborhood and the staff. We have committed to a 50-foot building setback. One of the
2302 things we did not want to do is to impose a 100-foot setback that might necessarily put the
2303 parking in the front. When you talk about setting the buildings back, that doesn't necessarily
2304 relate to the parking and drive aisles. So, if we set the building back, then we have an
2305 opportunity to orient the site so that we can put the parking in the back, and not necessarily
2306 push it up in the front, because you've used your acreage in this 100-foot setback.
2307
2308 Ms. Dwyer - You could increase your buffers, and then that wouldn't be a
2309 problem.
2310
2311 Ms. Freye - On this site, we have a problem with that.
2312
2313 Ms. Dwyer - It looks like some unused -- a lot of unused property to the rear
2314 and around this cul-de-sac. Isn't that a part of your parcel?
2315
2316 Ms. Freye - One of the reasons we cannot commit to exactly this site layout
2317 and rely on those open spaces, we need to get the floodplain boundary determined and the
2318 orientation of this site, I mean one user may take more land than we think.
2319
2320 Ms. Dwyer - It seems preferable to me to have the open space along Route 5
2321 rather than a mere 35 feet and open space to the rear.
2322
2323 Ms. Freye - And we have talked with the community about that. And, I think,
2324 we have tried to be sensitive to Route 5 and to minimize the impact along Route 5 as best we
2325 can.
2326
2327 Mrs. Wade - Broad Street has 35 feet.
2328
2329 Mr. Zehler - Maybe a good happy medium would be 75 feet. Something for
2330 you to consider between now and the Board.
2331
2332 Ms. Freye - I think that there will probably be places where it is 75 feet. But
2333 there may be some other places where it is 35. The idea is to minimize that so that we'll

2334 definitely have at least a 50-foot average, but I think that we're going to be able to exceed that.
2335 But we're in a position where the proffers run with the land. And because we can't nail it down,
2336 we were able to work this out with staff's help, doing this average.
2337
2338 Mrs. Wade - Now, are we talking about buffer, or are we talking about building
2339 setback?
2340 Ms. Freye - Mr. Zehler was talking about buffer.
2341
2342 Ms. Dwyer - He was suggesting a 75-foot buffer. You said, 35 feet is what we
2343 have along Broad Street?
2344
2345 Mrs. Wade - Down near Williamsburg, it is 200...
2346
2347 Mr. Archer - Okay. Further questions for Mrs. Freye?
2348
2349 Mr. Silber - Mr. Chairman, I had a question and a comment, if I may?
2350
2351 Mr. Archer - Certainly, you may.
2352
2353 Mr. Silber - Ms. Freye, there's reference made to the signage on the property,
2354 and reference made to the free-standing signs. Depending on how this property is laid out, it
2355 may be viewed as a shopping center. If that's the case, you may be limited on the number of
2356 free-standing signs. So, I want you to be aware of that. The proffer says that you could have
2357 two additional free-standing signs, I believe, in addition to the one that would be limited in height
2358 out on Route 5. Has that been discussed?
2359
2360 Ms. Freye - We looked at that. This property is served by a public right of
2361 way. The access going in to the property and making that 90-degree turn is a public right of
2362 way. That's not an internal street. There are other sections of the Code that might interpret
2363 some of those as corner lots, which would give them a different number of signage. I know that
2364 can't really be determined or decided today, but we went beyond that, and developed this
2365 proffer, because we wanted to balance between the signage for the local traffic and the signage
2366 for the interstate.
2367
2368 Mr. Silber - Okay. I just, more or less, raise that as a concern that may rear
2369 itself at the time of POD. The second comment I have relates to the C-1 zoning, as mentioned
2370 by Mr. Bittner. The Board of Supervisors has a long standing policy that the floodplain property
2371 should be rezoned C-1. I don't, at this point; you don't know where the floodplain line is? In the
2372 past the way this often has been dealt with is the applicant would offer a proffered condition that
2373 would say, "Prior to receiving certificates of occupancy for the first use," or something along
2374 those lines, the applicant would come back and seek rezoning of the floodplain land. Would
2375 that be something that's feasible?
2376
2377 Ms. Freye - I would be glad to discuss that with the applicant. That was not
2378 discussed because we didn't really know how to deal with it, knowing that that boundary line
2379 needed to be determined. And we didn't know exactly what we were dealing with.
2380
2381 Mr. Silber - It's a large floodplain area and this is sort of the first zoning case
2382 out in this area. We may want to go ahead and establish that. Maybe that can be worked out
2383 between now and the Board meeting.
2384

2385 Ms. Freye - We would be glad to address that between now and the Board.
2386
2387 Mrs. Wade - There's no site coverage provided here, too. If it's a shopping
2388 center, there would be our Ordinance, but...Where is the 1,000 foot line on there (referring to
2389 rendering).
2390
2391 Ms. Freye - The property is a little over 1,000 feet deep from Route 5 to the
2392 farthest point.
2393
2394 Mrs. Wade - It mentions towers here.
2395
2396 Ms. Freye - Right. We adopted a proffer from the Route 5 Overlay District
2397 standards. Those standards haven't been adopted, but we're willing to accept that as a proffer
2398 on this, to propose that as a proffer.
2399
2400 Mrs. Wade - You said the property is only about that? How deep is the
2401 property?
2402
2403 Ms. Freye - It's just a little over 1,000 feet deep.
2404
2405 Ms. Dwyer - On the screening proffer; "Mechanical equipment to be screened
2406 from public view." I guess, normally, we think of HVAC units on rooftops being screened by
2407 some sort of parapet wall or rooftop line. This seems to indicate the possibility that it will be
2408 screened by plantings; maybe plantings along Route 5 and that would be intended to screen
2409 HVAC equipment, but wouldn't be visible on site? Is that...
2410
2411 Ms. Freye - What we intended with this proffer is that any mechanical
2412 equipment would be screened from view of Route 5 in a manner acceptable to the Planning
2413 Commission, whether its on the ground or the roof. We say, "any non-vegetative screening." It
2414 would have to be the material the same as the exterior wall of the principal material that the
2415 mechanical equipment serves. So that if you had something on the ground that you could
2416 screen with landscaping that you all approved, that would be possible. But if we used
2417 something other than landscaping, it has to be material that is the same as what is on the
2418 building.
2419
2420 Ms. Dwyer - Whereas, if you had rooftop mechanical, you wouldn't just leave
2421 those to open view, but have, you know, trees and consider that screening.
2422
2423 Mr. Zehler - I want to get her at POD on that one.
2424
2425 Mr. Zehler - And then the dumpster enclosure material has to be the same as
2426 the buildings. And the buildings can be vinyl. Would you be having vinyl dumpster enclosures?
2427 It seems to permit vinyl dumpster enclosures is what...
2428
2429 Ms. Freye - That seemingly would be the case, but, again, that's going to be a
2430 detail that's going to come up at the POD. All of these details are going to be subject to
2431 discussions with the community and the adjoining landowners before it gets to you.
2432
2433 Ms. Dwyer - But they're permitted by proffers, what my point is. Okay.
2434
2435 Mrs. Wade - We're often involved in these POD discussions.

2436 Mr. Archer - Okay. Are there further questions for Ms. Freye?
2437
2438 Ms. Freye - If there's sometime left for the applicant, I would like to give an
2439 opportunity to the Varina Beautification Committee to speak about this case. They're not in
2440 opposition, so I think they would have to come from my time?
2441
2442 Mr. Archer - Okay.
2443
2444 Ms. Alberta Stoneman, Varina District Beautification Committee - And the Varina Beautification
2445 Committee supports the rezoning request of Essex Properties of Virginia, Inc. for B-3 zoning of
2446 24.8 acres on Route 5 at the I-295 intersection. Mr. Ellis, the developer, has offered proffers
2447 which are consistent with the Route 5 guidelines and he plans a food, gasoline, and hotel
2448 development of quality design. Our committee commends Mr. Ellis' commitment to quality, and
2449 looks forward to following the project through each step of the development process to
2450 completion—the Varina Beautification Committee. Thank you.
2451
2452 Mr. Archer - Thank you. Was there opposition? Mr. Zehler.
2453
2454 Mr. Zehler - As previously stated, Ms. Freye, I would definitely like for you to
2455 consider between now and the Board another issue as far as the 75 feet, because we have set
2456 the precedent of 50 feet from Route 5 from Richmond to I-295. Your case is on the other side of
2457 I-295 is pretty much going to set a precedent for the rest of the development from there down in
2458 that area. I would really like for you to strongly consider the 75 feet, as far as the landscaping
2459 buffer, because it will be setting a very good precedent. So, if you'll consider that, I would
2460 appreciate it. With that, I really can't say much more than what the Varina Beautification
2461 Committee hasn't already said. I'd like to commend the applicant, as well as the property
2462 owner, as far as working with the community, as well as myself and Mr. Donati. We've had
2463 numerous meetings. There's been a lot of time put in this project. I think we all, basically, feel
2464 the same way, because there is no one here in opposition to this case tonight. It is keeping up
2465 with the Route 5 guidelines study. It is a project that, I think, when it's all completed, that we'll
2466 be proud of, because it definitely has the colonial design that we have set in that guideline, as
2467 well as it is consistent with our Land Use Plan. So, with that, I move that Case C-43C-98 be
2468 recommended to the Board for approval.
2469
2470 Mr. Vanarsdall seconded the motion.
2471
2472 Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All
2473 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
2474 abstained).
2475
2476 REASON: Acting on a motion by Mr. Zehler, seconded by Mr. Vanarsdall, the Planning Commission
2477 voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the proffered**
2478 **conditions and grant** the request because it conforms to the recommendations of the Land Use Plan;
2479 it is appropriate business zoning in this area; and the proffered conditions should minimize the
2480 potential impacts on surrounding land uses.
2481
2482 **C-44C-98 HAJ LLC:** Request to conditionally rezone from B-1 and B-3
2483 Business Districts to M-1C Light Industrial District (Conditional), part of Parcel 142-A-10,
2484 described as follows:
2485

2486 Beginning at a point on the southern line of Nine Mile Road distant thereon 671.11' in an easterly
2487 direction from the point of intersection of the southern line of Nine Mile Road, extended with the
2488 eastern line of Newbridge Road, extended; thence S. 68° 16' 30" E., 77.08' to a point; thence in
2489 an easterly direction along the southern line of Nine Mile Road in a curve to the left with a radius
2490 of 1178.03', an arc distance of 1943.74' to a point; thence leaving the southern line of Nine Mile
2491 Road and S. 21° 43' 30" W., 265.00' to a point; thence S. 68° 16' 30" E., 235.00' to a point; thence
2492 N. 21° 43' 30" E., 222.03' to a point; thence S. 52° 56' 20" E., 170.00' to a point; thence S. 37° 11'
2493 40" W., 506.31' to a point; thence N. 68° 16' 50" W., 533.06' to a point; thence N. 21° 43' 30" E.,
2494 50.00' to a point; thence S. 68° 16' 30" E., 17' to a point; thence N. 21° 43' 30" E., 130.00' to a
2495 point; thence N. 68° 30" W., 17.00' to a point; thence N. 21° 43' 30" E., 380.00' to the point of
2496 beginning; reference being made to map of survey made by Lewis & Owens, Inc., dated January
2497 28, 1985, attached to and made a part of the below mentioned deed, and to which map reference
2498 is hereby made for a more particular description of the property described herein.
2499

2500 Together with the rights created pursuant to Reservation contained in Deed Book 1329, Page 220
2501 wherein the parties thereto agreed to provide access from rear property line of the above
2502 described parcel by means of curb cut along said rear property line. Together with the perpetual
2503 and non-exclusive easement for passage of pedestrian and vehicular traffic and other benefits
2504 granted pursuant to the Easement Exchange Agreement recorded in Deed Book 1952, Page 665.
2505

2506
2507 Mr. Archer - Is there any one here in opposition to C-44C-98? Mr. Merrithew.

2508
2509 Mr. Merrithew - Thank you, Mr. Chairman. The applicant, in this case, is proposing
2510 to rezone a portion of the existing Newbridge Shopping Center site and a portion of the existing
2511 building from B-1 and B-3 to M-1 (Conditional). The site involved is approximately 6.2 acres, and
2512 the portion of the building involved is approximately 56,000 square feet.
2513

2514 The proposed use of the portion of the building subject to this rezoning is for a furniture
2515 warehouse, sales and repair operation. The company currently operates a furniture sales
2516 operation on W. Broad Street, and is expanding their operation to this site. The proposal would
2517 restrict the repair operation to 5,600 square feet of the total area to be rezoned in the existing
2518 building.
2519

2520 The site is planned for Commercial Concentration which would imply that the "B" zoning is
2521 appropriate. Furniture sales and repair is a permitted "B" zoning use or "B" District use. It is the
2522 warehousing component that requires the M-1 zoning. The warehousing in a B-3 District would
2523 be limited to 15,000 square feet. The applicant was quite honest with us in saying that he didn't
2524 think he could stick to, or hold to a 15,000 square foot warehouse operation. That it would be
2525 larger than that. So, the M-1 zoning is, therefore, required to allow for furniture warehousing.
2526

2527 As you know, and as I stated just a minute ago, the site is designated "Commercial
2528 Concentration." We feel that the operation is consistent with the designation. Furthermore, as you
2529 recall, earlier this year, we completed an economic analysis and revitalization plan for Nine Mile
2530 Road, including this area. One of the recommendations for that Plan is to encourage a greater
2531 mix of retail and employment uses, to bring employment uses into the corridor.
2532

2533 With regard to that particular recommendation, the Fairfield Commons Mall, we have been looking
2534 hard at involving M-1; either rezoning the Mall to M-1, or otherwise allowing warehousing and
2535 retail to co-exist in that building. What we have here is a similar situation. So, we feel that the

2536 proposal here is consistent with the recommendations of the economic analysis that was recently
2537 accepted by the Board.

2538
2539 I would point out the existing use of this end of the building is a flea market at this time and has
2540 been for some time. So, we would be moving out the flea market, and moving in the furniture
2541 sales.

2542
2543 There are several issues which staff looked at, and which, of course, you will be looking at with
2544 regard to rezoning to M-1. That is the increased potential for incompatible uses on this site. M-1,
2545 normally, unrestricted, allows a wide range of uses; manufacturing, and otherwise, that would not
2546 be as compatible in this corridor as we think this use is.

2547
2548 M-1 also would imply increased truck activity, and we're concerned about the impact on adjoining
2549 residential development.

2550
2551 Then there's a question of whether or not the use, itself, would have an impact on the residential
2552 development. I failed to point out that there are existing apartments immediately to the south.
2553 The building is separated from those apartments by a 50-foot setback. However, there is no
2554 landscaping between the buildings and the apartments. There is a solid wall, a masonry wall,
2555 between the apartments and the building at this point in time.

2556
2557 The applicant has suggested that they intend no activities, either outside storage or loading or
2558 unloading on the rear or the south side of the buildings. So, they intend no activity back there at
2559 all. The loading activity would be to the east end of the building. I want to see if I have a
2560 supplemental sketch. I do not. I apologize. I think there's a supplemental map in your staff report
2561 that shows the building—the directions I'm referencing.

2562
2563 With regard to the proffers on this case, the applicant has proffered that, "The use on the site is
2564 limited to furniture sales, warehousing and repair and other uses permitted in, and as regulated in
2565 the B-1 zoning district." We have on the site right now, a portion of the site is zoned B-3
2566 unconditional and the remainder of the site, B-1 unconditional. So, from the point of potential
2567 impacts, this proffer does seem to reduce the potential intensity of development on the site.

2568
2569 The second proffer; "Fleet parking is limited to the east side of the building within the existing
2570 parking area." I think your map in the staff report illustrates the edge of that parking area. And
2571 they intend to park trucks there. They also intend, I believe, although it's not proffered, to move
2572 the loading dock from the southeast corner of the building further towards the middle of the east
2573 wall. So, further away from the residential area. That is not proffered and they may speak to that
2574 in their presentation.

2575
2576 They've agreed to no additional free standing or detached signs along Nine Mile Road. They've
2577 agreed to no outside storage. They've limited their hours of operation to between 7:00 a.m. and
2578 9:00 p.m. And then, they've added that landscaping will be added within the existing green areas
2579 or, I think they said, "the existing dirt area," which is a little bit less romantic, along Nine Mile Road.
2580 But they would not remove asphalt or concrete to add the landscaping.

2581
2582 One issue that struck me this evening was, there's no timing for that landscaping to be resolved
2583 and they may wish to discuss installing it prior to Certificate of Occupancy, something like that.
2584 Some reasonable time.

2585

2586 With these proffers, and the fact that we know the proposed use for the site. We know it's an
2587 existing business and we know it is one located in an area where we feel like economic
2588 revitalization is important. Staff is prepared to recommend approval of this case. I'd be glad to
2589 answer any questions.
2590
2591 Mr. Archer - Thank you, Mr. Merrithew. Are there questions for Mr. Merrithew by
2592 the Commission?
2593
2594 Mr. Zehler - John, do you consider a dumpster outside storage?
2595
2596 Mr. Merrithew - I would say, no. Normally, we separate dumpsters from outside
2597 storage. A dumpster is not addressed in these proffers.
2598
2599 Mrs. Wade - What is behind the building now?
2600
2601 Mr. Merrithew - It is a paved travel way. There are some rear entrances to some of
2602 the other uses in the building.
2603
2604 Mrs. Wade - Does this have doors in the back, this part of the building?
2605
2606 Mr. Merrithew - It has no loading dock at the back. I don't believe it has...
2607
2608 Mr. Zehler - The Food Lion does.
2609
2610 Mr. Merrithew - Does it have an exterior entrance?
2611
2612 Mr. Zehler - The Food Lion has...
2613
2614 Mr. Merrithew - Okay.
2615
2616 Mr. Zehler - That was my next question. Does the wall go the whole way of that
2617 property to the rear?
2618
2619 Mr. Merrithew - No. The wall, basically, follows the property east to the edge of the
2620 existing paved area; perhaps a little bit beyond that. But, essentially, to the east of the paved
2621 area. It does not go all the way to the eastern edge of the property.
2622
2623 Mr. Zehler - Does it run parallel the whole back of the property?
2624
2625 Mr. Merrithew - Yes. It does.
2626
2627 Mr. Zehler - From the apartments?
2628
2629 Mr. Merrithew - That's correct.
2630
2631 Ms. Dwyer - John, as I looked at this case, and remembering the study that was
2632 done on Nine Mile Road, it seemed to me that one of the consultant's recommendations was that
2633 we allow this kind of mixed use in shopping areas and Fairfield Commons is an example. We
2634 discussed that at length. It seemed to me that they also recommended that we make some
2635 changes in our Zoning Ordinance...to accommodate that. It just concerns me that we're going to
2636 have some M-1 here, because of what M-1 designates and precedent that it sets.

2637
2638 I'm wondering, as a Commission, we should look into having some separate sort of zoning for this
2639 type of mixed use so it would not, you know, have the M-1 on the zoning map?
2640
2641 Mr. Merrithew - I think you're speaking to exactly what the intent was, to look at the
2642 existing Code and see what changes had to be made. What has happened since the Board has
2643 accepted that Study is that they have also initiated a Plan Amendment process to look at: No. 1,
2644 adopting some Plan policies. No. 2, establishing this area as a Special Strategy Area. And No. 3,
2645 looking at either making changes to the zoning districts that would apply to just this area, or
2646 making changes to the zoning districts that could apply elsewhere to accommodate this mixed
2647 use-type of development. So, we are looking at that. It just hasn't come downstream to you yet
2648 for your review. I'd like to be able to tell you when, but I can't say exactly when that will happen.
2649
2650 Mr. Zehler - Out of all the uses presented here before us tonight, why is the M-1
2651 required? Is it because of the warehousing?
2652
2653 Mr. Merrithew - It's because of the warehousing. If they could hold to 15,000
2654 square feet of warehousing, then we could look at a B-3 zoning, and incorporate wholesaling and
2655 warehousing under B-3. But because they can't, we have to go to the M-1.
2656
2657 Mr. Zehler - So, basically, what you're saying is, the square footage?
2658
2659 Mr. Merrithew - Exactly.
2660
2661 Mr. Zehler - Once you exceed a certain square footage, then you have to go to
2662 the higher classification.
2663
2664 Mr. Merrithew - Fifteen thousand (15,000) square feet.
2665
2666 Mrs. Wade - Where are they on W. Broad now?
2667
2668 Mr. Merrithew - They're near Hooters. It is the old Haynes building—JMJ.
2669
2670 Mr. Zehler - John, the way Proffer 1 is written, other than what's allowed in the
2671 B-1, as far as their "M" use, the only uses permitted on this property would be the furniture sale,
2672 warehousing? No other "M" uses will be permitted on this property, other than this use?
2673
2674 Mr. Merrithew - Correct.
2675
2676 Mr. Archer - Okay. Further questions for Mr. Merrithew? Thank you, sir.
2677
2678 Mr. Zehler - I'd like to hear from the applicant, Mr. Chairman.
2679
2680 Mr. Archer - Okay. Would the applicant come forward, please.
2681
2682 Mr. John Masset, Jr. - It is our intention; we are applying for a conditional application. The
2683 main stumbling block that we had was the warehousing space. We...
2684
2685 Mr. Archer - I'm sorry. Could you state your name, please?
2686

2687 Mr. Masset - Excuse me. John Masset, Jr. We do plan to make improvements
2688 on the building, you know, cosmetically. Structurally, the building is in sound shape. We probably
2689 have some security issues that we want to do, which we have applied for some fencing for our
2690 parking. But, internally, we are not a manufacturer. We are a furniture store, and we just need
2691 additional space. That was the main reason why we're applying for the conditional zoning.
2692

2693 Mr. Zehler - Would you give me a current address of where you're located so I
2694 can run by and see your facility?
2695

2696 Mr. Masset - Certainly. In Henrico County, we're at 7910 W. Broad Street.
2697

2698 Mr. Zehler - I believe you said behind Hooters?
2699

2700 Mr. Masset - We're right next door to Hooters. For the other members on the
2701 Board (sic), we're directly across the street from the Outback.
2702

2703 Mr. Zehler - John, unfortunately, we had a conversation in the hallway. I think
2704 you, being your first case, you anticipated you went through the right things, but unfortunately you
2705 missed one, and that was myself. During break, we did have a conversation. During that
2706 conversation, there were a couple of issues that I was concerned about that I think between now
2707 and the Board you can address those issues. Fortunately, Mr. Donati is here and he'll able to
2708 hear those issues. I'm sure he'll be writing down what those issues are, and if not, we'll give him a
2709 copy tonight. I do have a couple of concerns. Fleet parking beside the R-5 concerns me. Our
2710 minimum setback on the M-1 from the R-5 is 50 feet. I think we entertained the thought of
2711 approximately 100 feet. Based on our conversation, you have no anticipations to add on or to
2712 build any other buildings on the property. So, I really don't feel like 100 feet would be a problem
2713 for you. That's one issue you need to be concerned about.
2714

2715 He second issue is dumpsters. There is no provisions for screening of dumpsters if dumpsters
2716 are going to be available in the way I'm reading this proffered condition you have that its going to
2717 be inside if you have a dumpster.
2718

2719 Mr. Masset - No. All the dumpsters at this facility are outside.
2720

2721 Mr. Zehler - We need to address the issue of how we're going to screen the
2722 dumpsters—properly screen them so the trash stays inside the dumpster and not through the
2723 community. That is another issue.
2724

2725 The third issue that I have is, we do not address, in the event that addition is done or the size of
2726 this property; there's a possibility another building could be built. We do not address the issue as
2727 far as architectural design. My concern would be that as long as they are architecturally same as
2728 the existing shopping center, I would not have a problem with that, as well as any additions.
2729 That's something you need to be concerned about.
2730

2731 Of course, my other concern was your trucking, which, I understand, is going to be around on the
2732 east side. So, we need to take a strong look at that.
2733

2734 Mr. Masset - And "fleet" maybe was the wrong word to use. We probably have
2735 four big trucks, and two small service vehicles. A lot of times those vehicles are taken home by
2736 employees.
2737

2738 Mr. Zehler - Well, fortunately, people have a tendency, and I'm sure you do, to
2739 think you're going to be in an excellent position and you're going to grow. When you stipulate in
2740 your proffer, "fleet," to me, that's unlimited. And maybe you only have four now. That doesn't
2741 mean you're not going to have 20 down the road. I know that's a good problem that you're hoping
2742 is going to happen, but we need to address that issue.
2743
2744 Mr. Masset - How would I address the "fleet" issue, then, please?
2745
2746 Mr. Zehler - The additional screening, maybe fencing. My concern is with the
2747 buffering to the R-5. With your hours of operation 7-days a week, 7:00 a.m. to 9:00 p.m., with
2748 trucks, possibly loading, unloading, starting diesel engines and banging of doors, the citizens in
2749 that neighborhood are going to need a little relief. An additional buffer. Maybe some type of
2750 fencing.
2751
2752 Mr. Masset - Yes sir.
2753
2754 Mr. Zehler - Something you can be working on between now and the Board
2755 level.
2756
2757 Mr. Masset - Yes sir.
2758
2759 Mr. Zehler - I have no other questions, Mr. Chairman.
2760
2761 Mr. Archer - Okay. Are there other questions?
2762
2763 Mr. Zehler - There is no opposition to the case, Mr. Chairman. It is in the
2764 keeping of the Nine Mile Road. I believe it was previously stated, we do have a flea market that is
2765 an ungodly sight on weekends. I think this would be an improvement to the neighborhood. With a
2766 little additional work on the proffers, as mentioned, I believe this would be a good case and would
2767 be good for the community. We also need to work as far as the time limit when you're going to do
2768 the landscaping.
2769
2770 Mr. Masset - Yes sir.
2771
2772 Mr. Zehler - That needs to be considered also. I just remembered that one. But
2773 with that, Mr. Chairman, I move that Case C-44C-98 be recommended to the Board of
2774 Supervisors.
2775
2776 Mr. Vanarsdall seconded the motion.
2777
2778 Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All
2779 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
2780 abstained). Thank you, sir.
2781
2782 Mr. Masset - Thank you.
2783
2784 Mr. Zehler - Welcome to Varina.
2785
2786 REASON: Acting on a motion by Mr. Zehler, seconded by Mr. Vanarsdall, the Planning Commission
2787 voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the proffered**
2788 **conditions and grant** the request because the employment use(s) support the County's economic

2789 development policies; the business use is compatible with surrounding development; and the proffered
2790 conditions should minimize the potential impacts on surrounding land uses.

2791
2792

2793 **C-37C-98** **David B. Craven:** Request to conditionally rezone from B-2
2794 Business District to B-3C Light Industrial District (Conditional), Parcel 51-7-10-1 (9206 Old Staples
2795 Mill Road), containing 0.76 acre, located on the west side of Old Staples Mill Road approximately
2796 30' west of its intersection with Virginia Street. An office warehouse is proposed. The use will be
2797 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan
2798 recommends Office development.

2799
2800 Mr. Archer - Okay. Is there any one here in opposition to C-37C-98? Mr.
2801 Merrithew.

2802
2803 Mr. Merrithew - Thank you, Mr. Chairman. I would first point out that the applicant
2804 has modified this case to change the proposed rezoning from M-1C to B-3C. He's done this in
2805 order to operate an office/warehouse facility out of an existing building. The intent is to operate a
2806 contractor's office with the warehouse.

2807
2808 The building is located on the west side of Old Staples Mill Road. The building is currently vacant.
2809 The adjoining development is residential to the north. However, the residential properties are, in
2810 part, zoned B-1. And then there's industrial development immediately across the road to the east,
2811 and then vacant B-2 land to the south.

2812
2813 Currently, the B-2 zoning on the property is unconditional. The Comprehensive Plan calls for
2814 Office Development in this particular part of the corridor in an effort to provide a transition between
2815 the industrial area to the east and the urban residential development to the west.

2816
2817 As I said before, the surrounding zoning is B-1, B-2, M-1, and M-2. I would point out that the
2818 industrial zoning is, at this point, all on the east side of the street. And the industrial uses, for the
2819 most part, on the east side of the street, although there is a large operation of B-3 which is more
2820 industrial than retail currently to the north of this site.

2821
2822 With regard to the application, the applicant has proffered, and you've received new proffers
2823 tonight that you do not have to waive the time limit on, a number of things with regard to the
2824 quality of the development within the existing building as well as potential redevelopment of the
2825 site with a new building.

2826
2827 The applicant has proffered that the hours of operation will be from 6:00 a.m. to Midnight. They
2828 have proffered that loading and service shall not face Old Staples Mill Road. There will be no
2829 detached signs once the new building is constructed on the site. There will be no outside storage
2830 on the site. The uses will be limited to the Office/Warehouse use which is the B-3 component, or
2831 to uses permitted in the B-2 District. And then they have gone on to restrict the B-2 uses to a
2832 degree prohibiting or restricting on some high intensity auto related uses and other uses.

2833
2834 Given the existing development that's in the area, and it is a mix of retail and industrial, as well as
2835 a few remaining residences, the use is reasonable or consistent with that type of development.
2836 However, the site is planned for Office. It is intended to serve as a transition between what could
2837 be a potentially major industrial area to the east and the residential to the west. And, therefore,
2838 technically, the proposed zoning is not consistent with the Comprehensive Plan. With that, I'd be
2839 glad to answer any questions.

2840
2841 Mr. Archer - Thank you, Mr. Merrithew. Are there questions?
2842
2843 Mr. Vanarsdall - Mr. Chairman, this B-3 comes as much a surprise to me as tot he
2844 rest of you, I guess.
2845
2846 Mr. Merrithew - Yes sir. That was a decision made earlier.
2847
2848 Mr. Vanarsdall - When I talked to Mr. Craven on the phone, he mentioned
2849 something. He talked to you about it, but...
2850
2851 Ms. Dwyer - Doesn't that have to be readvertised?
2852
2853 Mr. Merrithew - No ma'am. It's a less intensive zoning category and does not have
2854 to be readvertised.
2855
2856 Ms. Dwyer - I was thinking about my previous case.
2857
2858 Mr. Merrithew - Right. It goes the other way. The other case was more intensive.
2859
2860 Ms. Dwyer - Even though it was an existing R-2?
2861
2862 Mr. Merrithew - I'm not sure how that worked. I was out of the room. I won't
2863 comment on it.
2864
2865 Mr. Vanarsdall - I don't believe that this changes the matter much. B-3 is almost as
2866 intense as the M-1.
2867
2868 Mr. Merrithew - The use doesn't change one bit, and you're right.
2869
2870 Mr. Vanarsdall - Even more so.
2871
2872 Mr. Merrithew - Right.
2873
2874 Mr. Archer - Okay. Any further questions for Mr. Merrithew?
2875
2876 Mr. Merrithew - Thank you.
2877
2878 Mr. Archer - All right, do we need to hear from the applicant, Mr. Vanarsdall?
2879
2880 Mr. Vanarsdall - Yes. We do.
2881
2882 Mr. Archer - All right. Is the applicant present?
2883
2884 Mr. David Craven - Mr. Chairman, members of the Board, my name is David Craven.
2885 I'm the owner of Craven Electrical Services. I've lived in Henrico County and operated my
2886 electrical business in Henrico County since 1987 and lived very near this property that I'm asking
2887 to rezone in the same district. It has gotten to the point now where I'd like to expand my business
2888 a little bit and grow. I have been looking at this area for the past three years. This property has
2889 been mostly vacant for the past 10 years, and run down quite much. My plan is to purchase the

2890 property, repair and fix up the property that is existing, while I pay off the land, make plans to
2891 proceed with building an office building in the near future.

2892
2893 Basically, there has only been one other improvement in that area, which is two doors down, a B-
2894 3 building which is Office/Warehouse, which, actually we wired for the people. So, that got my
2895 interest five years ago when we did that. Otherwise, its been 25 to 30 years, I believe, since
2896 anything else has even been done in that corridor.

2897
2898 That B-3 that's two doors down, currently, there's no buffer between it. These townhouses that
2899 they're building behind there is directly behind there; whereas my property; it's a pie-shaped
2900 property. It's not an ideal situation for building a building, but we can build a building large enough
2901 so it would suit my needs.

2902
2903 Our "point of the pie" so to speak of the property kind of comes to the point to the townhouse point
2904 and there's a large buffer existing of mature trees. I don't believe that they're planning on
2905 building—We'd be a pretty significant distance away from that particular residential development.
2906 The other residential property is right next to me. They welcome us to come in there to do
2907 something with this property, finally. They are also partially B-1, which they hope to eventually,
2908 you know, probably sell when they do move. One woman directly next to me, she's lived there for
2909 65 years. And the man next door to her, with the other B-1 zoning, has been there for 70 years.
2910 They both intend to stay there as long as they can, and sell it to someone to develop.

2911
2912 So, therefore, directly across the street is an M-1/M-2 District which is heavily used with trucks.
2913 It's a Pete Rose hauling facility of materials. And they create six days a week an enormous
2914 amount of dust and noise, to the extent that you can't even talk on the telephone. I would have to
2915 build pretty thick insulated walls just to be able talk on the phone in this building.

2916
2917 I understand that you want the buffer between this property and the east side to the residential. I
2918 would think that with this building that I'd be planning on proffering, everything that I would proffer
2919 would be a very nice building, a nice property. I can't build a very large building, at any means.
2920 The type of work that we do is mostly service-oriented. We only have two work vehicles at the
2921 moment. We hope to have more. Most time they are not left on the property. They would be
2922 taken home by employees. We wouldn't be able to have tractor trailers or any heavy trucking
2923 there at any means because they just simply wouldn't fit.

2924
2925 After speaking with the engineer, I've had soil samples taken to make sure that I can build on the
2926 property and had a civil engineer come out and discuss with me setbacks. I would be required for
2927 a BMP because of the 50/10 floodplain there. It's not a very good drainage area there now. So,
2928 we'd have to definitely to address that situation. So, it really limits me on size.

2929
2930 Brick is fine, because I plan on keeping the building past retirement probably, so the less
2931 maintenance the better.

2932
2933 Another concern, I've been educated through this process, but I thought that a B-2; all the zoning I
2934 would need is, basically, an office. The only materials that I would need is materials we use on
2935 the jobs. The employees usually meet at 7:30 a.m.; gone most of the day, come back at 4:00.
2936 The only deliveries and just delivery vehicles here and there. We can do fine without any outside
2937 storage. You know, usually no work at all on weekends, unless its an emergency.

2938
2939 Basically, I didn't feel I needed an attorney to come here and represent me, because I even
2940 considered this, I went to the County to speak to three different members of the Planning Board

2941 (sic), as if this was even a feasible project for me to do before I pursued it. They all explained to
2942 me how everything worked and what I would need to do and so forth, which I did. What type of
2943 zoning? I understand with M-1, they didn't want to set precedents on that side of the road for
2944 heavier type of business. But I don't need that type of zoning whatsoever. I'd be glad to offer; I
2945 understand I need the B-3 to run an electrical business. I'd be glad to offer as many proffers that
2946 are needed to restrict any heavy negative impact in the future development of that area. I
2947 wouldn't want to handcuff me from renting that space out after I left it some years down the road
2948 to, you know, another service company, such as myself. I think that pretty much covers it. If
2949 there's any questions, I'd be glad to answer them.
2950

2951 Mr. Archer - Thank you, Mr. Craven. Are there questions for Mr. Craven by the
2952 Commission?
2953

2954 Mrs. Wade - I'd like to ask the staff, what's required in the way of buffer between
2955 RTH and M-1?
2956

2957 Mr. Merrithew - M-1 or B-3?
2958

2959 Mrs. Wade - Oh. He's asking for B-3. Okay.
2960

2961 Mr. Merrithew - It would be a 35-foot buffer.
2962

2963 Mr. Archer - Buffer between RTH and B-3?
2964

2965 Mr. Merrithew - Transitional buffer, yes.
2966

2967 Mr. Zehler - What is the request, John?
2968

2969 Mr. Merrithew - The request has been amended to B-3C.
2970

2971 Mr. Zehler - The agenda says, "M-1."
2972

2973 Mr. Merrithew - Correct. The change was just made last week.
2974

2975 Mr. Zehler - Also, the date on these proffers was the 10th. Will we have to waive
2976 the time limits?
2977

2978 Mr. Craven - I signed a new copy, recently.
2979

2980 Mr. Merrithew - The original was received tonight. So, I would say, "yes." You will
2981 need to waive the time limits. We did have the copy two days or more in advance.
2982

2983 Mr. Vanarsdall - I'm ready for a motion, Mr. Chairman.
2984

2985 Mr. Silber - Could I ask one question? Mr. Craven, you said all the storage
2986 would be within the building, correct?
2987

2988 Mr. Craven - Yes sir. It's not a lot of storage involved with what we do. The back
2989 of the property for a long distance because of the shape, we could have a tremendous buffer of
2990 any kind, including leaving the mature trees that are there. It's heavily wooded. The townhouse
2991 community couldn't even see our property, period.

2992
2993 Mr. Silber - You wouldn't have any warehousing that would exceed 15,000
2994 square feet?
2995
2996 Mr. Craven - No sir. It's not enough room there to do that.
2997 Ms. Dwyer - And why do you need B-3?
2998
2999 Mr. Craven - That's what I was told I needed. I thought that B-2 would be...
3000
3001 Mr. Silber - An electrical company is first permitted, Ms. Dwyer, in a B-3.
3002
3003 Mr. Merrithew - Office-warehouse.
3004
3005 Mr. Craven - It seems like, listening to other cases here, Office/warehouse is
3006 pretty larger scale, like tractor trailers and so forth. I'm, you know, no where near that. We've
3007 been operating for 10 years, basically, out of a large garage.
3008
3009 Mrs. Wade - Where is your business located now, Mr. Craven?
3010
3011 Mr. Craven - Actually, out of my home. It is an agricultural piece of property
3012 which misled that that was feasible to operate my business out of, and have been doing so for a
3013 long time.
3014
3015 Mrs. Wade - You're not the only one in the county, I'm sure.
3016
3017 Mr. Archer - Okay. Are there further questions for Mr. Craven? Mr. Vanarsdall.
3018
3019 Mr. Vanarsdall - Ready for a motion?
3020
3021 Mr. Archer - Yes sir.
3022
3023 Mr. Vanarsdall - First of all, I don't care to waive the time limit on the proffers. It
3024 means it will go back to the M-1. I have talked to Mr. Craven at some length on the telephone.
3025 And I can appreciate his situation. M-1 is too intense on that side of the street. There are M-1's
3026 there that's been there since the beginning of time. The B-2's over there were rezoned in the last
3027 few years, I believe. I explained to Mr. Craven that B-3 was just about as intense as M-1. The
3028 problem with moving this zoning to B-3, even with the proffers, how easy it is to come back and
3029 change the proffers.
3030
3031 I know where this property is. It is the Old Wagon Wheel and that's not much you can do with that
3032 present building to make it look like anything. We don't have any assurance of when you're going
3033 to build a new building. It's just too intense for that side and I just can't support it. I, therefore,
3034 recommend to the Board for denial. You know, you have 30 days between now and then to talk
3035 to the Board about it. Get the B-3 and M-1 straight and whatever you want to do. So, I
3036 recommend C-37C-98 be recommended to the Board for denial.
3037
3038 Mr. Zehler seconded the motion.
3039
3040 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler.
3041

3042 Mr. Silber - Mr. Archer, can I make just one clarification so that Mr. Vanarsdall
3043 understands. The applicant has amended the case to B-3C. So, your motion would be to deny
3044 the B-3C. You're not waiving the time limit on the proffers. I understand that, but really what is
3045 before you is the B-3C. As long as you understand that's what your motion would be on would
3046 be for that request.

3047
3048 Mr. Vanarsdall - Okay. That's fine.

3049
3050 Mr. Craven - Excuse me, sir. I did submit these proffers a week and a half ago,
3051 but the problem was, they weren't signed. I just needed to sign them.

3052
3053 Mr. Silber - They really need to be signed. They're not official until they're
3054 signed. That wasn't done 48 hours before tonight's meeting.

3055
3056 Ms. Dwyer - You don't own the property? You have an option on it?

3057
3058 Mr. Craven - Hopefully. We'll see what happens.

3059
3060 Mr. Archer - Okay. Does the motion still stand and the second? All those in
3061 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

3062
3063 Mrs. Wade - Don't we need the signature for the owner of the property?
3064 Anyway.

3065
3066 Mr. Merrithew - He has a Power of Attorney, and we have the owner's signature
3067 on the application.

3068
3069 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Zehler, the Planning Commission
3070 voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the request because it
3071 would likely set an adverse zoning and land use precedent for the area; and does not conform to the
3072 recommendation of the Land Use Plan nor the Plan's goals, objectives and policies.

3073
3074 **C-38C-98** **Ralph L. Axselle, Jr. or Andrew M. Conclin for Faller**
3075 **Management:** Request to conditionally rezone from R-2 One Family Residence District to B-2C
3076 Business District (Conditional), Parcel 50-5-F-52, described as follows:

3077
3078 Commencing at a point found at the intersection of the E. line of Staples Mill Road with the S. line
3079 of Hungary Road, the point of beginning; thence along the S. line of Hungary Road S. 73° 33' 50"
3080 E., 395.06' to a point; thence N. 68° 55' 13" E., 43.89' to a point; thence along Hungary Spring
3081 Road S. 80° 21' 59" E., 71.94' to a point; thence S. 06° 30' W., 520.00' to a point; thence along
3082 Anderson Road N. 83° 30' W., 235.46' to a point; thence N. 34° 57' W., 47.60' to a point; thence
3083 along the Staples Mill Road (Route 33), N. 12° 44' 40" W., 410.94' to a point; thence N. 11° 07'
3084 10" E., 165.05' to a point found at the intersection of the E. line of Staples Mill Road with the S
3085 .line of Hungary Road, the point of beginning.

3086
3087 Mr. Archer - Okay. Is there any one in opposition to C-38C-98? We have
3088 opposition. We will get to you, sir.

3089
3090 Mrs. Wade - Has this been up before? Is this one that's been up for rezoning on
3091 a previous occasion?

3092

3093 Mr. Bittner - There was an application filed in 1996, but was withdrawn before it
3094 ever got the Planning Commission public hearing. Thank you, Mr. Chairman. The 2010 Plan
3095 recommends Office for this property. This site was designated Office to serve as a transition
3096 between commercial development to the southeast and residential development to the northwest.
3097 Rezoning this property to B-2C appears premature. It could set a precedent for the commercial
3098 stripping of Staples Mill Road. Several acres approximately one-half mile to the southeast along
3099 Staples Mill Road have been recently zoned to B-2C. Most of this property is available for
3100 development.

3101
3102 The proffers submitted with this application are substantial, and are comparable to proffers
3103 received on previous pharmacy rezonings. Revised proffers have been submitted, and have been
3104 handed out. The time limit waiver is not needed, however. They were handed in this Monday.

3105
3106 Two issues outlined in the staff report, however, have not been addressed by these new proffers.
3107 These are Number 1, Buffering. Hungary Road and Hungary Spring Road would have at least a
3108 50-foot buffer along them, while Staples Mill and Anderson Roads would have only a 30-foot
3109 buffer. Staff is recommending a 50-foot buffer all around the property.

3110
3111 The second issue still outstanding is access. On the north side of Hungary Road, across this site,
3112 contains residences. The conceptual plan shows an access to the site from Hungary Road.
3113 Consideration should be given to having no access from Hungary Road to protect these adjacent
3114 residences.

3115
3116 In summary, staff feels the proposed B-2C zoning is not consistent with the Office designation of
3117 this property and that it would disrupt the transitional land use pattern envisioned by the 2010
3118 Plan. Given the inconsistency with the Land Use designation, the potential impacts on nearby
3119 residences, and the fact that several available acres of B-2C zoned land are nearby, staff cannot
3120 support approval of this application. I'd be happy to answer any questions you may have.

3121
3122 Mr. Archer - Thank you, Mr. Bittner. Are there questions for Mr. Bittner by the
3123 Commission?

3124
3125 Ms. Dwyer - Mr. Bittner, I'm looking at the "natural buffer" proffer No. 2. The
3126 additional language says that the supplemental landscaping may be required. I've run up against
3127 this word, "may" in another case of mine in which we're looking to add supplemental landscaping
3128 and we're meeting some resistance because we're told that they may do landscaping or they may
3129 not. I just point that out because that's been a problem this recent week. I'm not sure how you
3130 word that with "shall" so that the Planning Commission can make the determination about whether
3131 supplemental landscaping is necessary or not, but that might be a good idea.

3132
3133 Mr. Bittner - We could fashion some language for that.

3134
3135 Mrs. Wade - When did you get these proffers?
3136 Mr. Bittner - June 8th.

3137
3138 Mrs. Wade - Which was, several days ago?

3139
3140 Mr. Bittner - It was Monday, I believe.

3141
3142 Mrs. Wade - Now, they start coming in 48 hours ahead. That's not going to help
3143 unless the rest of us have them at that time. What we're trying to avoid is getting proffers on the

3144 night of the hearing. Although they might technically be in, it won't do us a lot of good if we don't
3145 have access to them.

3146

3147 Ms. Dwyer - That's a good point. We need to get copies, if they come at that 48
3148 hours.

3149

3150 Mrs. Wade - I don't have a fax.

3151

3152 Ms. Dwyer - Mrs. Wade, you'll have to get a fax machine.

3153

3154 Mr. Archer - Okay. Are there further questions for Mr. Bittner? None. Mr.
3155 Vanarsdall, do you need to hear from the applicant?

3156

3157 Mr. Vanarsdall - Yes sir.

3158

3159 Mr. Archer - All right. Is the applicant here? Mr. Axselle or Mr. Conclin?

3160

3161 Mr. Bill Axselle - Mr. Axselle. Before I start my time limit, if I may comment on the
3162 comment that Mrs. Wade made. I think most of the development community would be glad to
3163 provide proffers to all the Planning Commission members, you know, when they file them if you
3164 want them. But what I follow, and this is just me, is that if it's a matter that I think is of significance
3165 county-wide, or in different districts, I try to share them with most folks. But, "a normal," if you will,
3166 I don't know if there is such a thing as "a normal" zoning case, you try to share them with the local
3167 Planning Commission members. These proffers have been worked out with Mr. Vanarsdall, and
3168 so forth. So, whatever guidance, you want, just tell us and I think people will be glad to comply
3169 with those, is what I'm saying.

3170

3171 Mr. Vanarsdall - I didn't realize you hadn't gotten them. I apologize for that.

3172

3173 Mr. Axselle - We can do whatever you want us to, as long as you have a fax
3174 machine. Mr. Chairman, ladies and gentlemen of the Commission, Bill Axselle. I'm here on
3175 behalf of Faller Management who is the applicant in this matter. Chuck Faller is here as well as
3176 Chad Adams with Eckerts, and Stacey Burcin, who is the engineer, is with us. I'm going to give
3177 you an abbreviated presentation, because we've narrowed the issue down from the standpoint
3178 of the neighbors, and Mr. Vanarsdall only to one issue. But I want to hit on a couple of things
3179 that the staff made.

3180

3181 The point is that this property is located and bounded on the west by Staples Mill Road, which is
3182 a four-lane, at some point in the future, it will be a six lane divided road. It's a major arterial. It's
3183 bounded on the north by Hungary Road, which is a major collector, and on the east by Hungary
3184 Spring, which, as you know, is being improved. So, the current zoning on the property is R-2A.
3185 I would suggest to you that most everyone would agree that this R-2A is not the appropriate
3186 zoning and use on this property.

3187

3188 The Staff would say to you that the Land Use Plan calls for, and thus they recommend, an
3189 Office use as a transition. What I think you'll find, I won't go through all the proffers, but if you
3190 go through them, I think you'll see that we have provided the same transition by extensive
3191 buffering; extensive buffering of 45 percent open space and all brick building with some dryvit
3192 trim and glass, of course, for the windows and so forth. I won't go through all of the proffers, but
3193 I think I can speak for the neighbors with whom we've been talking. They're satisfied with the
3194 case, with the one exception that I'm going to bring to you in just a moment.

3195
3196 There are three preliminary things; and one of those being the main issue I dispute. The first I
3197 want to tell you that on the west side of Staples Mill Road, which is the upper portion of the
3198 screen here, there is property owned by Mr. Chamberlayne who is here and Mr. Wright and their
3199 families, and they have some concern that lights coming out of Staples Mill Road entrance may
3200 have some impact on their property. They fortunately have some good trees over there, but
3201 they're concerned what may happen in the winter months.
3202
3203 We have agreed with them that Stacey Burcin will meet with them next week; will come up with
3204 a plan that will place some evergreens on their property, because it will actually provide them
3205 more protection on their property. They will then have the opportunity for reviewing and
3206 approving that plan. If that plan is not something to their satisfaction, they have reserved the
3207 right to share with the Board of Supervisors their concern in that respect. We think that issue is
3208 resolvable, because we've agreed on the standard of what we want.
3209
3210 We have provided in the proffers the monolithic detached signage. Eckerts has asked us to
3211 revisit that issue at the Board of Supervisors for possibility of a pylon sign on Staples Mill Road.
3212
3213 Now, the third issue, and the one that we want to talk about the most, I'll be glad to respond to
3214 questions on any of them, but in light of the lateness of the hour, and the fact that I'm going to
3215 travel to Virginia Beach after this, we will try to be quick.
3216
3217 The issue is the hours of operation on this property. B-2 zoning is sought because there is a
3218 drive thru. We have proffered in the original proffers in the case a B-1 hours of operation, which
3219 means Midnight, and they cannot have a provisional use permit to go beyond that, as you well
3220 know. So, the B-1 is what we had in the original proffers, and that's what we've been indicating.
3221
3222 The neighbors have been indicating to us, in discussions that we've been having, that they
3223 would like that to be 10:00 o'clock. The client, and Eckerts, could not and would not, felt, for
3224 reasons they'll share with you in a minute, cannot concur with that.
3225
3226 We had an earlier draft proffer that I shared with the client, that says 10:00 o'clock. When we
3227 modified the proffers, quick frankly, the Secretary picked up the 10:00 o'clock, and that's what's
3228 in the proffers right now. But the client, Faller Management, and Eckerts intent, and what I had
3229 told them and what I had told the neighbors, was it was B-1. But the neighbors have said all
3230 along they wanted the 10:00 o'clock. So, the issue is, basically, what should be the hours of
3231 operation on the property? Should it be the B-1, which is Midnight, or should it be 10:00 o'clock
3232 as I think the neighbors will indicate their preference to you?
3233
3234 As far as to why we think it should be B-1, B-1, as you know, is the lightest neighborhood
3235 commercial. There is property to the southeast on Staples Mill Road, where CVS is located.
3236 It's B-1. They have the right to go to 12:00 o'clock. So, we think we should have the same right
3237 for competitive reasons.
3238
3239 Candidly, that CVS is opened to 9:00. It has never stayed open past 9:00. Eckerts anticipates
3240 that it will probably not be open past 10:00. But, obviously, from a competitive standpoint, they
3241 feel that the B-1 is more appropriate. I'm going to ask Chad Adams, on behalf of Eckerts whose
3242 with their firm, to come and explain to you why they feel the B-1 and the 12:00 o'clock is
3243 appropriate, if you would, Chad. Then, I'll close up.
3244

3245 Mr. Vanarsdall - Bill, let me ask you a question, on this second building that you're
3246 not sure what's going in there, you had no problem with 10:00 o'clock on that, did you?
3247

3248 Mr. Axselle - No sir. We had discussed, and we've been keeping each other
3249 pretty well informed tonight. We had suggested, as a compromise, a 12:00 o'clock on the
3250 pharmacy and a 10:00 o'clock on the restaurant. I call the other building which may be a
3251 restaurant.
3252

3253 Mr. Vanarsdall - For the benefit of my colleagues on the Commission, he has
3254 proffered out just about every use. I know there must be something that they haven't covered,
3255 so...
3256

3257 Mr. Axselle - We have proffered out fast food restaurants, convenience stores,
3258 filling station, service stations. It's truly now pretty much a neighborhood area for shopping.
3259 Chad, if you don't mind sharing your experience.
3260

3261 Mr. Zehler - Bill, you had just mentioned a restaurant. You're not speaking of
3262 a fast food restaurant? You're speaking of a sit-down restaurant?
3263

3264 Mr. Axselle - Yes. We have actually, in the proffers, a prohibition against a
3265 restaurant with drive-through window, which is normally the way we refer to fast food. Mr.
3266 Vanarsdall asked us to add, "and fast food restaurant," to catch it both ways.
3267

3268 Mr. Vanarsdall - Because a fast food could go in there and say, "We didn't want a
3269 drive up anyway," and then six months later come back for a drive up.
3270

3271 Mr. Axselle - The prohibition is in there in both verbiage. This is Chad Adams.
3272

3273 Mr. Chad Adams - My name is Chad Adams. I'm regional construction manager for
3274 Eckert Drug. I'll be brief about the hours of operation. We requested that be allowed to
3275 maintain B-1 hours for several reasons. One of those is competitive reasons. Based on what's
3276 going on in the market place, we feel that if we're put in a position where we're not able to
3277 compete on grounds with other pharmacies in the area, could economically impact the operation
3278 and the viability of our business.
3279

3280 The second reason would be convenience for our customers. Often times, we find that children
3281 and people who become ill and have need for certain pharmaceutical-type items after 9:00
3282 o'clock, 10:00 o'clock at night, and to be able to get to a pharmacy in the neighborhood area
3283 where you can obtain those items without having to drive halfway around town, is a decided
3284 advantage to the customer and the community.
3285

3286 As you are well aware of, there is a large residential and townhouse condominium complex I
3287 believe, to the east that's already in existence, with another one I believe to be estimated to be
3288 200 townhomes being developed directly across from the proposed site on Hungary Spring
3289 Road.
3290

3291 The last reason is flexibility. Chances are, like Mr. Axselle said, the pharmacy won't stay open
3292 beyond 10:00 o'clock in the evening, if the demand and the customer base doesn't require it.
3293 But we'd like to have that flexibility to be able to, again, operate and serve the customers in the
3294 community in a manner that they would like to see us serve them. So, those are the main
3295 reasons why we would be requesting to be able to be allowed to operate within the parameters

3296 of the B-1 hours, even though, realistically, we probably will be operating closer to the 10:00
3297 o'clock timeframe. Thank you.

3298

3299 Mr. Axselle - Only one final comment. That you will notice that the buffers
3300 along Hungary Spring, and the portion of Hungary Road are natural buffers. They are extensive
3301 with supplemental plantings. And we've done that because that's sort of the residential side, if
3302 you will, of this property. The other portion of the landscape buffer on Hungary Road, we have
3303 proffered it will meet or exceed the West Broad Street Overlay District requirements as far as
3304 landscaping. The reason for that is, there's one home right across the road from that that sits
3305 fairly close to the road, and we made that as a indication of trying to provide a 50-foot
3306 landscaped buffer there. So, I think everybody is satisfied with that. I think the hours of
3307 operation is the remaining issue. I'd be glad to respond to any questions. I wanted to get us
3308 right to the bottom line, but if there are any questions on any other subject, I'd be glad to handle
3309 it.

3310

3311 Mr. Archer - Thank you, Mr. Axselle. Are there questions?

3312

3313 Ms. Dwyer - Why was the previous case withdrawn? Do you know?

3314

3315 Mr. Axselle - Yes. I actually handled that, and it never came to a hearing.
3316 Never had any staff review. The client decided they didn't want to develop the property. It had
3317 nothing to do with the merits of the case. It had to do with an internal decision.

3318

3319 There was a case a couple years ago Lee was involved with. Did that ever go to hearing; the
3320 child care? I don't think so. This is the third. And Randy is saying yes, and Lee says, no.

3321

3322 Mr. Silber - I believe there was an earlier case that was filed, I believe whet
3323 through considerable discussion with adjoining property owners. I believe that was also
3324 withdrawn. I think that had a child care. That did have a considerable amount of opposition, if I
3325 recall.

3326

3327 Mr. Axselle - That was the first case. The second case was another pharmacy
3328 use and that never proceeded to the point of any discussions or any real extensive work on it.
3329 We've worked very closely with the neighbors. And, quite frankly, we've had a good
3330 relationship. I think the end result is a product that everybody is satisfied with, with this one
3331 exceptional issue.

3332

3333 Mr. Vanarsdall - We had another case that never came to the Commission, but it
3334 ended up, I think there were a number of meetings that they had, that they wanted to put; and
3335 for the lack of an example, "They wanted to put a pound of coffee in a half pound bag" on that
3336 piece of property. They wanted everything on it; day care center on one end and a
3337 (unintelligible) on the other. They never bothered to file that either.

3338

3339 Ms. Dwyer - Let's see, staff doesn't recommend this because they are
3340 concerned this will foster strip shopping, I guess, proliferation along Staples Mill. There already
3341 is a commercial concentration nearby. So, how do you respond to that concern on the staff's
3342 part?

3343

3344 Mr. Axselle - Well, I don't accept that logic. There is Commercial Concentration
3345 to the south and southeast. But the Land Use Plan is very clear that everything beyond here is
3346 Residential or Public; you know, library, church," that type of uses. One of the adjacent uses to

3347 it is a church. We've been in contact with them. They voiced no objection. The County draws
3348 these lines. Having gone through the Land Use Plan, I just have no question in my mind that,
3349 from a practical standpoint, this will set no precedent, because there's no other place that has
3350 the same intersection of these three major roads that's further west on Staples Mill Road. So, I
3351 don't see that to be any consideration.

3352
3353 Mr. Zehler - Will a BMP be required on this site?

3354
3355 Mr. Axselle - Yes sir.

3356
3357 Mr. Zehler - Where is that located?

3358
3359 Mr. Axselle - Mr. Burcin can tell you that, but I think that's going to be further on
3360 the south end of the property.

3361
3362 Mr. Stacey Burcin - The BMPs are generally going to be located by the Anderson
3363 Road location of the site. The future use, as shown there, is, basically, the future use is not
3364 intended to be constructed at this time. The BMPs are situated in those two corners of the
3365 parking lot where you see some areas where the parking would normally extend to the corners.
3366 Since that future use is not specific at this time, the whole area could be used as a BMP, but
3367 certainly would not be the efficient use of the property. That is the natural outfall for the property
3368 at that point.

3369
3370 Mrs. Wade - It looks as if Phase II of "Parking Required" is 38 spaces, and
3371 you've provided 73. You're expecting a lot of company?

3372
3373 Mr. Burcin - The future use was designed to handle the most intense traffic
3374 use, or parking demand which you could put on the property, which would be a sit-down
3375 restaurant. It has been designed so when the two uses are put together, it could handle the
3376 parking for both combined uses. Again, we did not anticipate that is going to be done at this
3377 time for this phase.

3378
3379 Mr. Axselle - I would just conclude with one thing that I think a lot of the folks,
3380 well, they can speak for themselves, but I think what the neighbors will tell you is that they've
3381 worked with this property in a lot of instances, and I think that this is a use that they consider
3382 appropriate. The standards are good and so forth. We do have the hour issue left. So, I'll defer
3383 to them.

3384
3385 Mr. Archer - Thank you, Mr. Axselle. Now, is there someone here to speak for
3386 the opposition?

3387
3388 Mr. Bryan Coalson, 8110 Hungary Road - I've discussed this with my neighbors in the lobby out
3389 there. We find a quality of life issue with the hours. This is what the development of the
3390 property has to be. That's our main objection about it is the hours. Ten o'clock, we feel, is late
3391 enough to be open. The Peoples Drug Store there by Food Lion closes at 9:00 o'clock. That's
3392 all I have to say about it.

3393
3394 Mr. Vanarsdall - I was going to ask you at what time do they close?

3395
3396 Mr. Coalson - 9:00 o'clock.

3397

3398 Mr. Vanarsdall - Food Lion, at one time, stayed open all night, and then they quit
3399 doing that, didn't they?
3400
3401 Mr. Coalson - Right. They stay open until Midnight now.
3402
3403 Mr. Vanarsdall - But CVS is 9:00 o'clock?
3404
3405 Mr. Coalson - 9:00 o'clock.
3406
3407 Mr. Archer - Okay. Are there questions of Mr. Coalson by the Commission?
3408 Thank you, sir. Okay. Mr. Vanarsdall.
3409
3410 Mr. Vanarsdall - Well, over the years since I've been on the Commission, this is
3411 one of the properties that something has always come about; come up. I believe that this has
3412 been said before that Mr. Shadwell said, "It seemed like there were certain pieces of property in
3413 the County that was just made to hold the rest of it together." This may be one of them.
3414
3415 In addition to what has been filed on this property, we've had a lot of inquiries. We've had a lot
3416 of meetings...I have never seen anything come up on it to equal this one. Mr. Axselle has done
3417 an excellent job on getting it together and meeting with the neighbors. This is a unique piece of
3418 property, because it is sort of on an island like. It's zoned "R" and Land Use "O," but we've
3419 never had anything to have a desire to put anything on it Office or Residential. I like the idea of
3420 the natural buffers. And as he told you he would add the Broad Street Overlay District
3421 plantings. Then the buildings would only be two stories or 35 feet high.
3422
3423 The thing that we can't seem to solve is the hours of operation. I understand where the
3424 neighbors are coming from. They're afraid that it will always be something coming and going.
3425
3426 So, with that said, I would like to recommend that C-38C-98 be recommended to the Board of
3427 Supervisors for approval. And, in doing so, would like to make sure that the hours of operation
3428 be 10:00 p.m. Then this can be decided between now and the Board or at Board time. That's
3429 my motion.
3430
3431 Mr. Zehler - I second the motion, Mr. Chairman.
3432
3433 Mr. Nelson Riggle - I work with the church that owns this. This is owned by a parent
3434 church for the Lutheran Church. I'm a real estate agent. I'm not an agent for this property. I
3435 wasn't involved in this property several years ago when some other people proposed some
3436 uses for it. But over the last several years, we've tried to find a use for this property, so the
3437 Church can dispose of the property. We think this is a "win-win" situation for everybody. The
3438 Church would like to dispose of it. We have not been able to find something that the County
3439 could agree on up to this point. We hope that this goes through, because I think this is a "win-
3440 win" situation for everyone. Thank you.
3441
3442 Mr. Archer - Thank you for you remarks, sir. Motion made by Mr. Vanarsdall,
3443 seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote
3444 is 4-1 (Mrs. Wade voted no, Mr. Donati abstained).
3445
3446 Mr. Vanarsdall - Thank you for coming out and staying half the night. Oh. Wait a
3447 minute, its just 10:56 p.m.
3448

3449 Mr. Marlles - Mr. Chairman, members of the Board, I believe Mr. Merrithew is
3450 going to address this, but there is a need for the Commission to consider waiving your policy to
3451 accept an excessive number of rezoning cases for the July 9th meeting.
3452

3453 Mr. Merrithew - Mr. Chairman, we have received 15 applications for the July 9th
3454 hearing. Six of those cases are zoning. Nine of those cases are towers. The number 15 puts
3455 us three over the limit as established in your bylaws.
3456

3457 Mrs. Wade - Goochland had three items on their agenda this month and all
3458 three were towers.
3459

3460 Mr. Merrithew - We've also deferred three cases this evening. I'm afraid I can't tell
3461 you how many were deferred from previous hearings.
3462

3463 Mrs. Wade - So, how many all together?
3464

3465 Mr. Merrithew - We have 15 new cases and we have three deferred from tonight's
3466 hearing. I don't know how many from previous hearings.
3467

3468 Mr. Silber - Three were deferred.
3469

3470 Mr. Merrithew - Three were deferred from tonight's hearing. I don't know how
3471 many from previous hearings.
3472

3473 Mrs. Wade - So, that's 18?
3474

3475 Mr. Merrithew - That's 18 unless you choose to not waive your bylaws, in which
3476 case we will bump three of those tower cases.
3477

3478 Mr. Silber - Does the Staff have a preference?
3479

3480 Mr. Merrithew - "Pay me now or pay me later." Staff doesn't have preference.
3481 Triton Towers, whose three cases would be affected, have said they are agreeable to three
3482 cases being deferred. They would like to choose the three, but they would be agreeable to it.
3483 Do you want to do it in July, or do you want to do it in August, is your decision?
3484

3485 Mr. Silber - The bottom line is the staff doesn't have that big of a preference.
3486 It seems the caseload now is excessive all the time.
3487

3488 Mrs. Wade - Well, that's true.
3489

3490 Ms. Dwyer - Although this is the earliest we've finished meetings.
3491

3492 Mr. Merrithew - From the point of view of Triton, we're dealing with one primary
3493 user. I don't know if that's easier to deal with those three cases because of one user.
3494

3495 Mrs. Wade - Of course, we don't have any idea there'll be for August.
3496

3497 Mr. Merrithew - We did the first cases tonight to August.
3498

3499 Ms. Dwyer - We already have several. Church and Pump, you know, could
3500 take six hours.
3501
3502 Mr. Merrithew - You do have one big zoning case. I don't know how big it will be
3503 in terms of time the night of the presentation, but you have 460-acre Snyder-Hunt case next
3504 month. I see one more Planning Commissioner was not kept in the loop throughout this entire
3505 discussion.
3506
3507 Mr. Silber - I'd be very surprised, John, if that's actually considered at the July
3508 meeting.
3509
3510 Mr. Merrithew - We're not supporting it for the July meeting. I know that.
3511
3512 Mr. Silber - I think that's more likely to be heard in August at the earliest.
3513 Mr. Merrithew - That's true.
3514
3515 Mr. Archer - So, you're saying then that the applicant is willing to move three
3516 cases to a later date, but hasn't specifically said August?
3517
3518 Mr. Merrithew - They haven't said August. But if you bump it, tonight, we would
3519 put it on the August agenda. We wouldn't make them go any longer than that.
3520
3521 Mr. Archer - Okay. What is the pleasure of the Commission?
3522
3523 Mr. Zehler - So move.
3524
3525 Mr. Merrithew - So move, what? Are you moving to waive the number?
3526
3527 Mr. Zehler - Take whatever we're allowed to take. We'll bump three cases. I'd
3528 say bump three cases.
3529
3530 Mrs. Wade - Don't we have deferrals from some other time?
3531
3532 Mr. Merrithew - I'm afraid I can't tell you how many of those we have.
3533
3534 Mrs. Wade - I have a couple of those.
3535
3536 Mr. Zehler - Do we need to take action on this?
3537
3538 Mr. Merrithew - No. You don't. You only take action if you're going to waive the
3539 maximum number.
3540
3541 Ms. Dwyer - We don't have minutes, do we? I didn't get any minutes.
3542
3543 Mr. Archer - No. I didn't either.
3544
3545 Mr. Merrithew - No.
3546
3547 Mr. Archer - We won't do that tonight.
3548

3549 Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning Commission adjourned
3550 its meeting at 11:00 p.m. on June 11, 1998.

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C. W. Archer, C.P.C., Chairman

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John R. Marlles, AICP, Secretary

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